

Witness name: Stephen John Whitton OBE

Statement number: 1

Exhibits: 31

Date: 11 November 2024

## THE CRANSTON INQUIRY

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### WRITTEN STATEMENT OF STEPHEN JOHN WHITTON OBE

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I, STEPHEN JOHN WHITTON OBE, C/O The Government Legal Department, 102 Petty France, Westminster, London SW1H 9GL, **WILL SAY** as follows:

1. I am employed as the head of Border Force Maritime Command ("BFMC") and have held this post since March 2019. I initially joined BFMC in November 2018 as an assistant director and the chief of staff to my predecessor. During my six years in BFMC I have developed a detailed understanding of maritime operations both in relation to law enforcement and, due to our significant commitment, to search and rescue ("SAR") operations both in the United Kingdom ("UK") and abroad. Although I am not a professionally qualified or experienced mariner, I lead a command which contains a wide breadth and depth of maritime knowledge, skills and experience and highly qualified, professional mariners. Part of my role and responsibility is to pull together and harness that knowledge and experience to give the best possible advice and provide the strategic direction to a wide range of maritime operations. In addition to my experience as head of BFMC I have extensive experience in the operational, tactical and strategic command of high risk, complex and public safety incidents and operations through my 32 years in policing where I held the rank of Chief Superintendent. This experience is highly relevant to

my current role.

2. At the outset I would like to acknowledge the survivors and the families of those who sadly lost their lives on 24 November 2021. The significant risks being taken by those who embark on totally unsuitable and overloaded small boats to try to cross the Dover Strait is something that has never been underestimated by me and my team and the safety of life at sea ("SOLAS") has always been the priority. Whilst this statement focuses on the factual and operational aspects the inquiry is seeking to understand, I will never lose sight of the fact that people have lost their lives in tragic circumstances; they are not just names on a list.
3. In broad terms I would describe my role as having two main elements:
  - (a) border security and providing a maritime law enforcement capability around the whole of the UK which can operate effectively and safely at sea; and
  - (b) supporting the Home Office maritime response to small boats in the southeast with the focus on maintaining an effective rescue capability. and provide a maritime law enforcement response where appropriate and necessary.
4. I have broadly structured my statement to provide the relevant background to BFMC, an explanation of relevant operations, our relationships with other agencies, an explanation of our assets and the day-to-day working in the BFMC Maritime Command Centre ("the MCC"). I have then moved on to discuss the events of 23 and 24 November 2021.
5. It may assist the reader if I briefly explain that a nautical mile("nm") is a unit of length used in air, marine and space navigation. An nm is 1.151 miles. Speed at sea is measured in knots; a knot is one nm per hour.



6. I have referred to the Dover Strait in my statement because that is where the migrant crossings tend to take place, because it is the narrowest part of the Channel. The English Channel is 300 nm long and varies in width from 130 nm wide at its widest to 18 nm wide at its narrowest in the Strait of Dover.

## **Introduction**

7. Border Force (“BF”) is a law enforcement command within the Home Office, responsible for securing the UK border by carrying out immigration and customs controls for people and goods entering the UK. References to the Home Office in this statement include the various different business areas I have mentioned. I have made this statement with reference to Home Office documents and I am duly authorised by the Home Office to make this statement. I am aware that Dan O’Mahoney, former director of the Clandestine Channel Threat Command (“CCTC”), is also providing evidence to this inquiry in respect of his leadership of the BF response to the small boats situation on behalf of the Home Office. I will therefore seek to address the maritime response for which BFMC was responsible at the time of the tragic events of November 2021.
8. BFMC is part of National Operations within BF and operates the UK’s national maritime law enforcement capability with the skills, experience and ability to operate effectively and safely at sea in support of the overall mission and priorities of BF. BFMC vessels carry out both reactive and proactive, intelligence-led maritime law enforcement operations including surveillance, security and maritime interceptions (including the boarding of vessels at sea), both within the UK and adjacent international waters. Our focus has also been counter-narcotics, organised immigration crime and people smuggling and

other smuggled goods bound for the UK: we are responsible for delivering BF's maritime enforcement capability and in so doing, prevent and disrupt organised crime from exploiting the UK's territorial waters for illegal purposes including drug trafficking, illegal immigration and modern slavery. Since November 2018 and as explained below, BFMC vessels and crews had been increasingly deployed to respond to the threat posed by small boats crossing the Dover Strait and the significant threat to life that this dangerous activity poses. This commitment continued up until April 2022 at which point the Ministry of Defence ("MoD") took primacy for the small boats response. The main rescue capability was then delivered through the acquisition of additional, more suitable, commercially provided, Crew Transfer Vessels ("CTVs"), although these continued to be managed and partially crewed by my command and I retained overall responsibility for their use. This allowed my cutters and Coastal Patrol Vessels ("CPVs") to be deployed to their core law enforcement role around the UK.

9. My role involves the operational delivery of maritime operations in support of border security, which is our top priority. Our mission is to enhance UK maritime border security through intelligence-led and proactive maritime operations, delivering the appropriate law enforcement response to:
  - (a) Detect and prevent the smuggling of people and prohibited and restricted goods into the UK;
  - (b) Deter those who use commercial vessels and general maritime ("GM") to pose a threat to the UK. GM is defined as unscheduled, un-canalised and non-commercial maritime traffic such as yachts, motor cruisers and small

motor-boats or small commercial vessels where they have been converted for non-commercial purposes;

- (c) Prevent and interdict criminal activity and preserve and secure evidence to support prosecutions where appropriate; and
  - (d) Reassure the public and wider maritime community whilst minimising interference into the lawful passage of people and goods within UK territorial waters ("TTW").
10. As a maritime command our priority will always be safety. In essence, being able to operate safely and effectively at sea in order to deliver law enforcement or other border security tasks, such as supporting wider security operations with other law enforcement partners and responding to small boats crossing the Channel.
11. The small boat situation in the Channel involving irregular migration to the UK has been a particular focus and priority for BFMC since the problem started escalating during November 2018.

#### **Search and rescue ("SAR") operations**

12. Responsibility for the overall provision of national civil maritime search and rescue ("SAR") and its policies rests with the Department for Transport ("DfT") through one of its executive agencies, the Maritime and Coastguard Agency ("MCA"). The tasking of adequate resources to respond to civil and maritime SAR, and the co-ordination of that response, is the responsibility of the MCA through His Majesty's Coastguard ("HMCG").
13. There is a statutory duty on HMCG to carry out the UK government's obligation to ensure the establishment, operation and maintenance of an effective civil maritime SAR service. Pursuant to its statutory duty, HMCG is responsible for

the initiation and coordination of civil maritime SAR events within the UK SAR region.

14. However, BFMC, in support of the response to the small boats situation in the Channel, has had an enduring role in supporting SAR. BFMC has always worked closely in support of HMCG, which is the lead agency for SAR and responsible for assessing and planning for the predicted SAR demand and risk of small boat crossings on any given day, including the availability of surface assets to respond to incidents. My role was to ensure that the agreed commitment of BFMC vessels was made available to respond to SAR events under HMCG's tasking and co-ordination.
15. In particular:
  - (a) BFMC regularly attended the strategic planning meetings (mentioned below) chaired by HMCG and from early 2018 provided a dedicated liaison officer working within the Maritime Rescue Coordination Centre in Dover ("MRCC") during days of predicted high demand until the Joint Control Room was developed by CCTC.
  - (b) If a BFMC asset encounters a migrant vessel ("MV") while on patrol, which has not already been reported to HMCG, or is not already subject to a SAR response, the BFMC commander of that asset will immediately advise HMCG and make an assessment as to what assistance is required in order to effect a safe rescue. Where a SAR is declared HMCG is then responsible for coordinating any SAR response. This includes discussion with the BFMC vessel commander to confirm the appropriate SAR action, if that is required.
  - (c) Although BFMC had maintained a maritime response within the

southeast from November 2018, in response to the escalation of the small boats problem, in May 2019 BFMC implemented Operation Deveran (“Op Deveran”) (explained in detail below). Op Deveran was the overarching BF maritime plan until March 2022 when the MoD took primacy for small boats operations. Although Op Deveran fully acknowledged our border security role, it prioritised Safety of Life at Sea (“SOLAS”) and the humanitarian rescue of migrants from small boats under the coordination of HMCG. Throughout this period BFMC, working in conjunction with the RNLI, were the primary maritime assets deployed to the Channel in response to this problem, maintaining a permanent maritime presence and ensuring vessels were available as dedicated “taskable assets” to HMCG. This means that, although SAR is not the primary role of BF, we made specific vessels available to HMCG, to be tasked under its co-ordination, to respond to suspected small boats incidents declared a SAR event.

