Witness name: Kevin Toy

Statement number: 1

Exhibits: Nine INQ references (INQ002051, INQ002054, INQ002070, INQ007127, INQ007128, INQ007129, INQ007101, INQ007102, INQ008330)

Date: 12 November 2024

THE CRANSTON INQUIRY

WRITTEN STATEMENT OF KEVIN TOY

I, KEVIN TOY, C/O The Government Legal Department, 102 Petty France, Westminster, London SW1H 9GL, **WILL SAY** as follows:

1. I was previously employed by the Home Office in the role of commander within Border Force ("BF"), reporting to the Maritime Command Centre National Operational Headquarters ("MCC") in Portsmouth.
2. On the evening of 23 November 2021 into the morning of 24 November 2021, I was in command of His Majesty's Cutter Valiant ("HMC Valiant") during the tragic incident involving the migrant vessel known as "*Charlie*".
3. I have divided this statement into two sections, one outlining my background, role as commander and HMC Valiant's involvement in Operation Deveran more generally, and a further section detailing my experiences on 24 November 2021. This statement has been made with reference to Home Office records, including my daybook, as referred to and exhibited with this statement as **[INQ002051]**. In this statement, upon occasion, I refer to HMC Valiant and other vessels using female pronouns, as is customary in the maritime community. Where I refer to "we", I am referring to myself and the crew of HMC Valiant.

4. I commenced my career in maritime operations for government law enforcement in 1984, under what was then HM Customs and Excise, after a period in the merchant navy. I was employed in government law enforcement for nearly forty years thereafter, through numerous changes to the name of my employer up to the present BF, before retiring in February 2023.

5. I was already a qualified junior mariner when I joined HM Customs and Excise as an assistant officer, and possessed a watchkeeping ticket from my time in the merchant navy, which allowed me to independently navigate a ship at sea. I worked on many different vessels during my career with BF (or its predecessor organisations), progressively taking on more responsibility over the years as I gained in experience, including roles such as an enforcement officer and first officer. In the mid-nineties, I was selected to complete a command course, which I completed in 1997. I was first appointed as commander of a BF vessel on 27 August 2008, which was HMC Sentinel, a cutter.

6. I would characterise the role of a commander in BF as being, to command a cutter responsible for border protection against the smuggling of goods or illegal immigration. We would deliver law enforcement teams to a vessel to facilitate a boarding and search, and on occasion carry out surveillance. We would also provide assistance to partner agencies, such as the Police, Department for Transport, the Ministry of Agriculture, Fisheries and Food, and His Majesty's Coastguard ("HMCG") where applicable. Search and rescue ("SAR") operations were not historically part of BF's remit, although we would of course respond to any vessels requesting SAR assistance, as is the basic obligation of any vessel at sea under maritime law. During Operation Deveran, the conduct of SAR operations would become central to my role.

7. As commander, I would be responsible for a team of law enforcement officers under my command, who were also trained mariners. Typically, that team would include junior navigating and engineer officers, and a number of enforcement officers who would also be crew members, although the exact composition would reflect the size and complexity of the vessel, and the missions assigned to us. The teams would be changed periodically in order to share practical experience and other learnings across BF.
8. I reported directly to a senior officer at the MCC, an assistant director, who would review the regular reports I produced, and provide feedback where they thought applicable.
9. Each patrol would be for a period of fifteen days. During any deployment within that period, I would record any details which I considered relevant in my daybook, including but not limited to any instructions received, communications with other parties, any developments of note and issues encountered. The navigational officers and I would record day-to-day events in HMC Valiant's log, such as navigational records and vessels boarded **[See, for example, INQ002054]**.
10. I would produce a situation report (a "SitRep") on a daily basis during a patrol, which confirmed the status of the vessel, and details such as the crew aboard, actions over the preceding twenty-four hours, and our intentions for the following twenty-four hours **[See, for example, INQ002070]**. The SitRep also assisted the MCC in understanding the capability of the vessel, including its operational limits, and any restrictions according to 'DRORA', or 'defect related operational risk assessment'. If there was a problem with the boat according to DRORA, we would report it to the health and safety team and the engineering

technical team ashore, and together they would make a decision as to any remedial actions and limitations on capability.

11. The SitRep would also include information which was relevant for the Maritime Emergency Response Team ("MERT"), for instance, the details of those crew members on board. The MERT was designed as a health and safety tool. If there was an incident or a boat went missing, the MCC would then know how many crew members were on board, and who to contact in respect of next of kin.

12. At the end of any patrol, I would produce a patrol report detailing operational activity during that fifteen-day period, which was both for oversight by the assistant director and for statistical reasons. I tended to complete the report on a daily basis and submit it at the end of the fifteen-day period. Following a migrant event, I might also conduct an informal crew debrief if I considered it worthwhile to do so, which may include what went well, what did not go so well, and how we could develop as a team.

13. Within government law enforcement, the focus of our work would change depending upon the border challenges we faced and the priorities of the government of the day. Initially, when I started with HM Customs and Excise back in the 1980s, the focus was squarely on preventive work and detecting smugglers, however, over time migration became a more significant aspect of our work.

14. From around 2018, it started to become apparent that there was a threat to border security from people crossing the English Channel in small boats. As such migration became a greater priority for BF, presumably because it was a known entity when compared to commodity smuggling. The issue of migrants

crossing the Channel in small boats was widely publicised. Operation Deveran was the maritime-led response to the migrant boat issue, implemented by BF in 2019.

