

Wednesday, 6 March 2024

Opening Remarks by SIR ROSS CRANSTON

SIR ROSS CRANSTON: Good morning, everyone. I'm Ross

Cranston, and this is the opening hearing of the Cranston Inquiry. I'm grateful to all of you who are attending the hearing this morning. The hearing is being held in public, but there's also a live streamed account for the benefit of those with an interest in our work but who cannot be with us today.

In this brief opening statement I'd like to say something of the background to the Inquiry, to talk about the focus of our work and how we intend to go about it, and then to outline our plans for the remainder of our investigation. Finally, I'll invite representatives of those with a particular interest in our work to make brief introductory statements. Of course, the wider background to the establishment of the Inquiry is the well known and continuing problem of people seeking to cross the Channel from France to the United Kingdom in small and often unseaworthy boats. This is a politically controversial issue with significant humanitarian consequences.

However, the focus of the Inquiry's work is not on those complex issues. Rather, our task, which is set out in the terms of reference, is to concentrate on one

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terms of reference. They are short and to the point, and I think it's worth reading them out now:

"The Inquiry will examine, consider and report on the events of 24 November 2021 when at least 27 people died attempting to cross the Channel in a small boat. The Chair is to conduct an investigation into these events in order to:

"Ascertain who the deceased were and when, where and in what circumstances they came to their deaths;

"Consider what further lessons can be learned from the events of 24 November 2021 and, if appropriate, make recommendations to reduce the risk of a similar event occurring.

"The procedure and conduct of the Inquiry will be directed by the Chair. In conducting the Inquiry, the Chair will consider the investigation already carried out by the Marine Accident Investigation Branch into the incident.

"Timing:

"The Chair will report to the Secretary of State for Transport as soon as is practicable, taking into account any ongoing or future legal proceedings. The Secretary of State will be responsible for publishing the report."

That's the end of the terms of reference.

Now it may be helpful, at this early stage of the

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such journey across the Channel which took place on 24 November 2021.

That night, an inflatable craft carrying men, women and children attempted to make the crossing. It appears that there were at least 30 individuals on board. However, the boat, which seems to have been wholly unsuited to the planned voyage, took on water and was swamped. Remarkably, there were two survivors. However, at least 27 people lost their lives. It was, and remains, the single greatest loss of life occasioned by any of the small boat crossings.

At this point I'd like to stress that in all our work, we will not lose sight of the fact that for those who lost their lives that day, and for their friends and loved ones, this was, above all, an immeasurable human tragedy.

The bodies of those who died were recovered to France. As a matter of law, there is no obligation to hold an inquest. But the Marine Accident Investigation Branch, the MAIB, began a safety investigation into the incident. The MAIB report was published on 9 November last year, and on 11 January this year, the Secretary of State, the Right Honourable Mark Harper MP, announced the establishment of this Inquiry.

The scope of the Inquiry's work is defined in the

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Inquiry's work, to highlight some important features of those terms of reference. First, as I have already noted, the Inquiry is in to the events of the 24 November 2021. It has no remit to investigate the general problem of small-boat crossings. The Inquiry can't become a vehicle for wider debates.

Secondly, the first set of questions which I'm required to answer -- who the deceased were, and when, where, and in what circumstances they died -- resemble those in coronial requests. However, the legal framework in which those questions fall to be answered is obviously different. This is not an inquest, and the Inquiry is not subject to the Coroners and Justice Act 2009 or its related rules and regulations.

Thirdly, I'm required to consider what lessons can be learnt from the events of 24 November 2021 and whether recommendations ought to be made to reduce the risk of a similar event happening again.

Fourthly, this is a non-statutory Inquiry. In other words, the Inquiry is not bound by the provisions of the Inquiries Act 2005, nor the 2006 rules. All questions as to the conduct of the Inquiry and the nature of its processes and procedures are for the Chair to determine, subject, of course, to the overriding duty to act fairly.

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1 I'll say something in a moment about the approach
2 I intend to take to the Inquiry's work.

3 Finally, the terms of reference require me to
4 consider the MAIB report which I've mentioned. Of
5 course, the Inquiry has a very different role and remit
6 to that body. It was, for example, no part of the
7 report to answer the questions concerning the deceased,
8 which are fundamental to the terms of reference.