16. All suspected migrant events involving small boats, on entering UK TTW, are initially assessed by HMCG as vessels in distress (this is defined within United Nations Convention for the Law of the Sea (“UNCLOS”) and in the International Aeronautical and Maritime Search and Rescue (“IAMSAR”)) as a situation where there is reasonable certainty that a person, vessel or other craft, is threatened by grave and imminent danger and requires immediate assistance) in accordance with SAR procedures as outlined in IAMSAR manual. This means that the primary response is always under HMCG’s coordination until those onboard have either been safely rescued and taken to a place of safety or the vessel is no longer considered to be either in distress or any other phase of a



SAR mission, as defined by IAMSAR. Frontex is the European Border and Coast Guard Agency which supports EU Member States and Schengen-associated countries in the management of the EU's external borders and the fight against cross-border crime and provides further guidance in relation to assessing whether a vessel is in distress. This guidance was also used to inform decision making regarding the assessment of distress.

17. Of over 127,000 persons who have arrived in the UK by small boat or been rescued en route in the Channel by Border Force officers since 2018 there has not been any loss of life during those operations directly involving my teams, which, although we must not underestimate the significant risks involved, demonstrates the skills, experience and dedication my team have in ensuring the safety of migrants at sea when they are deployed to an incident. Notwithstanding BF officers' experience and expertise on such matters, the final decision as to whether a SAR operation should be terminated as a result of the necessary assistance being provided, is that of HMCG. Again, this only serves to confirm the extraordinary level of care that has been taken to ensure that SOLAS remains paramount.
18. HMCG only has aerial assets directly under their command and control – the helicopter and fixed wing assets. Their main role is the assessment, coordination and call handling capability and any response at sea was provided by other available maritime vessels in the areas or the declared assets provided by the RNLI.
19. Although BFMC vessels historically would carry out proactive patrols within the Channel, as the number of MVs increased, it was a judgement around resourcing and making the best use of those resources, hence patrolling was significantly



reduced and vessels became more 'reactive'. If a vessel had been patrolling for a long shift before a SAR event, the crew would already be tired and could then spend many hours on a SAR event, meaning that they would be exhausted and in danger of breaching maritime working regulations which was starting to happen more regularly. When people are fatigued, it can make an already extremely dangerous situation even worse. Moreover, if a vessel was only routine patrolling, it could result in it being further away from the SAR event than if it based itself in Dover and instead reacted to known events. There are over 600 square miles of sea in the Dover Strait and a distance of over 40 miles where MVs were crossing into UK waters and in my opinion a good aerial surveillance capability provides for more successful searches than that conducted by surface assets. The ability for a surface vessel to identify an MV was limited due to the MV's size and construction and at night we were largely relying on night-vision equipment because the radar would not easily detect a small MV. The evidence we had from patrolling showed that, in practice, not many MVs were encountered during patrols. The MVs were operating in the busiest shipping channels, so as HMCG regularly broadcast messages to other shipping for them to be aware of the potential for MVs crossing this provided an extra layer of surveillance to detect MVs at sea. Due to the pressures on the resources we had BFMC was therefore best placed to respond to confirmed sightings. This provided more resilience to our capability, which was not exhaustive, recognising that as soon as an MV entered UK waters they were very likely to use mobile phones to call HMCG and ask for assistance, so would often be quickly identified and a location established.

20. In our experience, in most SAR events involving MVs which have progressed

into UK TTW had shown the ability to make progress and as such that they were often not in immediate peril, aside from the very real danger with being almost undetectable in the Channel and extremely vulnerable to both the weather conditions and commercial traffic transiting the Traffic Separation Scheme ("TSS") (explained below).

21. The SAR work BFMC undertook was detracting from our law enforcement role as we were keeping our surface assets available for SAR purposes, undermining our resilience and ability to support other law enforcement taskings such as providing a maritime interdiction in support of counter-drug smuggling operations, maritime human trafficking and modern slavery and clandestine people smuggling operations around the UK. Our maritime capability was based on providing an effective maritime law enforcement response and the vessels were not designed nor equipped as dedicated rescue vessels or to carry out mass rescues. Whilst continuing to deliver Op Deveran my ongoing recommendation was that we needed to develop a more bespoke maritime rescue capability for the Channel. This was initially realised through the deployment of CTV Hurricane in July 2021 after a short trial of this new vessel type which started in March 2021 followed by an additional four CTVs in April 2022. This has been an effective and enduring maritime SAR response since that time. It does however have limitations such as being able to carry out safe rescues in sea states approaching 1 metre significant wave height and so the RNLI continues to play an essential role in response to MV rescues.
22. Since 2022 there has been a very different maritime operational model provided by the Home Office which primarily involves 5 CTVs covering the 24/7 period each day. These vessels can carry up to 150 rescued persons and provide a

much improved and resilient capability to that which was previously provided by BFMC cutters and CPVs. There is also significantly improved surveillance and intelligence delivered through the Small Boats Operational Command (“SBOC”) to support the operational response to small boats.

23. The suggested maximum capacity in terms of rescued migrant numbers on board HMC Valiant was set by BFMC as a result of discussions with vessel commanders and our Maritime Safety Team and took into account the often challenging conditions we were operating in and the crewing levels we could maintain on the vessels. Accordingly, whilst she could physically accommodate more without affecting stability, 100 migrants was considered to be an appropriate number taking into consideration all the circumstances to best ensure the safety of the crew, the vessel and the migrants themselves. That number also took into account that the likely crew figure on board would be 10-12 and everyone’s safety had to be considered. Three of that crew would need to remain in the wheelhouse and would be responsible for the command and safe navigation of the ship. All of this is said with the fact that cutters are not designed or equipped to take large numbers of passengers. Rescued migrants needed to be held on the outside decks of the cutter which provided limited shelter and facilities necessitating a decision to get those rescued to a place of safety as soon as possible. Remembering too that the migrants had already often spent many hours at sea and were tired, hungry, cold and often in need of medical attention. 100 people is also a considerable weight for the cutter and a greater figure could potentially affect the stability of the vessel in particular circumstances such as if the sea state deteriorated or there was a breakdown in control of those onboard.

24. The suggested maximum capacity was not a limit, it was a professional judgement as to how many people BFMC felt could safely be accommodated on board. The suggested maximum would not stop a cutter commander from making a risk-based decision to embark 110 or more migrants should that be required. However, embarkation of a number of migrants in excess of the suggested maximum capacity might indicate that additional mitigation measures should be put in place, for instance, the provision of an RNLI lifeboat on standby to assist. Conversely, a cutter commander might make a risk-based decision to return to port having embarked a much smaller number than the suggested maximum capacity, for instance, if there was an urgent medical issue onboard.
25. BFMC cutters were on 30 minutes notice to deploy to sea as standard. This meant that from the time they were tasked by the MCC they had 30 minutes to get the crew and vessel ready to depart to sea. It is difficult to say with any accuracy how long a cutter would ordinarily take to reach the Median line from Dover as there are numerous factors that would affect the speed at which she could safely travel such as her loading, the sea state, visibility, other maritime traffic in the area and in particular the TSS but from Dover straight out to the median line is approximately 11 nm. Cutters will travel at 'best safe speed' depending on the task, which is determined by the vessel's commander, having assessed all relevant factors. Those factors will include the vessel's own condition, including any restrictions on its operating parameters; the reason for the deployment, for instance, should the vessel have been tasked to attend a SAR event, the crew will be preparing the Rigid Hulled Inflatable Boat ("RHIB") to launch on arrival at the incident, as well as preparing to provide life jackets, blankets etc.; the weather in terms of visibility, what the lookout can see and also

whether the vessel will be seen by others; the wind speed; the wave height and the traffic. Safe speed also takes into account that on red days when crossings are likely, an unexpected MV might be encountered whilst heading to a separate SAR event.

## **BFMC**

26. I lead BFMC which includes officers, who are both experienced and qualified mariners, and law enforcement officers. Since 2015 these officers have been involved in dealing with irregular migrant events at sea, in both the Mediterranean (between 2015 and 2020) and the UK (since the small boats situation started to escalate in 2018). In UK TTW these have involved small, typically heavily overloaded inflatable boats which are often poorly constructed, and entirely unsuitable for these dangerous crossings. Beyond their poor construction, such boats are simply unable to survive the changeable weather conditions found in the Channel, nor effectively navigate what is the busiest sea route in the world.
27. BFMC officers hold MCA Certification and all masters of our cutters (the commanders of the vessels) complete an MCA business and law course as part of their training. The content of this course includes the obligations of masters under UNCLOS, IAMSAR, SOLAS Convention and the Convention on the International Regulations for Preventing Collisions at Sea, 1972 ("COLREGs") (the latter of which covers the internationally agreed navigational standards to avoid collisions).
28. When the response to small boats began in 2018 BFMC had two cutters deployed which we would rotate to provide 24/7 coverage. We also had two smaller CPVs which we deployed from Dover. At that time we were dealing with



12-14 people in a 5-6 metre inflatable as a standard incident. Today the average is over 55 people in an 8-10 metre inflatable and numbers between 70 and 90 is no-longer uncommon.