15. I was first appointed commander of HMC Valiant in 2018. My crew and I were not dedicated to HMC Valiant, and thus could be assigned to any one of the cutters operated by BF for a fifteen-day patrol. HMC Valiant is a fast patrol boat or 'cutter' designed to do traditional customs work, as detailed above. The maximum number of persons which HMC Valiant could safely embark, in addition to the crew, was set at 100 persons by the Maritime Safety Team. I do not know exactly where that figure came from, but presumably it related to the stability of the vessel and the available space on deck when embarking migrants.

16. In terms of navigation technology, HMC Valiant carried the Automatic Identification System ("AIS"), which is a vessel identification system, two radars, the Electronic Chart Display and Information System ("ECDIS") and ships charts. Given that the vessels used by migrants in Channel crossings were rudimentary vessels, they were not equipped with AIS and thus could not be identified with that system. The ECDIS and ships charts were used to plot HMC Valiant's passage. Radar was used for navigational purposes, anti-collision and to locate other vessels, as detailed below.

17. For communications, HMC Valiant carried an airwave system, marine Very-High Frequency radio ("VHF"), and mobile and satellite telephones. It also carried the Global Maritime Distress Safety System ("GMDSS"), which could be used for communicating with other vessels or shore installations, as well as transmitting emergency and distress messages if required. The method of

communication used would depend on whomever you were communicating with. We would use airwave systems to communicate with the MCC, Dover Coastguard, the Tug Haven reception committees, as well as other BF assets. Generally, we would rely on VHF for all communications with other maritime assets, as is customary, as well as Dover Coastguard, Dover Port Control, the Channel Navigation Information Service, and lifeboats from the Royal National Lifeboat Institute ("RNLI"). Upon occasion, we might use mobile telephone to communicate with the MCC or Dover Coastguard. I do not recall ever using the satellite phone during Operation Deveran, but we had it as a backup if required.

18. We were aware of the existence of gaps in communication coverage, as the airwave system would be unavailable once we lost UK phone signal in the Channel, however we could always use VHF or another system if that was unavailable, including the satellite phone which had no range or signal limitations, so it never posed an issue.

19. Whilst HMC Valiant was not specifically designed for SAR activities, she carried equipment and technologies on board which could be utilised for the purposes of SAR. Onboard we possessed radar, night vision (or thermal imaging) and a spotlight, all of which could be used to locate migrant vessels. The radar was used at maximum performance whilst on deployment, although it was extremely difficult to locate the boats used in migrant crossings using radar, due to their small size, the materials used in their construction and their low freeboard, which is the distance from the water line to the top of the inflatable sides. In my experience, the boats also did not incorporate radar reflectors, which might have increased their radar signature and made them more easily identifiable using radar. Typically, we would attempt to sight the boats visually with

binoculars, making use of night vision if applicable. Irrespective of the equipment available to us, it remained extremely challenging to locate migrant vessels. The use of aerial assets is, in my opinion, by far the most effective means of locating such vessels, rather than with surface assets like HMC Valiant, and particularly at night when migrants were most likely to attempt a crossing.

20. At all times, HMC Valiant carried a rigid hulled inflatable boat ("RHIB"), which was the primary means by which we intercepted migrant vessels. The RHIB could safely carry six to eight individuals at any one time, in addition to three BF crew members. HMC Valiant would carry enough life jackets to ensure that each rescued migrant could be provided with one. Other flotation devices, such as life rings, were also onboard. HMC Valiant possessed life rafts for the crew, which were to be used in an emergency that required the crew to abandon ship. Additional life rafts were carried for a critical incident involving migrants, however the dedicated ship's rafts could also be repurposed in an extreme situation to support migrants for a limited period of time.

21. I would not say that HMC Valiant was missing any particular SAR equipment. I did once request a hand thrown flotation device or something extremely portable we could have in the RHIB, which would inflate rapidly if a migrant boat was sinking, but we never had anything like that. I do not know if BF uses anything similar now.

22. HMC Valiant's role as part of Operation Deveran was to intercept the small boats used by migrants to cross the Channel, and to effect the rescue of those migrants. In practical terms, we would navigate toward the coordinates we were given, locate and intercept the migrant vessels, embark the migrants onto HMC

Valiant while ensuring both the migrants' safety and that of the crew, and then transport them to Dover for disembarkation and processing.

23. If you were tasked elsewhere in the country, away from the Channel, you might be given a list of things to focus on. For instance, in the south-west approaches it could be commodity smuggling or organised people smuggling elsewhere. If you were tasked to Operation Deveran, you knew that your focus was solely on small boat crossings, given the demands of the mission and its importance to BF.

24. When HMC Valiant was in port and tasked to deploy as part of Operation Deveran, it would always be instructed to do so by the MCC, given that it was a BF asset. I understand that any such order would be made in response to a request from the Maritime and Coastguard Agency ("MCA") (more specifically, HMCG, which is under the jurisdiction of the MCA) for the provision of an asset to assist with SAR operations concerning suspected migrant events. HMCG did not possess its own surface capabilities, only certain aerial assets, which was why it would request BF vessels to attend SAR missions involving migrant boats.

25. When HMC Valiant was tasked to deploy as part of Operation Deveran, I would receive a phone call from the MCC in Portsmouth, who would provide the coordinates corresponding to the relevant migrant boat, including the time at which that sighting was made, as well as other pertinent information such as the description of the migrant vessel, the number of migrants on board, potentially estimates as to the number of males, females and minors, and any indication as to direction and speed. As you would expect, the descriptions provided were as detailed as the information available at that point.

26. HMC Valiant, the crew and I were on 30 minutes' notice to deploy. Once instructed to deploy, the crew would prepare the vessel, conduct all necessary checks and start the engines. The amount of time it took to navigate out of the harbour after departure would vary depending upon the local conditions, such as any traffic congestion in the harbour, although the Dover Harbour Board appreciated the urgency and significance of our work, and would look to give BF priority where possible.

27. The crew and I would live on the cutter during the fifteen-day patrol, which would be followed by thirteen days off duty. BF would try to rotate the vessels after a period of three months in Operation Deveran, however that could be affected by other factors such as mechanical problems, which might require vessels to be out of action for a time. Covid-19 was a particular issue for us, as one case onboard could result in an entire crew being locked down, rendering part of a finite border protection resource out of action. Accordingly, there was a conscious effort by BF not to swap crews around during that period, and instead for us to work within a 'bubble'.

28. The shift patterns we worked on Operation Deveran were irregular, as it would depend on whether and when we would be initially tasked by the MCC. We would usually be tasked in the early hours, given that that was when migrants would typically seek to cross the Channel. If we were not called upon during the night, then we would wake up at a normal time and wait for further instructions.

29. Once we had departed Dover, I would contact the MCC and provide an estimated time for our arrival at the provided coordinates. The MCC would then inform HMCG that HMC Valiant was attending an SAR incident and, from that point on, HMCG would communicate with HMC Valiant directly, rather than

through the MCC. I would, however, keep the MCC updated as to my movements and actions where I considered that it was appropriate to do so.

30. During any deployment, I would stay in regular contact with HMCG either via the airwave system, VHF radio (Channel 0) or telephone, dependent upon availability, other radio traffic and the urgency of the communication. HMCG had oversight of HMC Valiant's movements at all times after it departed the port either by radar or AIS. HMCG would provide further information on an ongoing basis, for instance, updated coordinates of the vessel to which we were tasked. On occasion, we might be provided with information or be tasked by an HMCG aerial asset via VHF Channel 0.

31. Once a particular task had been dealt with and the migrants safely embarked onboard HMC Valiant, we would notify HMCG and the MCC. HMCG might then request HMC Valiant to attend another suspected migrant event, and we would go on to that. We had a very close working relationship with HMCG; it was very cooperative, and we worked well together. Once HMC Valiant was initially tasked by the MCC to support HMCG in attending an event, HMCG thereafter could then directly request that HMC Valiant attend further events. I did not monitor social media or any other sources. Any information provided to me would be disseminated to the relevant members of the crew, for instance, positional data to the navigating officer, and the description of the migrant boat to the lookout in the wheelhouse.

32. Having been provided with and plotted the coordinates, I would proceed to the location. Where the migrant boat was not located at the coordinates provided, I would notify HMCG, and confirm my intention to initiate a search based on the information available to me, including the course and speed of the migrant boat,

its set and drift (perceived tidal direction), and my nautical understanding more generally. Should HMCG disagree with my approach, it could inform me of the same, and I would act on its instructions. The coordinates would serve as a starting point for any search. The lookouts were always on a high state of alert, with the RHIB and deck teams ready.

33. Should we locate a migrant vessel, HMCG would be notified, and a RHIB would be stern-launched at a safe distance from that migrant vessel with three BF officers onboard. The RHIB would then proceed to approach the small boat and assess the situation, including any particular risk factors which may complicate the rescue of the migrants. HMC Valiant could communicate with the crew of the RHIB via radio, but that was rarely necessary as, simply put, they knew what they were doing. Typically, the crew on the RHIB would assess the condition of the migrant boat for stability as most boats would have taken on water during the passage, hand out life jackets to all the migrants onboard the small boat, make sure the occupants of the vessel were compliant and then disembark them in groups of six to eight which, as noted above, was the maximum number of people the RHIB could safely carry at any one time, in addition to three crew members. The RHIB would then bring back each group of migrants around to the starboard side of the cutter. Those who could climb the embarkation ladder would do so, or if they were unable to do so, whether that was because of the cold, shock or other physical limitations, the RHIB would be recovered via the stern ramp and the migrants could step onto the deck in a controlled manner, although there was a limit to the weight that the recovery system could safely operate at and this would increase the time it took to effect the rescue of all of the persons in the migrant boat. The RHIB would

make as many sorties as necessary until all the migrants were safely embarked on HMC Valiant.

34. The last thing that a commander would want to do is to position the cutter alongside the migrant boat. A stampede would likely ensue as migrants rush to embark via the ladder, which could result in injury or death as other migrants are trampled in the melee. A rapid disembarkation of the migrants could also lead to the small boat taking in even more water or capsizing, an extremely dangerous situation with the potential to cause widespread loss of life, as well as posing a serious risk to the crew.

35. Of course, if the migrant vessel was sinking, then we simply had to navigate over to the migrants in the cutter as quickly as we possibly could, and respond with whatever we had. We could throw the scrambling net over so that those who were capable could climb up, and we could throw the life rafts and rings over to people in the water. Even throwing life jackets over or anything which could float might potentially save someone. Should the total number of rescued exceed the maximum safe capacity of HMC Valiant, we would still do what we could, while still being mindful to protect the safety of the crew and those already rescued, which was our obligation. For instance, we could put up to eight migrants in the RHIB, or deploy some of the life rafts we carried or even the cutter's own life rafts, and stay with those people until appropriate assistance could arrive. It was always a dynamic situation requiring the judgement of the crew.