29. In May 2019 Op Deveran formalised the provision of one cutter and two CPVs, which was considered sufficient to meet the demand from a BFMC perspective and considering the limited resources we had available. Although extremely challenging there was no loss of life but we were conscious that this was not a long term solution, particularly if numbers continued to increase. It was hard work but we were managing with my crew demonstrating incredible resilience and commitment. In 2020-2021 the numbers started significantly increasing and the MVs got larger. As a command we were concerned about BFMC's capacity to manage the increasing numbers and the time officers were having to spend at sea without rest and wanted to introduce a better capability to meet the demand. We then introduced the first CTV to replace one of the CPVs in July 2021 which proved to be a significant improvement.
30. My command in November 2021 included:
- (a) Five Offshore Patrol Vessels (cutters);
  - (b) Six CPVs;
  - (c) Four independent specialist RHIBs;
  - (d) Six Tactical Watercraft ("TWC"); and
  - (e) Specialist maritime search officers from the National Deep Rummage Teams ("NDRTs").
31. We are supported by training, engineering, maritime safety and assurance and a business support team. We also run a 24/7 MCC based in Portsmouth.



32. My team has been directly involved in rescuing migrants at sea since 2015 (in both the Mediterranean Sea and the Channel), often in extremely challenging circumstances such as where weather conditions have deteriorated, serious medical incidents have occurred, persons from small boats have ended up in the water and small boats have drifted into the incoming path of commercial vessels, including extremely large container ships which are unable to effectively stop or divert to avoid a collision. As a result of this experience, my team is very aware of the dangers involved in small boats crossing the Channel and the risks involved in intercepting them. In particular they are aware of the unpredictable actions that may be taken by very inexperienced mariners at the helm of small boats.
33. Since November 2018 until MoD took primacy in April 2022, I have been involved in the maritime response to small boats crossing the Dover Strait from France to the UK as the strategic lead for Op Deveran – (see below).
34. I recall a workshop with the chief coastguard with all the relevant organisations present on 02 December 2021. It was an important workshop which concluded that there needed to be 11 assets at sea to properly respond to the increasing SAR activity.
35. I was aware of a submission to the Home Secretary in December 2021 in which CCTC sought to address this by suggesting that responsibility for SAR assets transferred to HMCG [INQ005272]. Discussions with MoD led to them taking primacy for the response to small boats under Operation Isotrope by April 2022. MoD fully supported our recommendation that we needed a minimum of five CTVs as their assessment had been that they needed 8-10. Operation Isotrope was about military primacy in the Channel, a matter which Mr O'Mahoney will

cover in greater detail.

### **The MCC and other centres**

36. The MCC is based in the Joint Maritime Security Centre ("JMSC") at Royal Navy Command, Portsmouth and is responsible for the deployment and co-ordination of all Border Force cutters, CPVs, RHIBs, TWCs and NDRTs.
37. The MCC is co-located within the Joint Maritime Operations Co-ordination Centre ("JMOCC") which also consists of the MCA, the Royal Navy and the Marine Management Organisation ("MMO").
38. BFMC works closely with intelligence and law enforcement agencies co-located within in the National Maritime Information Centre ("NMIC"), itself located within the JMSC; these include the National Crime Agency ("NCA"), Counter Terrorism Policing ("CTP"), HM Revenue & Customs ("HMRC") & the Royal Navy.
39. BFMC has maritime assets all over the UK and coordinates the deployment of those assets through the MCC in Portsmouth. In 2021 this included supporting HMCG and the CCTC in the southeast but the responsibility for the deployment of Home Office SAR assets, however, had moved to the Joint Control Room ("JCR") in Dover which was run by CCTC at the time and is now run by SBOC.
40. The JCR is located at HMCG's MRCC. The JCR is a land-based location where CCTC can have direct access to necessary communications and imagery to be able to effectively undertake their function alongside HMCG, where HMCG is leading and coordinating the response to SAR in the Channel.
41. The BFMC was involved in SAR events coordinated by HMCG because the majority of the surface assets used for SAR 'belong' to us and because of the potential risk MVs posed to border security if they reached the UK undetected. We would talk to HMCG about our assets and availability, as well as sharing

information trackers and attending meetings, which I will go on to discuss. When the small boats incidents began the JCR did not exist, but following its formation the JCR and the MCC would be in close contact. The JCR would speak to HMCG, rather than the MCC speaking to HMCG. During 2019 as the number of MVs increased we recognised the need to work more closely together and started putting liaison officers into HMCG at the MRCC at Dover on those days where a high number of crossings were anticipated, and that is how the JCR later developed. It was ad hoc to begin with but worked well and so was formalised with dedicated officer shifts. In November 2021 the arrangement only happened during the day, but since then the JCR evolved to the point of withdrawing the MCC's role in respect of SAR.

42. In November 2021 the BFMC's role was overseeing the deployment of any assets, considering the appropriateness of their use and providing support to the BFMC vessel commanders. The MCC provided the overarching command and control and support to maritime operations involving BFMC vessels and an escalation process to BFMC duty command officers on call. The command always has a Duty Senior Executive Officer on call who is able to provide tactical command for an incident or operation and a member of the BFMC Senior Leadership Team who is able to provide strategic command if necessary. BFMC was not responsible for the coordination of the response to SAR but had a role to support our vessel commanders who remained under the command of BFMC.

#### **Communications with other departments and agencies**

43. The MCC staff did not communicate directly with the French Coastguard; HMCG would do this. BFMC staff did have a relationship with Cherbourg which held the command and control for the northeast waters around France. The MCC had a

Skype link with them and we would use it for intelligence and matters such as informing them when we were standing up Op Sommen. Communication between any vessels deployed to a SAR, whether French or UK, would be in accordance with normal SAR protocols and will initially be of VHF Channel 16 which is monitored by HMCG. Marine VHF radio is a worldwide two-way radio system on ships and watercraft used for voice communication from ship-to-ship and ship-to-shore.

44. My conversations with the French were mainly related to operations and our law enforcement. If we had both been involved in a SAR activity and I felt something had not gone to plan or could be improved, I would email HMCG to feedback to from France as appropriate, because it was SAR and therefore coordinated by HMCG. I would go to Cherbourg every six months or so and share information from an operational perspective. We were looking at arranging secure communications between our vessels and those of the French but the deployment of Op Sommen unfortunately had an adverse effect on the relationship. This is something we are now revisiting with the French authorities.
45. I would regularly read sit reps (situational reports) but if there were any problems I would be told separately; I did not rely purely on sit reps for my decision making relating to maintaining the set maritime commitment, the consideration of surging additional assets on any given day or the assessment of deployment of Op Sommen. I would use information from various sources, including intelligence shared by French colleagues to support my decision making.
46. I am not aware of any jurisdictional disputes regarding the location of small boats in the Channel because there are very clearly defined rescue regions which are understood and documented. Part of the UK rescue region is in French waters

and vice versa. A mariner at sea is not restricted by boundaries where SOLAS is paramount. Close contact between BFMC, HMCG and the French coastguard meant there could be ongoing discussions about the location of vessels (as between French and UK TTWs). If an MV was in French TTWs it did not mean BF would not respond; if the vessel was likely to cross the median line and enter UK TTWs then it was a border security issue.

47. I am aware that the French Coastguard and HMCG had the Manche Plan which underpins how the UK and France discharge their responsibilities to render assistance to persons in danger regardless of the TTW.
48. I am not aware of any policies or memoranda of understandings setting out operational relationships between the Home Office and France in respect of small boats.

### **Operation Deveran**

49. Op Deveran is defined in the operational order **INQ000619** as, *"the Border Force led maritime response at sea to the threat of either opportunistic and/or facilitated illegal migration using small boats. It has been operating since May 2019 and covers the BF maritime strategic, tactical, and operational response in support of Operation Altair, which is the overarching campaign plan to make small boat crossings unviable under the command of the Clandestine Channel Threat Command."*
50. The operational order is reviewed regularly and I have exhibited the version in place at the time of the events the inquiry is examining. The operational order details the weather conditions (specifically the estimated wave height) underpinning the red-amber-green ("RAG") assessments, which predict the



likelihood of any attempted migrant crossings. The order explains, “*Since 2021, The Clandestine Threat Command has tasked the Met Office to produce a daily weather assessment for the operational area. This is disseminated at 12.00 hours Monday to Friday. The Met Office assessment refines the previous Deveran Commanders’ Report and provides additional focus on the French beaches. They have also refined the original three stage RAG assessment. The new assessments are –*

- *Dark Green - Highly Unlikely >1m Greatly limited crossing activity, mostly associated with larger vessels more able to operate in adverse sea conditions.*
- *Light Green - Unlikely >0.5m to 1m Limited crossing activity in marginal conditions.*
- *Yellow - Realistic Possibility >0.4 to 0.5m Increased crossing activity.*
- *Amber - Likely or probable ≥0.3 to 0.4m – Favourable conditions.*
- *Red - Highly Likely ≥0.3 to 0.4m Optimum Conditions*

51. On weekends the cutter commander would continue to produce a red-amber-green (“RAG”) assessment. The weather assessments provide more information than set out above, but for the purposes of BFMC the forecasts shape the deployment of assets.
52. The operational order sets out the following:
  - (a) Background information about small boats and the Dover Strait;
  - (b) Risks to migrants and officers;
  - (c) The Gold strategic aims of Operation Altair (which is the overarching operation), the primary one being to save lives;
  - (d) The maritime strategic objectives – the overarching priority being SOLAS;
  - (e) Legal powers in terms of law enforcement;
  - (f) Policy considerations including asylum claims and the welfare of children;



- (g) References to the relevant standard operating procedures to be read in conjunction with the operational order;
  - (h) Details of the vessels used in the operation;
  - (i) Risk assessments; and
  - (j) Other relevant matters.
53. I ensure that the operational order is regularly reviewed and updated, based on best practice. It is circulated to all BFMC personnel and they are required to report back and confirm that everyone has read and understood it and raised any queries.
54. The command and control structure is set out within the operational order. In November 2021), it stated as follows:
- (a) *Maritime Command through the MCC [Maritime Command Centre] will maintain control and oversight of Border Force's maritime response.*
  - (b) *This will be supported by the Maritime Command Liaison Officer who will deploy to the joint CTC Control Room on higher risk days.*
  - (c) *The MCC will deploy maritime assets based on updates from the Cherbourg MOC via the established Skype link, HMCG, the Dover Liaison Officer and any developing intelligence.*
  - (d) *Once deployed, Maritime Command vessels will be a taskable asset for Dover Coastguard.*
  - (e) *They will respond to events based on the Coastguards Alphabetic Reference System.*

- (f) Once the migrants are embarked, the MCC will issue the Commander/OIC with a, "M" reference.*
- (g) The final decision to respond to additional taskings from the Coastguard lies with the Commander/OIC [Officer in Charge]. During multiple migrant events, a Commander/OIC may feel that the Maritime Command vessel is at capacity or there is an urgent need to return to Dover to ensure migrant welfare. If this is the case, they will notify HMCG and request that another vessel is deployed.*
- (h) Also, if they arrive on scene and assess that the numbers on the migrant craft are too great to allow safe embarkation or conditions do not allow for a safe embarkation, they should notify HMCG and request additional support.*
- (i) As part of this process, the Commander will take account of vessel stability and the ability of the crew to undertake emergency procedures if required.*
- (j) The MCC will keep the RCCU [Regional Command and Control Unit] regularly updated. The RCCU will update Senior Managers, relevant Border Force Teams and partner agencies.*
- (k) The Commander/OIC will liaise directly with the designated Tug Haven Bronze Commander via Airwave.*
- (l) The MCC, in conjunction with the relevant Commanders/OICs will also have responsibility for standing Maritime Command vessels down. The MCC will take particular cognisance of crew fatigue issues and will notify HMCG accordingly.*

*(m) The RCCU will coordinate all shore-based responses.*

55. Toby Whale in my command was the tactical lead for Op Deveran. Op Deveran became Op Isotrope when MoD took primacy for small boats operations in the Channel.

### **Operation Sommen (“Op Sommen”)**

56. I will briefly mention Op Sommen, also known as the ‘turnaround tactic’, for which I was the overall tactical lead for the operational development of maritime tactics to prevent small boats from progressing through UK waters. Mr O’Mahoney was the strategic lead on Op Sommen. Since the small boats problem started to escalate in 2019 BFMC has been involved in numerous initiatives to look at the response at sea and if there was any safe and legal action that could be taken to prevent and deter crossings. This has also involved working with operational maritime colleagues from France to develop a more integrated approach at sea, including the possible development of a plan to return migrants who had been rescued in UK waters directly to France. Options continue to be explored and further tactics developed. As with all tactics, SOLAS always remains the priority. At no time would any tactic be implemented if it conflicted with BFMC’s SOLAS obligations, including Op Sommen, when it was being deployed.
57. Op Sommen was only considered for deployment following an assessment on ‘red’ weather windows, during daylight hours in the designated area of operation. It was not deployed on 23 or 24 November 2021 and therefore had no impact on the incident the inquiry is examining.
58. Mr O’Mahoney and I would meet ahead of any period of one or more red days, termed a ‘red window’, because Op Sommen was predicated on a plan to provide

48 hours to 'stand up' to allow all the necessary resources to be mobilised and fully briefed and this was considered a reasonable time frame to more accurately assess the prevailing weather conditions. In light of a red day being predicted during the week of 22 November 2021, I needed to assess whether Op Sommen could be deployed. On 22 November 2021, I emailed Mr O'Mahoney to confirm that I had not identified any periods of time with sufficiently calm weather in which Op Sommen could safely be deployed, noting the 48-hour gap needed between the assessment and the operation being 'stood up' [INQ008329]. Whilst a red window was identified from 22:00 on 24 November 2021 through to 06:00 on 25 November 2021 it was overnight and therefore outside of the parameters of Op Sommen. From 06:00 on Thursday 25 November it was yellow, with conditions deteriorating to green until Sunday 28 November 2021.

59. Amongst the many factors always taken into account I considered the temperature and risk of hypothermia; lower temperatures understandably increased the risk of hypothermia because the migrants would be wet and had been in an MV for hours.

### **Communications services**

60. The Home Office is responsible for the provision of the airwave system and its intended replacement, the Emergency Services Network ("ESN"). The Home Office is not responsible for mobile network coverage which is dependent on the service provided by commercial mobile network providers. The ESN system, once rolled out, should extend coverage to UK TTW, enabling members of the public to make 999 calls.
61. In terms of communications, BFMC had a variety of communication channels

available to enable contact with our vessels, regardless of where they physically were. Similarly the fleet had a range of comms; the cutters specifically had a satellite phone, airwave, VHF, a mobile phone and Sat-C (a satellite email service). It is rare that BFMC vessels have any issues with Channel 0 but on occasion they are unable to pick up a strong enough signal to speak with HMCG when operating between the Bullock Bank buoy and Basurelle Buoy, due to atmospherics on any given day. They are however still able to communicate with vessels in their vicinity on VHF Channel 0 and 16.

62. There are multiple locations in the Channel where BFMC vessels lose signal on the airwave system, which includes Bullock Bank, Sandettie Light Vessel and Colbart Nord. The airwave reception is at its strongest when operating between MPC and Varne Light Vessel.
63. Network coverage is impacted by atmospherics; during poor atmospherics BFMC has on occasion seen the airwave radios lose signal when alongside in Ramsgate and again when patrolling in the Gull Stream. By way of mitigation for VHF/airwave coverage issues BF vessels also carry Iridium Satellite Telephones.
64. It is important to note that regardless of location, BFMC will usually have at least one method of communication with HMCG available, whether it is airwave, VHF Channel 0, mobile phone or satellite phone.
65. The Home Office does not use WhatsApp for official, operational communications and so staff did not have access to that on their work phones. I am aware that HMCG used WhatsApp as a way of communicating with migrants on vessels but the location information from WhatsApp is not particularly accurate at sea and HMCG would have had to triangulate the data and use other



methods to verify it.