36. I might make operational suggestions to HMCG based on the situation as I saw it, but ultimately it was their decision as to how to allocate and utilise assets. One example which stands out concerned a woman who passed out on the

deck of the cutter. Thankfully, one of the crew caught her so she did not hit her head, but she potentially needed urgent medical attention. It was a horrible situation, and we did not know whether it was simply shock or hypothermia or worse. I could see that there was an HMCG helicopter asset in the sky nearby, so that was one occasion where I told HMCG the situation over VHF and asked for medical support, and HMCG tasked the helicopter. I did not have the ability to task the helicopter or any other assets directly myself, as that was not my role. Thankfully, she had come around by the time the helicopter landed a medic on the cutter, but it was still right that medical staff checked to make sure.

37. Once all the migrants were safely embarked, the crew would be looking out for signs of any medical difficulties and give assistance where necessary. We would use a handheld metal detector to make sure that none of the migrants were carrying knives or other weapons, and each person would be issued with a wristband if time allowed. I do not recall ever finding a knife or other weapon on a migrant. Once screened and given water and a foil blanket (or whatever we had) to help them warm up they would be escorted and grouped on the quarterdeck, told to sit down to prevent them from falling over as the cutter moved. I do not recall any occasions when communication difficulties with the migrants caused any practical issues; a combination of English and non-verbal communications would always suffice in my experience.

38. Whilst our role on Operation Deveran could be said to combine both SAR and border security, the focus was always safety of life at sea ("SOLAS") first, to get the people safely on board, and then worry about how and what laws applied to them. That was not something that we could process on board, as we did not have the expertise or qualifications to do so, nor the time even if we did. In

practice, it was for the authorities at Dover to decide what the migrants' status was, and as far as I was concerned, they were SAR casualties to be taken into Dover. Officially, all migrant vessels were considered to be 'in distress' and thus required SAR assistance.

39. Whilst I was aware of incidences where migrants had exaggerated their level of distress and, indeed, I had experienced it myself, it never had any impact upon our deployment as part of Operation Deveran. Every interaction which I saw between my officers and the migrants was one in which the migrants were treated with nothing but respect, dignity and kindness.

40. The SAR methods used for locating and rescuing migrants were naturally limited by the conditions we faced. Typically, we were performing rescues at night, so it was dark with limited visibility, which would be further impacted by the extent of any cloud cover and the state of the moon. The existence of any background light or lights from passing traffic would impact visibility. The sea state was an important factor, and particularly when the conditions were worse, as that limited radar capability and made it more difficult to visually locate migrant boats. The specific characteristics of the migrant boat also had an impact, for instance, whether the migrants were wearing reflective life jackets, and whether the migrant vessel was proceeding under its own power or merely drifting with the tide, as that would affect the visibility of any wash created by a moving migrant boat. All of the SAR methods we utilised were being applied in the busiest shipping lane in the world, resulting in an even more complex and difficult picture, with extreme risks to the safety of both the migrants, other mariners and my crew alike.

41. In terms of training, all BF officers hold MCA certification and all commanders complete an MCA business and law course, which includes our SAR obligations under maritime law. All mariners need to comply with the IMO International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (the "STCW"). The STCW includes relevant skills such as medical knowledge, given that crews at sea are required to deal with medical incidents when far from appropriate facilities, as well as personal survival techniques, fire prevention and firefighting. For myself as a commander, the STCW also included courses on medical care on board and leadership skills.

42. We would complete a drills matrix on board as part of the safety and environmental management system, with emergency drills such as man overboard and helicopter operations maybe two or three times a year, which were helpful. We conducted ad-hoc informal training around search patterns and other relevant topics. There were also various courses that you could do online from time-to-time to help develop your knowledge of specific subjects, for instance, identifying persons at risk of modern slavery. Occasionally, we would have a safety team come down for a few days, and we would perform scenarios under controlled circumstances and they would give us feedback. For example, with medical or firefighting emergency scenarios.

43. There were standard operating procedures in place ("SOPs") concerning migrant rescue, including specific procedures covering Operation Deveran, as well as other relevant topics such as the boarding of non-compliant vessels using a RHIB, and the towing of migrant vessels. The practices our crew utilised on Operation Deveran were in full compliance with the relevant SOPs, which were familiar to me.

44. We were also training on the job. Every rescue event was different, whether it was the weather conditions, the time of day, maritime traffic, the size of the boat, or the number and temperament of the migrants on board. It was a dynamic situation which required experienced seamanship skills and judgement, and we would deal with every incident to the best of our ability with whatever we had. The tactics we adopted worked, and we were able to refine our approach as we gained more experience. Ultimately, we were fully qualified as a result of that on-the-job training.