66. The MCC would not communicate with the French coastguard or authorities during a SAR event.
67. The MCC staff would not hear, nor be involved in the mayday procedures as they do not have access to VHF and it is not part of their role. BFMC vessels will always monitor VHF emergency channels and so would be aware of relevant mayday transmissions and would respond to them where able to do so and offer assistance safely. Crew might also initiate a mayday relay if they encountered a vessel in distress and could not render the necessary assistance (for example, if they were already at maximum capacity) or to notify HMCG and all ships in the vicinity that they were about to commence a rescue. Even in the circumstances where they could not undertake a full rescue, they would remain with the vessel in distress and could deploy their life rafts or other rescue equipment as a temporary aid to assist any persons in danger and provide life jackets. It is more likely that our crew would contact HMCG to report the situation and render assistance until another asset arrived. HMCG, as the coordinator, could also issue a mayday relay or speak directly to a nearby vessel and request assistance. HMCG was also responsible for closing mayday incidents.
68. The MCC does not audio record any of its channels of communication and therefore has not provided any records in respect of this. The MCC staff are not emergency call handlers and do not receive calls directly from the public.
69. The Home Office did not rely on the presence or absence of an international dial tone to determine the location of a small boat because it did not have direct contact with any MVs.



## Training

70. The Home Office does not have standard operating procedures (“SOPs”) relating to SAR but it has SOPs relating to rescuing migrants in place, including by way of the cold weather assessments during SAR operations SOP, cold weather operations – transfer of rescued migrants from external areas to cutter accommodation SOP, cutter migrant operations muster SOP, migrant rescue cutter SOP, migrant rescue CPV SOP and migrant rescue MCC SOP – mass casualties at sea.
71. The SOPs form the basis of BFMC training which complements the MCA training our crew have. There is informal training around search patterns, but all MCA trained mariners already have an element of training concerning search patterns included within their maritime qualifications (to deal with a man overboard situation for example) and every cutter carries the latest volume of IAMSAR. The coordinates given by HMCG to BFMC act as a starting point, from which a commander will decide on a direction of search. HMCG can discuss search options with the commander. During a SAR a particular vessel at the scene is designated as the on-scene command vessel; this would generally be the RNLI if they are there because they possess the knowledge and expertise.
72. The cutters carry equipment for rescuing people from the water. They carry MCA category B medical equipment for crew first aid which relates to vessels operating up to 150 nm from shore and within the range of an HMCG helicopter. The cutter commanders are trained to a high level of medical intervention, but primarily only for treating crew. Today’s CTVs carry a paramedic on board.
73. Whilst the cutters can be and were used for SAR, they were not designed as rescue vessels and therefore are not suited to that purpose, which is why BFMC

wanted to move away from using them as SAR assets. The cutters would deploy their stern launched RHIB to rescue migrants from the MV and either relay them back to the cutter in small groups, which took a long time if it was a large group or, if the circumstances were appropriate, bring those rescued up the side of the cutter using a scramble net or by cross decking them over their RHIB. There was also the option of bringing small groups of rescued migrants back up the stern launch platform. There are risks with all these methods and the commander would have to dynamically assess what was the most appropriate at the time. If left for long period onboard their MV those still waiting on the MV will often start to panic that they might not be rescued, which could threaten the stability of the MV if they become agitated. Were the MV to be compromised and the sponson collapse or other material failure of the vessel, it would become an even more dangerous SAR situation. Ideally you want to rescue everyone as soon as possible. Injured or disabled people might be left until last because they need to be taken up on the ramp at the stern of the cutter, given that they may be unable to climb the ladder/scramble net, and there are weight limits with that. It takes time to move migrants from the MV to the cutter. In May 2021 BF trialled the CTV Hurricane which went on to replace a CPV. Hurricane was intended to be deployed during the busiest periods because it was better suited to SAR and could carry larger numbers.

#### **Tabletop exercises (“TTXs”)**

74. We had structured forums with the RNLI coordinated by HMCG, seminars and TTXs in order to test and review our operational response to migrant rescues. We had fairly regular meetings with seniors within RNLI. At an operational level

I encouraged crews to go and meet in Dover, Ramsgate and other local lifeboat stations and share ideas, experience and best practice. I think we worked really well together. In terms of any issues, the only one which comes to mind was the concern about the increasing demands placed on the RNLI in responding to small boats, when the RNLI was staffed by volunteers who also worked in other jobs. The RNLI could not provide an enduring 24/7 service, something BF was acutely aware of given that some of our staff are themselves RNLI volunteers. The discussions about this were entirely professional and the bottom line was that both the RNLI and BF would continue to respond to any SAR event with which they were tasked, recognising that lives were at risk.

75. As noted above, I attended various TTXs and brought the learning back to my command.
76. I met with colleagues from HMCG, RNLI and MoD on 24 October 2022 to discuss the approach to rescues at sea and recoveries at sea (the latter relating to deceased people). The next day I sent an email setting out the guidance I had issued to BFMC staff [INQ005248]. One of the issues to explore was that RNLI was aimed purely at rescuing rather than recovering. However, without a suitably qualified person being available in a SAR situation to confirm whether a person was deceased, BFMC's approach was to treat every person recovered as alive (albeit they may be assessed as an unresponsive casualty) and do what we could to save life pending proper medical attention ashore or at sea.
77. I attended a TTX organised by JMSC and facilitated by Nous Group on 04 November 2021. It was well attended with representatives from many agencies; the exhibited summary confirms the attendees; BF was represented by Karen Whitehouse from the MCC, 

Name	Name	Name
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 and

myself [INQ009672].

78. I am also aware that a workshop was arranged during Op Isotrope to discuss mass rescue tactics on board HMS Severn in Dover on 02 December 2022. The workshop was for RNLI, HMCG and maritime operators (masters of our vessels). The broad aim of the exercise was for the RNLI to share their knowledge at an operational level. There was also a strategic exercise on 15 November 2022 which Mr O'Mahoney attended; **Name** attended for BFMC **Name** was an officer in charge of a CPV within BFMC and seconded to CTV Ranger. He shared his notes from the exercise which my team reviewed alongside the SOPs to ensure they were updated if required [INQ005246 & INQ005247].

79. I attended a TTX arranged by SBOC on 18 October 2023. SBOC wanted to set up a series of TTXs to improve the collective response to small boat related incidents which have an investigative dimension in both France and the UK. The plan was to have a UK only TTX at Manston in Kent, followed by a joint UK/France TTX in November 2023. It was said in the invitation email that this work had come about following a number of serious incidents where joint working with French law enforcement had been necessary INQ005241. The email went on to say that in each of those incidents there had been little in the way of established guidance/protocols to effectively clarify issues around information sharing, evidence gathering forensic strategies amongst other things. The TTX sought strategic and tactical attendees.

#### **Wellbeing of Border Force staff**

80. In addition to ensuring our SOLAS obligations, we are also very conscious of the impact of Op Deveran on the mental health and wellbeing of our staff. We have

a number of support programmes in place to support officers and have now set up a working group, involving trade union representatives, to implement a welfare action plan to support staff involved in the MCC operations and in particular the response to small boats crossings.

### **BFMC day-to-day working in November 2021**

81. The sharing of information between agencies and departments has always been encouraged and from my own experience, I recognise that this serves to enhance knowledge both within and across organisations, encouraging collaboration, and by enabling policies to be developed/modified to respond to emerging trends.
82. HMCG would hold 'Small Boats Response Planning' ("SBRP") meetings, typically on a weekly basis, between the various stakeholders assisting with SAR activities in the Channel. The standing attendees list included HMCG's duty strategic commander, duty COLO, maritime operational commander, maritime tactical commander, the RNLI, BF, with optional attendance from 2Excel. We would rarely determine operational arrangements on those calls, instead they were routine meetings to maintain communication between the parties and confirm available assets. Given that BFMC maintained a standard deployment for the south-east and regularly shared the Op Deveran planning information with HMCG by email, HMCG already knew what assets we had available to assist them with small boat incidents and so, subject to maintenance requirements or other exercises which might impact asset availability, there was typically nothing to update on our part. If HMCG anticipated a need for increased capacity or had other requirements, they would raise that issue immediately, rather than wait for



the next SBRP meeting. Nor would any intelligence be provided to us during those meetings, it would be provided by other means.

83. As part of this information sharing BFMC staff were aware that migrants calling from MVs might exaggerate the level of distress they were in, in order to speed up the rescue response. Again, this would never undermine our clear view regarding the vulnerability of MVs and those onboard and the significant risks they were taking in crossing the Dover Strait. In a matter of seconds an MV incident can change to that of a mass casualty event and this was always at the forefront of our mind.
84. BFMC staff have rendered assistance to a large number of small boats which they were led to believe were in serious risk, only to arrive at the coordinates to discover the occupants were reasonably safe i.e. still afloat and making way and not sinking or with serious casualties onboard, but still of course in significant danger due to, for instance, a lack of visibility, the slow speed at which they operated in a dangerous shipping lane, or otherwise. I am personally aware of reports of children or young people not breathing or being in the water and then the BFMC staff on the scene reporting that everyone was, relatively speaking, safe and well, with no medical emergencies on board. It is also not unreasonable to expect that migrants will panic in some situations and believe that someone is not breathing; the boats are crowded and generally launching at night so visibility is extremely poor and they are no doubt scared. The exaggeration is more likely to be based upon the individual's perception of their situation. Despite the fact that the migrants may have exaggerated the conditions they were in, BFMC knew only too well of the real danger they were actually in, even if the migrants did not. Over 400 vessels transit the Dover Strait every day, including some of the largest

ships in the world. A TSS managed by the Channel Navigation Information Service ("CNIS") controls this traffic. The TSS comprises two lanes that run through the Dover Strait to guide the flow of traffic, one to the northeast and one to the southwest. The UK-France territorial border lies within the TSS, at various places falling within the traffic lanes or separation zone. It is like an invisible, but very busy, motorway at sea.

85. Where MVs are commercially manufactured, the migrants will not generally comply with the manufacturers' instructions, primarily due to over-crowding and the area they are attempting to cross. There are also many other MVs which are of non-standard construction and therefore do not meet any standards of certification or manufacture. In almost all journeys the MV is not fit for the purpose it is being used for and therefore unseaworthy.
86. Whether or not all migrants were in the danger they declared, I am confident that BFMC staff always responded as quickly as possible in the circumstances, navigating at best safe speed to the given location provided by HMCG, knowing the potential, actual and very real danger the migrants were in. There was no room for complacency, even when responding to an MV which was still reported to be making way. Whilst a lot of incidents were not as bad as first reported, there were incidents which were far worse. We might receive a report of 20 people on board and on arrival there are 50. This certainly became more common as the small boat situation continued to escalate. The on-scene assessment is imperative, which means the quicker an asset can reach the MV the better (whether that is an aerial asset or maritime vessel). The initial information received from a caller or other vessel was more relevant to HMCG because they were responsible for tasking SAR assets and could decide between aerial assets

(including their own helicopter), RNLI assets or BFMC assets or other marine traffic in the area could potentially offer assistance including French vessels.

87. Once BFMC vessels arrive on scene, the crew relay as much information as they can to HMCG to assist HMCG in reconciling the event with the distress calls they have received. I recognise the significant challenge this can pose with dozens of calls, multiple MVs and conflicting information. Occasionally HMCG or the BFMC vessel would relay sensitive information via the MCC because the VHF is public and can be overheard and potentially recorded by anyone nearby or using a device to listen. This would not impact upon an event because the MCC could instantly contact HMCG or our vessels to relay the sensitive information using the range of communication methods available.
88. BFMC's seagoing officers are trained and experienced to look at factors around a vessel in distress by looking at the environment, the weather, the material state of the MV and the people. The crews are highly experienced and capable of undertaking dynamic risk assessments.
89. Translation services are not utilised by BFMC as part of our SAR role; to do so would slow things down and potentially enhance danger. Additionally, each MV invariably contains multiple nationalities. As noted above, BF does not receive emergency calls from the public, including those onboard MVs. It is difficult to communicate with another vessel at sea without VHF; crew shouting from one vessel to the other would be difficult to hear over the cutter's engine and prevailing weather conditions and environment in any event. Simple sign language is the most effective form of communication in these situations. Hand signals to indicate that someone should stay put or move towards the crew works sufficiently well to enable the safe rescue of migrants, which is the priority. There

are translation services available at the migrant reception facilities and I imagine that the migrants' primary concern is to be rescued, rather than understand everything in the moment. Moreover, given the traumatic experience they have been through, not least the freezing cold conditions, many migrants are largely uncommunicative regardless of language differences.

90. The Home Office does not have control over any voluntary SAR assets to render assistance to persons in danger because SAR is not the Home Office's responsibility. That said, the Home Office works closely with RNLI around the UK, whose mission is, "*the charity that saves lives at sea*". I have great respect for the RNLI and its volunteers; they are very professional and the experts in lifesaving capability within the UK context. BFMC also works closely with HMCG and had weekly strategy meetings on Monday afternoons.
91. As set out above, BFMC made available a cutter, a CPV and a CTV to support HMCG's SAR response in November 2021. The RNLI would share their asset situation and HMCG's strategic commander would have oversight of the picture. It was not for BFMC to monitor the availability of voluntary assets during periods of increased activity in the Channel, or at all, but we were aware of it to an extent by virtue of working closely with the RNLI and HMCG.
92. BFMC would send an email to HMCG confirming our asset availability. HMCG had an embed in the JCR so they knew first-hand what our asset availability was. The standard Op Deveran deployment was available but we always had the ability to surge a second cutter within 12 hours into the southeast in order to provide resilience to our own capability.
93. The availability of RNLI assets would not affect BFMC; their capability and assets were fundamentally different to BFMC, being ideal for conducting rescues in all

conditions. The BFMC capability was primarily for, and therefore most suited to, law enforcement and so could not act as an equivalent replacement for RNLI assets, albeit our assets could take more people on board than theirs.

94. HMCG and the RNLI tasking authority would decide whether the RNLI deployment was necessary in any given situation based on the circumstances, including the number of passengers, the sea state and location of the MV. HMCG knew the operating parameters of BFMC vessels which were not bespoke rescue vessels, for instance, CTVs should not be used when the significant wave height was approaching 1 metre and above. The BFMC commander might request RNLI assistance via HMCG but at that time approximately 90% of rescues were being done by BFMC without RNLI being needed. I do not know how many times BFMC has requested RNLI assistance via HMCG; the Home Office would not have an accurate record of that, because it would be a direct communication between the BFMC vessel and HMCG, most likely via VHF.
95. As noted above, BFMC had a close working relationship with HMCG. We would debrief every rescue and review the information to develop learning. I ensured that BFMC's operating procedures were regularly reviewed and updated. We also had a tactical forum to share good practice. I attended mass casualty exercises and would report back with any learnings and consider them with the team. I would continue to think about the limitations of our assets; I recall some work around the numbers the CTVs could safely embark – whilst they could take higher numbers than the 150 recommended, this would affect their wider capability and the ability to safely manage those onboard, so there needed to be a sensible middle ground. The parameters were put in to assist the commanders in making the final decision.



96. As far as I am aware the MCC staff did not have access to MCA Vision Logs, unless that is another name for the HMCG tracker. Historically HMCG would email the MCC with its latest tracker and the MCC would use the information from that (which was pasted into an email) to update the Op Deveran live updates which were circulated hourly (it is important to note that these were internal updates to inform BF and Home Office colleagues and did not form part of the direct SAR response). As processes improved, HMCG gave the MCC access to its tracker, rather than having to send it through. The MCC relied on the HMCG tracker in order to update the Op Deveran live updates, because it was written confirmation from HMCG as to which event they had asked our assets to attend. As the day or night went on, HMCG's tracker would be updated by HMCG to close calls or class them as duplicates. Again, the MCC would rely on this information to update our tracker, but our staff did not have any input into those decisions, so they did not receive any training, nor have any policies governing this.
97. I do not recall a time when the MCC did not have access to HMCG's tracker, whether that was via direct access using a shared link, or by receiving a copy from HMCG via email. The Home Office does encounter IT difficulties on occasions, just as any organisation does. However, I am not aware of any such instances of difficulties with HMCG's tracker or the MCC's log in November 2021. November 2021 was the time when we were working together to enable direct access to HMCG's tracker. I am aware of discussions between HMCG and the MCC as to making the joint tracker suitable for both organisation's purposes and seeking to agree who would be responsible for input into which columns, bearing in mind HMCG was generally the first party to receive the information via distress

calls or VHF [INQ009673]. HMCG sent an email on 27 November 2021 setting out a proposal for which agency was responsible for populating which columns in the joint tracker. There was no change in terms of HMCG's responsibility to assess, triage and close incidents.

98. As part of the wider aim to tackle illegal migration, particularly in respect of the facilitators who arrange the crossings, the Home Office would seek to gather evidence in respect of each crossing. As far as practicably possible, BFMC would spray a unique number onto the side of every MV it encountered. This allowed us to link the MV to the migrants disembarked from it. Given the difficult operating conditions at sea it was not always possible to retrieve the MV at the time of the rescue, so marking it also enabled HMCG and BFMC to quickly identify whether an empty MV was a cause for concern, or simply an abandoned one following rescue. The MCC was responsible for allocating these unique numbers, which started with 'M'. The commander of the BFMC vessel would contact the MCC to provide the coordinates at which a vessel had been abandoned, which would then be passed on to HMCG.
99. Staff in the MCC would hand-over to the incoming shift verbally but with reference to the various trackers and logs used during a shift. There is not a policy in respect of this, it is a mixture of common sense and assessment based on what has happened during a shift. Staff were not in a rush to handover and leave and I am aware that handovers could take at least half an hour because it was imperative that the person coming on shift had a good understanding of where our assets were and what they were doing.
100. I have already mentioned that the cutter would launch its RHIB to get the migrants from their MV onto the cutter and the time that might take. In addition,

once onboard the cutter, the crew would check the temperature of every person, mainly looking for signs of hyperthermia. Blankets would be issued but there is a limit to what the crew could do on board a cutter to help migrants after such a difficult journey.