45. Having successfully completed our tasking and embarked migrants onboard HMC Valiant, with the agreement of HMCG we would return to Dover for disembarkation. When disembarking migrants at Tug Haven, the limited physical infrastructure did inevitably slow that process. We did not have a dedicated berth within the harbour, and thus had no choice but to berth alongside a dredger called the David Church if she was berthed in Tug Haven. Where the David Church was not on her berth, we could directly disembark the migrants onto the pontoon at Tug Haven via the cutter's gangway and the linkspan bridge, for them to be received by a reception committee comprised of landside BF officers or other officials. If the David Church was on her berth, we had no choice but to berth alongside her, however, it was not safe to land migrants across the deck of the David Church. Therefore my only option was to land the migrants by RHIB, which required the crew to navigate around the stern of the David Church to the pontoon at Tug Haven, disembarking six to eight migrants at a time, which was the maximum number which could be safely carried on the RHIB, as noted above. It was a time-consuming process, and could take two hours or more to complete disembarkation, were HMC Valiant

carrying the maximum safe capacity of 100 migrants on board. Alternatively, we could opt not to berth and remain in the Inner Harbour but we would still need to use a RHIB to disembark the migrants which, given the additional distance, would result in further delay. The situation at Tug Haven was recognised as a problem by BF.

46. Another issue was the need to replenish thermal protective aids, blankets and bottled water on a regular basis and a suitable berth for crew rest at Ramsgate after the completion of a deployment, which took many hours of transit time, as there was no dedicated berth available in Dover. If the tide was low at Ramsgate, we would be unable to enter the harbour and that would then take more time.

47. As the number of migrants attempting to cross the Channel increased, so did the impact on the crew in terms of fatigue. The Maritime Labour Convention dictates that a crew member should have ten hours of rest within any twenty-four period, however, that can be broken down into periods of, perhaps, six and four hours. BF uses this requirement to assist with staff welfare. In practice, for a time we found ourselves working longer and longer hours, until the Maritime Safety Team dictated that crews should be relieved as soon as they could after ten hours on task.

48. In the early days of Operation Deveran, we might be engaged in patrolling up and down the Channel with the intention of intercepting any migrant boats which we might find crossing, however, due to the escalating demands upon the crews, we quickly found ourselves prioritising rest over patrolling, and instead focusing on reacting to known or suspected events. I cannot recall a specific command decision being communicated by BF ordering us to stop patrolling, I

think it was just accepted. It was vital to prioritise rest given the high stakes environment; when you are tired, mistakes can be made with tragic consequences. Clearly BF was aware of the change in approach, as I recorded our operations in each SitRep, and it was never queried. The decision to stop patrolling also made tactical sense, as patrolling had very little practical impact during the time in which it was implemented, and it could actually slow down our response to known incidents if they were reported when we were on patrol far from the relevant location.

49. I suppose I did have some concerns about resource availability in 2021, given how busy it was, and I would choose rest when necessary because the crew simply needed it. I believe I raised those concerns in my debriefs; that we needed more boats and people, as it was a finite and limited resource.

50. I recall that the MCC introduced the concept of the 'primary responder' as a means to help manage the increase in the workload and its impact on crews. In gist, if you were designated as the primary responder, you knew you were the first to be called upon in the event of a migrant crossing, whilst the other vessels would be on standby, and thus more likely to be able to rest. A surge capability was also introduced, where a cutter was always within a reasonable distance of the operational area.

51. On Operation Deveran, I had limited or no working relationship with any other agencies aside from HMCG, as detailed above. We worked well with the RNLI when we were both on the scene with a migrant vessel, and we would mutually support each other at that time, communicating over VHF where necessary. We would also embark migrants rescued by the RNLI by choice. However, HMCG remained in the coordinating role, and so we would have no knowledge of RNLI

capacity or otherwise, unless we were informed by HMCG. There were no disagreements with the RNLI, as far as I am aware.

52. I had minimal contact with the National Crime Agency and the Police. The Police may inform BF of an unescorted landing or similar incident, but they would still go through other channels rather than contact us directly.

53. I cannot personally recall any engagement with the Department for Transport or the Ministry of Defence. Whilst the Ministry of Defence took over Channel operations for a period of time, the majority of my communications remained with the MCC, HMCG, the reception committee at Tug Haven and Dover Port Control, with the occasional communication with French surface assets, as described below.

54. I had minimal contact with 2Excel Aviation, if any. Where I was aware that an aircraft was operating as part of Operation Deveran, it was reassuring to know that it was providing top cover, as it is significantly easier to identify migrant boats from the air when compared to surface assets like HMC Valiant. If we found something, I would report back to HMCG which may in turn pass that information onto 2Excel Aviation, but I would not task 2Excel Aviation to investigate a sighting or anything like that, as that was not my role, and I did not have the requisite authority. Nor did I have the overall picture to be able to make those strategic calls as to asset allocation, I was simply responding to the incidents with which I was tasked by HMCG, as noted above.

55. Presuming that Bristow Group Inc was the company providing helicopter assets to the MCA or HMCG, I might feed back information that would be relevant, such as the location of a migrant vessel, but that would always be done via HMCG rather than directly with Bristow Group Inc. As with the aircraft from

2Excel Aviation, I might receive information or taskings directly from Bristow Group Inc's helicopters, as described above, however I would not task the helicopter, as that was not my role and I did not have the requisite authority.

56. In my experience, the working relationship with French surface assets was generally very good. We would communicate with French warships on the scene via VHF radio. The VHF operators on the French vessels could speak English reasonably well. We might communicate with the French where they were tracking a migrant boat to the median line. I would usually call them on Channel 16, go to a working channel, and might ask that the French vessel remain on the scene until we had control of the situation, or they might shine their spotlight on a migrant boat for us if we were struggling to see it. It was professional working relationship, and any conversation which I had with the French was recorded in my daybook.