101. I was aware that the disembarkation at Tug Haven in Dover was a significant problem. The situation was a source of frustration for the commanders and crews of the cutters and BFMC as a whole. It could take two to three hours to disembark a cutter because of the lack of landside access. This increased the time the crew was working which meant that whilst the cutter might appear to be in port for a while, they were not resting.

#### **Maritime assets and their availability on 24 November 2021**

102. BFMC had five cutters: HMC Protector, HMC Vigilant, HMC Valiant, HMC Searcher and HMC Seeker.
103. BFMC had six CPVs: Eagle, Hunter, Nimrod, Active, Alert and Speedwell.
104. BFMC had four RHIBs: Champion, Safeguard, Swift and Neptune. It also oversaw the use of four further RHIBs by the GM team: Athena, Artemis, Challenge and Guardian.
105. BFMC had six TWCs: Juno 1, Juno 2, Juno 3, Juno 4, Juno 5 and Juno 6.
106. BFMC had recently acquired the use of a CTV.
107. The BFMC Op Deveran asset email on 23 November 2021 confirmed that the following assets were available [INQ000566]:
- (a) HMC Valiant as the primary responder;
  - (b) CPV Hunter was on standby;
  - (c) CTV Hurricane would be available from 06:00;

- (d) RHIB Safeguard would be available from 06:30;
  - (e) TWCs Juno 5 and Juno 6 would both be available from 07:00; and
  - (f) RHIB Artemis would be available from 07:30.
108. RHIB Athena was unavailable due to awaiting a repair.

**The weekly scheduled Small Boats Response Planning (“SBRP”) Meeting on 22 November 2022**

109. I usually attended the weekly, multi-agency SBRP meetings but on Monday 22 November 2021 I sent my apologies as I was unavailable [INQ008328]. I would not say that my non-attendance was a concern; HMCG always had BF’s asset availability and we were in regular communication which meant that we had other opportunities to discuss anything arising from the meeting. I confirmed to Name who was part of the secretariat at HMCG that we were planning to ensure we had good Op Deveran cover; the coverage available for 24 November is set out above in paragraph 107.
110. I have seen the minutes for the meeting as part of this inquiry, but I do not recall receiving them and have been unable to locate an email providing a copy of the same.

**23/24 November 2021**

111. I was not personally involved in the events of 23/24 November 2021 but I have seen the Home Office records relating to that night, including Commander Toy’s daybook [INQ002051] and Border Force Higher Officer (“BFHO”) Whitehouse’s day book [INQ000564 & INQ000565]. BFHO Whitehouse was on shift in the MCC on the night and Commander Toy was Master of HMC Valiant, which was the BFMC cutter available as the primary asset for SAR activity that night. Since

the tragic event, I also ensured full support was given to the Marine Accident Investigation Branch ("MAIB") during its investigation although I was not formally interviewed.

112. I have reviewed the daybooks of Commander Toy (HMC Valiant's Commander) and BF Higher Officer ("BFHO") Whitehouse (the MCC duty officer) on the night in question in order to prepare the following timeline. I have also reviewed HMC Valiant's log [INQ002053 & INQ002054], the Op Deveran case register [INQ007100] and a timeline I created after the event [INQ008369]. I understand that both Commander Toy and BFHO Whitehouse are giving evidence to this inquiry which will no doubt provide greater detail as to the entries they each made but I am able to provide some general background to support the material.
113. I note from the documents that on the evening of 23 November 2021, leading into the morning of 24 November 2021 HMCG's fixed wing asset was late taking off so there was not a complete maritime picture available. This would be a concern for me because the first objective of HMCG is SOLAS. The Home Office's objectives are to identify criminality, facilitation and monitor uncontrolled beach landings (MVs arriving shoreside without any assets watching them). Any aerial assets which were unavailable would impact on the likelihood of identifying small boats at sea; in response to reduced aerial availability BF could increase shoreside control, potentially by deploying its RHIBs or jet-skis. Since December 2022 there has not been an uncontrolled beach landing, which is as a result of good surveillance, rather than patrolling, so aerial capability is important. However, ultimately it was a matter for HMCG to decide if there was sufficient aerial cover on the night.
114. As noted above, the MCC would receive a telephone call from HMCG with the



coordinates of an MV. It appears that HMCG contacted BFHO Whitehouse at 01:12 and then again at 01:25. My reading of the documents provides the following chronology (within which I have referred to the sources as 'KW' for BFHO Karen Whitehouse and 'KT' for Commander Kevin Toy):

<b><u>Time:</u></b>	<b><u>Source:</u></b>	<b><u>Notes:</u></b>
01:12	KW	Tel call from HMCG to MCC with coordinates.
01:24	KW	Tel call from HMCG to MCC re event 'C' with coordinates requesting an asset.
01:25	KW	MCC telephoned HMC Valiant to task it.
01:30	KT	HMC Valiant noted a call from MCC tasking it to coordinates from HMCG. This is noted in the ship's log and the commander's day book.
01:30	KW	MCC phoned the regional command and control centre ("RCCU").
01:50	KT	CFI boarded HMC Valiant.
02:00	KT	HMC Valiant departed from its berthing location.
02:05	KW	MCC given HMC Valiant's ETA as 45 minutes to the coordinates. The MCC called RCCU to update them.
02:20	KW	MCC given updated ETA from HMC Valiant of 1 hour to the coordinates.
02:22	KT	HMC Valiant logged it had cleared Dover and gave an ETA of one hour.
02:30	KT	HMCG informed HMC Valiant it was event Charlie with 40 people on board and taking water.
02:34	KW	MCC noted event 'C' was a mayday and HMC Valiant still

		proceeding.
02:34	KT	HMC Valiant informed HMCG it was proceeding to the mayday.
02:40	KW	MCC informed RCCU of HMC Valiant's tasking and crew numbers.
02:40	KT	HMC Valiant requested permission to contravene Rule 10 (TSS).
03:11	N/A	MCC telephoned HMCG to seek clarification in HMCG's tracker.
03:18	KW	MCC noted France told HMCG HMC Valiant was in the vicinity and an aerial asset was going to attend.
03:20	KT	HMCG told HMC Valiant R163 aerial asset was coming and she should continue to Charlie.
03:24	KW	MCC noted HMC Valiant was now in the vicinity of 'C', that there was no trace and she would search north.
03:27	KT	HMC Valiant arrived at Charlie's last known coordinates, no vessel there and proceeded to search north towards Sandettie light vessel. HMCG informed.
03:34	KW	MCC updated by HMC Valiant to say two boats identified on night vision.
03:35	KT	HMC Valiant saw two vessels on night vision and informed HMCG.
03:48	KW	HMC Valiant embarked migrants and MCC issued an 'M' number.
03:55	KT	HMC Valiant given reference M957 by MCC.

04:07	KT	HMC Valiant embarked migrants from M957.
04:15	KT	HMCG asked HMC Valiant to see if the embarked migrants had called the UK. They said they had not.
04:30	KW	MCC conducted a welfare check with HMC Valiant.
04:39	KT	HMC Valiant informed HMCG she had 35 people on board.
04:43	KT	HMC Valiant received further coordinates to attend.
04:48	KT	HMC Valiant received info from HMCG from R163 about a vessel.
04:52	KT	HMC Valiant received updated coordinates from HMCG.
05:05	KW	HMC Valiant embarked more migrants – another 'M' number given.
05:09	KT	HMC Valiant received updated coordinates.
05:19	KT	HMC Valiant located a vessel.
05:21	KW	The final entry in BFHO's day book was two sets of coordinates, noted as being for M958.
05:23	KT	Vessel allocated M958.
05:25	KT	HMC Valiant confirmed a grey RHIB.
05:30	KT	HMC Valiant embarked migrants.
05:45	MCC	HMC Valiant abandoned M958.
05:57	KT	HMC Valiant informed HMCG that the migrants had been embarked, the vessel labelled and abandoned, and no one had contacted the UK.
06:03	KT	HMC Valiant informed HMCG it had embarked 31 males
06:10	KT	HMC Valiant proceeding to SW Goodwin Buoy.