Events of 24 November 2021

57. In the early hours of 24 November 2021, there was nothing to indicate that it would be a particularly eventful day. I would have previously seen the weather forecast produced by the Met Office. I would also have seen the Operational and Situational Awareness Briefs, which were produced by the Joint Maritime Security Centre ("JMSC"), the United Kingdom's centre of excellence for maritime security which provided operational coordination and support to agencies engaged in maritime law enforcement and security. The Operational Brief would have detailed the weather forecast, maritime intelligence, aerial coverage and available assets from relevant stakeholders, including but not

limited to BF, HMCG and the Royal Navy. The Situational Awareness Brief included much of the same information as the Operational Brief, but had a smaller distribution list. I do not specifically recall, but I may have seen the Clandestine Threat Command SitRep, which detailed similar information including the weather forecast, available assets, and ongoing and closed events. On the basis of what I had seen, I would have concluded that migrant vessels were likely to attempt to cross the Channel and that HMC Valiant, designated the primary responder, would be deployed to intercept and rescue them. However, that was a very common occurrence, and certainly nothing out of the ordinary by November 2021.

58. I was not aware that there was no aircraft cover for that day. I do not recall whether I received an email confirming that there would be no aircraft cover, but likely would not have seen it in any case, as I was resting. Either way, it would not have affected the deployment of HMC Valiant. We simply deployed if we were ordered to do so by the MCC. Whilst I might receive information or taskings directly from HMCG aerial assets, I would not task those assets, as explained above.

59. At that time, we had eleven crew in total on HMC Valiant, comprised of myself in command; a first officer who was navigating, and who was also command endorsed; a chief engineer looking after the engine systems and a helms person; and seven other BF officers, with four on deck to control the embarkation of migrants, and three in the RHIB. We also had an officer from Criminal and Financial Investigations ("CFI") on board, who would capture evidence of facilitation on board the migrant boats, whether photographic or

video evidence. The MERT confirmed that HMC Valiant was adequately staffed at the time of the events.

60. I was fully compliant with all the training requirements on 24 November 2021 **[INQ007127, INQ007128, INQ007129]**, as were all the crew. Otherwise, I simply would not have been allowed onboard HMC Valiant, and nor would any of the crew were they not compliant.

61. We were positioned in Dover and stood by at Cruise Terminal 1. The times stated below are as recorded in my daybook entry for that date, which should be considered "on or around" the given times, such that they were recorded contemporaneously with the events stated.

62. At 01:30, I received a telephone call from the MCC ordering HMC Valiant to deploy to a suspected migrant event at the coordinates Latitude 51 06.5 N Longitude 001 46.2 E. I understand that call to have taken place with BF higher officer Karen Whitehouse. I was likely asleep when I received the call, but I do not specifically recall. That was normal when being tasked during the early hours; it was the middle of the night, and the crew and I understood the importance of resting whenever we had the opportunity to do so, given the demands of Operation Deveran.

63. Whilst I may have been given longer coordinates by the MCC (to more decimal places), I would often record coordinates in my daybook to one decimal place, as I knew from experience that it would not be possible to plot on the chart to that level of accuracy and, regardless, such a small disparity made no practical difference. The coordinates provided by the MCC enabled me to plot my course when leaving Dover. When available, I would be provided with updated

coordinates whilst en route, which would reflect the latest information HMCG had received from migrants and other vessels.

64. Having been ordered to deploy by the MCC, I notified the crew, and we collectively began our preparations for departure in line with normal practice. At 01:50, the CFI representative embarked. At 02:00, we departed from our berth at Cruise Terminal 1 within the expected departure time of approximately 30 minutes.

65. At 02:22, I recorded in my daybook that we had cleared Dover, and estimated our time of arrival at the "MPC" buoy as being one hour. I do not recall whether I was asked to hold in the port by the authorities, which would take place should there be an obstruction such as a cross-channel ferry arriving or departing, but 22 minutes would be considered a normal length of time in order to clear the harbour. As per normal practice in Operation Deveran, HMC Valiant's AIS was turned on, providing visibility of her movements to everyone with the ability to track AIS.

66. At approximately 02:30, HMCG informed me that a small boat with approximately 40 persons on board was at the coordinates Latitude 51 08.5 N Longitude 001 44.5 E, a bearing of 244 T by 1.8 nautical miles from the Sandettie Light Vessel, and that it was taking water. "*Taking water*" is serious, but does not necessarily mean that a given vessel is sinking. It was common for migrant vessels to take on water, given that they were wholly unsuitable for Channel crossings and, in particular, typically had a very shallow freeboard.

67. At 02:34, I advised HMCG that I was proceeding to the location. My daybook entry references that I was "*proceeding to mayday*", however I do not recall receiving a mayday in relation to my tasking, nor a PAN-PAN, which is the

international standard urgency signal. I may simply have used the terminology "mayday" because I was informed that the vessel to which I was tasked was taking water. At that point, it became an urgent situation and the priority. As I was already requisitioned by HMCG, via the MCC, to an emergency, the fact that I do not recall hearing any broadcast had no impact on my actions as I was already en route to a HMCG task at best speed. If a mayday is received, then all vessels in the vicinity must respond, in keeping with basic obligations under maritime law. I was advised by HMCG that the French vessel Flamant may be closer to the incident, however I continued at best speed. At this point HMCG advised me that they had allocated this event as "Charlie".

68. At 02:40, I requested and received permission from HMCG to contravene Rule 10 of the International Regulations for Preventing Collisions at Sea 1972, in order to take the most efficient route to the coordinates which I had been given. Rule 10 determines that vessels crossing traffic separation schemes, such as that in operation in the Channel, should do so as close to perpendicular to the general direction of traffic flow as practicable, in order to reduce the risk of collision.

69. I proceeded at a speed of approximately 16 knots towards the coordinates provided by HMCG. My reasoned judgement, based on my years of experience as a mariner and commander, was that 16 knots was the "best speed" which I could adopt at that time, being the maximum safe speed which, taking into account the conditions in the Channel, would allow me to stop at a reasonable distance in accordance with Rule 6 of the International Collision Regulations. I cannot recall the specific conditions on the night when I was making way to event Charlie, but my crew would have been preparing the RHIB for deployment

which meant I had to bear in mind their safety too. HMCG could identify HMC Valiant on their tracking systems, but never requested that I increase my speed at any time. It was not merely a question of proceeding at the maximum technical speed HMC Valiant could achieve. Notwithstanding the difficult conditions such as limited visibility, as already referenced, the Channel is the busiest shipping lane in the world with heavy traffic and innumerable other hazards. Nobody's interests would have been served had we proceeded at an unsafe speed, only to collide with another vessel or have to emergency stop without notice, and contend with serious injuries to my crew, whose safety and wellbeing was my responsibility. Given that we had been informed that unlit migrant boats were in the Channel, there was even the potential risk that, with a higher speed, we might even inadvertently collide with, or the wash from my vessel might swamp, a migrant boat with potentially devastating consequences.

70. At 03:20, I was advised by HMCG that an aerial asset call sign "Rescue 163" would be on task at 03:30, that there were other migrant vessels in the area of the Sandettie Light Vessel and that I should continue to event Charlie. When multiple migrant vessels were in the vicinity, I had no way of determining whether a particular migrant vessel which I might encounter did or did not correspond to a particular event. All I could do was report to HMCG that I had located a vessel or a number of vessels and render assistance to those vessels according to the perceived risk to the occupants.

71. At 03:27, I was in the vicinity of the last known position of event Charlie, but no migrant vessel was at that location, which was often the case. Prior to our arrival at the location of the given coordinates, the migrant vessel would inevitably have continued to make way or drifted from that position, due to the impact of

environmental factors such as tide and wind direction. Accordingly, in keeping with standard practice, I advised HMCG that I intended to search towards the Sandettie Light Vessel. In my experience, migrant vessels may travel towards navigational lights, having little nautical expertise or understanding of tides.

72. At 03:35, in position Latitude 51 09.6 N Longitude 001 47.7 E, two vessels which I suspected to contain migrants were identified on the ship's night vision equipment. One of the vessels was making way through the water, however the other appeared not to be making way. I advised HMCG and approached the suspected migrant vessel that appeared to not be making way. My rationale for providing assistance to the vessel that was not making way was that it was likely to be in greater danger than the vessel that was able to make way, such that it was less able to navigate out of the way of commercial vessels transiting the Dover Straits. Accordingly, I prepared to deploy my RHIB to investigate. At 03:48, in position Latitude 51 10.4 N Longitude 001 47.8 E, my boarding boat engaged with the migrant vessel that was not making way. The vessel that was making way continued to do so and I lost sight of it.

73. At 03:55, I was allocated the reference M957 by the MCC and at 04:07 migrants from this vessel started to be embarked onto HMC Valiant. Once an 'M' number was assigned by the MCC, we would routinely spray paint that number onto the side of the migrant boat. If we had the capacity to do so, we would look to tow the now empty migrant vessel into port (for evidence gathering purposes), however, if that was not possible because we had other suspected migrant events to respond to, it would be left in place in the Channel. Should the empty vessel then subsequently be discovered by another BF asset, that approach allowed BF to confirm that it had already been intercepted and the migrants

rescued, and thus it was not evidence of an unescorted landing on UK soil nor the result of an unknown migrant incident in the Channel.

74. At 04:15, in response to a request from HMCG I advised that the migrants embarked had not claimed to have called the United Kingdom authorities. At 04:39, I had embarked 35 persons, 20 males, 13 infants and 2 females.

75. At 04:43, I received another tasking in position Latitude 51 09.06 N Longitude 001 43.97 E from HMCG. At 04:48, "Rescue 163" provided me with a description of the vessel, which was estimated to be approximately 8 metres in length with about 30 persons on board. At 04:52, I received an updated position of Latitude 51 08.0 N Longitude 001 41.8 E and I proceeded to this position. I have not noted who provided the update but it would likely have either been HMCG or "Rescue 163". At 05:09, "Rescue 163" gave me an updated position of Latitude 51 08.0 N Longitude 001 41.8 E.

76. At 05:04, HMCG asked how many migrants I had embarked for Charlie. I have seen the transcript of that conversation. "Charlie" was the name HMCG had allocated to the event I had been tasked to attend. I informed HMCG that I had embarked 35 people in total.