06:13	KT	HMC Valiant given further coordinates to attend.
06:30	KT	HMC Valiant encountered a vessel.
06:36	KT	Migrants embarked and M959 allocated.
07:20	KT	HMC Valiant confirmed to HMCG migrants embarked.
07:22	KT	HMC Valiant informed HMCG she had embarked 32 persons.
07:30	KT	HMC Valiant informed Dover Port Control she was intending to enter.
07:30	N/A	BFHO Whitehouse's shift ended.
07:57	KT	HMC Valiant entered the Dover western docks.
08:16	KT	HMC Valiant berthed alongside the <i>David Church</i> .
08:31	KT	HMC Valiant commended disembarkation of the migrants.
10:30	KT	Disembarkation completed.
10:40	KT	CFI disembarked and HMC Valiant prepared to leave Dover.
11:10	Log	HMC Valiant cleared the western entrance and left Dover for Ramsgate.
12:30	Log	HMC Valiant berthed in Ramsgate.

115. I have also reviewed the Op Deveran live updates circulated by the MCC, in particular those between 01:50 and 10:00. The live updates were circulated to a pre-determined recipient list which included named recipients within BFMC, BF Southeast and Europe RCCU, CCTC Gold Group, Clandestine Threat Command, Clandestine Operation Response Team Bronze, the JCR, HMCG, myself and the relevant commanders.

116. BFHO Whitehouse provided the first hourly Op Deveran live update by email at 01:52, known as the 01:50 update, or update one [INQ000472]. The email

attached the MCC spreadsheet log which had been compiled using information from HMCG tracker [INQ000471]. The log contained six events, 'A'-'F'. 'A' was green and had been closed by HMCG. 'C' was an open event notified to the MCC at 01:25 with 30 people on board. It was believed to already be in UK TTW and HMC Valiant had been called. Red font was used because it was all new information in terms of the Op Deveran update being circulated.

117. BFHO Whitehouse provided update 2 at 02:50 and had put the information from update one in black and added new information in red font [INQ000508]. This was the trend throughout the updates. Update two revealed there were events 'A' – 'L' on the tracker now. In respect of event 'C' the update was that HMC Valiant attending with an estimated time of arrival of one hour to the location and it was now a mayday. The log showed a duplicate and some events in French TTW.
118. I am aware from disclosure to this inquiry that a member of BFMC staff telephoned HMCG at 03:11 to seek clarification in respect of entries on HMCG's tracker [INQ007602]. I understand the call was made by Tom Willows, a BFMC officer, who was working remotely on the night supporting BFHO Whitehouse. I note that during the call, HMCG said that Charlie was "*full of water*" and a mayday had been broadcast. Our asset, HMC Valiant, had already been tasked and was en route to the updated coordinates at best speed. On the 03:11 call, HMCG confirmed to Tom Willows that HMC Valiant was on the way to Charlie. It was not necessary for Tom Willows to escalate this information within BFMC, nor attempt to obtain assistance from vessels in the vicinity, given that SAR coordination remained the sole responsibility of HMCG.
119. I note that the HMCG staff member who answered the call at 03:11 referred to



the “*dream*” being to not deploy more than one asset, with which Tom Willows concurred. The efficient utilisation of assets is an important metric for any organisation, but in the context of BFMC’s participation on Op Deveran, was also important for operational reasons and relevant to the welfare of our crews. Where assets were deployed during the night, they would be unavailable during the day, due to the need to replenish stores and comply with the requirement for mandatory crew rest periods. Conversely, if we were able to respond to all small boat incidents during a given night with one asset being deployed, then the remaining assets would be available during daylight hours, which was when migrant vessels tended to reach UK waters. The RNLI in particular would want us to remain the primary asset during daylight hours. As volunteers with regular jobs, their crews would typically be at work during the day, and so for the RNLI to have to deploy then would cause considerable disruption for their crews. Where possible, we would preserve some capacity for use during daylight hours, for the practical and operational reasons explained, however, ultimately, we deployed available assets to respond to small boats incidents when requested by HMCG.

120. BFHO Whitehouse provided update three at 03:50 and had added event ‘M’ but there was not any further update on event ‘C [INQ000541]’.
121. BFHO Whitehouse provided update four at 04:50 which did not include any new events but event ‘C’ had been changed to amber to note BF embarked. The BF reference of M957 had been given to ‘C. The update in red stated, “*Vessel found and Valiant embarked a number of migrants.*” [INQ000572]
122. I understand that update five was mistakenly labelled as 04:50 but as can be seen, it contained more information than the previously labelled 04:50 update

[INQ000613]. Update five revealed that events 'N' and 'O' had been added to the tracker and 'C' had been updated to say 35 people were on board (now on HMC Valiant because of the amber rating). This was BFHO Whitehouse's last update.

123. BF Officer **Name** sent update six at 07:00 which provides that events 'P' and 'Q' had been added [INQ000479]. 'E' had been updated to amber, noting HMC Valiant had embarked 31 persons. 'E' had been given the BF reference M958. 'N' had also been marked amber with HMC Valiant having embarked 32 people with the BF reference M959. HMC Valiant was now carrying 98 people and therefore at capacity. As noted in the above chronology she returned to Dover.
124. BF Officer **Name** provided update seven at 08:00 which did not reveal any updates for HMC Valiant but events 'R' – 'U' had been added [INQ000482]. I note that BFMC's asset CPV Hunter had been tasked to event 'Q'.
125. BF Officer **Name** eighth update at 09:00 had been updated to show that HMC Valiant had actually embarked events 'C', 'L' and 'N' [INQ000485]. 'L' was in place of 'E'. It was not unusual for these details to be changed by HMCG as the day or night progressed. The MCC would simply update our records to reflect HMCG's decisions. This update added further events to 'Z' and HMCG restarted the alphabet with events 'A1' and 'B1' also being added. I note that BFMC's CPV Hunter and CTV Hurricane were assisting.
126. The ninth update, provided by BF Officer **Name** at 10:00 had changed HMC Valiant's three events to green because the migrants had been safely disembarked at Dover [INQ000488].
127. Once HMC Valiant had disembarked the migrants safely at Dover she returned to Ramsgate for rest and fuel. The crew had completed an 11-hour shift during

which they had rescued 98 persons from three MVs. They were at maximum safe capacity when they returned to Dover. The MCC provided other SAR assets to HMCG following HMC Valiant returning to rest. HMC Valiant could not rest at Dover because of the lack of berthing facilities, the potential for other vessels to need to disembark into Tug Haven and the potential tidal changes.

128. Before HMC Valiant had finished embarkation of M959 at 07:22 CPV Hunter had been deployed to event 'Q' and CTV Hurricane had been available from 06:00 and went to event 'Y'.
129. I note that the seventeenth update at 18:00 has crossed out event 'E' to which HMC Valiant had previously been linked, before being update to 'L' [INQ000513]. According to the log it had been closed by HMCG.
130. Having looked at the last update of the day, events had meant that HMCG went around the alphabet twice (albeit HMCG had determined that there had been duplicates) [INQ000532]. Whilst it had been a busy day, it had not been the busiest during November 2021, which was an extraordinarily busy month. There were 13 incidents; seven involved BFMC, four involved RNLI and two were beach landings.
131. In terms of identifying whether an MV encountered by the BFM asset is the one HMCG has tasked it to, responsibility for that lies with HMCG, although BFM crew will assist, if, for example, they are asked by HMCG to ask any particular questions to the migrants to ascertain whether they might be migrants from the MV HMCG is seeking to assist.
132. On 20 January 2022 I sent an email to Name with an attached timeline I had compiled from BFMC documents [INQ008369]. I had originally prepared this timeline to support the MAIB investigation.

133. As noted previously within this statement, the small boats situation rapidly increased and presented an unprecedented maritime challenge for the UK which was difficult to accommodate within our existing structures. BFMC worked hard to improve our fleet to respond to the emerging need for more vessels which were suitable for SAR to support HMCG, whilst continuing to deliver our law enforcement role. I am extremely proud of the professionalism, dedication and courage of my staff and partner agencies in saving so many lives over the last six years in the Dover Strait. At the time of writing, the Home Office has a good capability comprising of surface and air assets which has led to us being able to respond to the large majority of small boats once they have entered UK TTW whilst at the same time preventing any uncontrolled beach landings since early 2022. This response, does, however, have limitations, particularly when the weather deteriorates and will continue to need to evolve as the threat and risk changes.

134. I hope this statement assists the inquiry and supports the process of identifying any lessons that can be learnt and highlighting and re-enforcing best practice.

**Statement of truth.**

I believe the content of this statement to be true.

Signed: 

**Personal Data**

Date: 11 November 2024