77. At 05:19, in position Latitude 51 07.96 N Longitude 001 41.25 E, I made contact with a suspected migrant vessel and launched my boarding boat to engage. At 05:23, this event was allocated the reference M958 by the MCC. At 05:25, the vessel was identified as a grey hulled inflatable with an engine. At 05:30, the migrants from this vessel started to embark onto HMC Valiant. I presume that, at or around that time, the reference number M958 was spray painted onto the side of the vessel in accordance with standard practice. At 05:57, I advised HMCG that all of the migrants from this vessel had been embarked onto HMC

Valiant and that the inflatable was being abandoned in position at Latitude 51 07.9 N Longitude 001 40.8 E. I noted that none of the persons embarked had claimed to have contacted the United Kingdom authorities. At 06:03, I advised HMCG that I had embarked 31 males.

78. At 06:10, I was advised of another tasking and was instructed to head towards the SW Goodwin Buoy. At 06:13, I was tasked to an event in position Latitude 51 09.3 N Longitude 001 31.0 E.

79. At 06:30, in position Latitude 51 08.8 N Longitude 001 31.5 E, I made contact with a vessel suspected to contain migrants which appeared to be not making way and I launched my RHIB to engage. This event was allocated M959 by the MCC. At 06:36, the migrants from this vessel started to embark onto HMC Valiant. I presume that, at or around that time, the reference number M959 was spray painted onto the side of the vessel in accordance with standard practice. At 07:20, I notified HMCG that I had completed the embarkation of the migrants and had recovered my boarding boat and was heading toward Dover. At 07:22, I advised HMCG that I had embarked 32 persons, 21 males, 4 females and 7 minors.

80. At 07:30, I advised Dover Port Control that I was intending to enter the Western entrance of Dover with 98 additional persons embarked and intended to berth outside of the David Church. At 07:57, I entered Dover port and berthed outside of the David Church at 08:16. At 08:31, I commenced landing the 98 persons to the care of an immigration reception committee using the RHIB. At 10:30, the disembarkation of the 98 persons was completed. I was not requested to attend any other events and at 10:55 I sailed from Dover directly to Ramsgate for rest

and replenishing migrant safety equipment. HMC Valiant berthed in Ramsgate at 12:30.

81. HMC Valiant was already at capacity when I confirmed my intention to return to Dover, with 98 migrants onboard. Notwithstanding, at any time HMCG could have objected to HMC Valiant returning to Dover, but at no point did it do so. Nor did HMCG ever request HMC Valiant to attend a further event following disembarkation of the 98 migrants rescued at Dover. I understood that there were other assets available, but ultimately it was for HMCG to coordinate and request that those assets respond should there be any further SAR events.

82. Following the completion of the deployment on 24 November 2021, I completed the SitRep **[INQ002070]** and a debrief concerning the events we had dealt with which was provided to the MCC via email **[INQ007101, INQ007102]**. The debrief included reference to the migrant vessels intercepted, being M957, M958 and M959, and detailed the number of people embarked, the type of migrant boat, and the demeanor of those rescued. From my perspective, it was another challenging but successful day rescuing people and saving lives in the Channel as part of Operation Deveran.

83. My role in Operation Deveran was extremely challenging, tiring and emotionally draining, however, it was significantly worse for the officers with which I worked. For those in the RHIB and on deck it was also physically draining; working through the night rescuing people, physically pulling them out of the migrant boat or on some occasions the water and in many cases literally carrying them on board HMC Valiant. At the end of each deployment, I could see that they were utterly exhausted, and that occurred night after night during a shift. Their work during Operation Deveran was commendable.

84. It was in the afternoon of 24 November 2021 when I became aware that there had been multiple deaths in the Channel. Someone had seen the deaths reported on the news and it quickly spread amongst the crew. Of course, we were all extremely sad. As one of the crews on Operation Deveran we were dedicated to saving lives in the Channel, and so news of any deaths naturally hit us hard.

85. In the aftermath of 24 November 2021, I did not receive any support from BF or my colleagues in respect of the tragic events concerning the migrant vessel Charlie. However, in fact that was not necessary, as although I was aware that there had been deaths in the Channel, I remained unaware that we potentially had any involvement in the incident until I was later contacted by the Marine Accident Investigation Branch ("MAIB") as part of its investigation. I exhibit the transcript of my interview with MAIB as **[INQ008330].** Prior to the contact from MAIB, all that I understood concerning that night was that HMC Valiant was deployed, we engaged with three migrant vessels over a period of 10 hours, and we successfully rescued 98 people. Even when I became aware of deaths in the Channel, I had no reason to believe that the tragedy was anything with which we were tasked. Accordingly, no support was necessary as at that time.

86. I did know that we had access to a support programme via Kent Police called Post-Incident Management or 'PIM', if we did require support. PIM was not a formal programme, but would provide us with critical friends to act in the PIM role, and support and assistance in relation to traumatic experiences and events. There was also a Royal Navy programme that we had access to involving 'trauma risk management', titled 'TRIM – Mental Health First Aid Debrief'. I have not sought any support to date.

87. Throughout Operation Deveran, we continually honed our approach in response to the experience we gained, and demonstrated our effectiveness on a daily basis. We were a very competent and professional operation, and rescued thousands and thousands of people in the Channel. It is simply a tragedy that the people aboard Charlie that night are not counted amongst that number.

88. From my perspective as commander of HMC Valiant, we were doing the best job we could possibly do given the resources available and the challenging circumstances we faced. I am proud of my crews, what we achieved and the number of people we saved.

Statement of truth.

I believe the content of this statement to be true.

Signed: Personal Data

Date: 12 November 2024