9 I wish, of course, to avoid duplicating the work of
10 the MAIB, if possible. However, there are likely to be
11 topics which they considered which we also will wish to
12 investigate. They include, for example, whether further
13 recommendations as to improvements in certain rescue
14 practice ought to be made for the benefit of all those
15 who use these commercially important waters between
16 France and the United Kingdom.

17 My team and I will continue to consider the MAIB
18 report and the role it ought to play in our
19 investigation as our work proceeds, against the
20 background of the key overarching question which will
21 guide all of my decisions concerning the conduct and
22 procedures of the Inquiry: namely, what would best and
23 most effectively assist the Inquiry in its work, and so
24 enable me to discharge the task inferred upon me by the
25 terms of reference?

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1 To that end, I hope and expect to receive full
2 cooperation from all of those involved in our work.
3 There will be no place for obstruction or foot dragging
4 on the part of those whose involvement in the events of
5 24 November 2021 will be scrutinised. This is of vital
6 importance if the work of the Inquiry is to proceed in
7 an efficient and effective way.

8 Further details of the Inquiry's intended approach
9 to our work can be found in the initial procedural
10 protocol, which was published on our website last week
11 after consultation with those who have a close interest
12 in our work. We'll use the website to keep people up to
13 date with the progress of our work in the weeks and
14 months ahead.

15 Full Participants. There are some individuals and
16 organisations with a particular interest in the work and
17 the outcome of the Inquiry. We have decided to accord
18 those individuals and organisations the status of Full
19 Participants. They are as follows: one, a survivor and
20 the families of some of the victims represented by
21 Duncan Lewis Solicitors; secondly, the Maritime and
22 Coastguard Agency; thirdly, the Home Office; and
23 fourthly, the Department for Transport.

24 A Full Participant will be entitled, through their
25 legal representatives, to participate when the Inquiry

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1 Let me say a little more about the approach which
2 the Inquiry intends to take to our work. The first
3 thing I'd like to stress is the question of
4 independence. The Inquiry is an independent Inquiry.
5 It's independent from Government, from its Sponsor
6 Department, the Department for Transport, and from any
7 of the individuals or organisations it investigates or
8 liaises with in order to fulfil the terms of reference.

9 So far as the Inquiry's procedural approach is
10 concerned, I intend to adopt procedures which are
11 flexible, open, and even handed, which avoid any
12 unnecessary cost to public funds or to others, and which
13 will allow us to conduct our investigations as
14 efficiently and speedily as possible.

15 Next, it should be emphasised that the Inquiry's
16 process is inquisitorial, not adversarial. This is
17 a fundamental distinction between the Inquiry and other
18 court-based processes, including litigation.

19 There are parties to the Inquiry. Nobody has
20 a case, a claim, or a defence to advance. All of those
21 who engage with our work must do so on the clear
22 understanding that there is but one purpose to the whole
23 exercise: to find out the truth. Their task is to
24 assist the Inquiry in its investigation and in getting
25 to the truth of what happened.

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1 consults on its procedures, to receive relevant
2 disclosure and the witness statements from the inquiry,
3 to attend public inquiry hearings, to suggest lines of
4 inquiry or questions to be put to witnesses by Counsel
5 to the Inquiry at those hearings, and to make written
6 and oral opening and closing statements.

7 Should any other individual or organisation wish to
8 become a Full Participant, they may apply to be accorded
9 that status. All applications should be made in writing
10 and sent to the Solicitor to the Inquiry by no later
11 than 4.00 pm on 20 March.

12 However, I must stress this: it's not necessary to
13 become a Full Participant in order to engage with the
14 Inquiry and help us in our work. We'll always welcome
15 contact and contributions from anyone with relevant
16 evidence or material for us to consider. Anyone wishing
17 to assist us in that way should please get in touch with
18 the Solicitor to the Inquiry. Contact details are
19 available on the website.

20 Work so far.

21 The work of the Inquiry began in earnest in January.
22 Since then, I've appointed key members of the Inquiry
23 team, counsel, solicitors and the secretariat. We have
24 established ourselves in office space in London. We
25 have together reviewed and analysed the material

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1 relating to the incident on 24 November 2021, which we
2 currently hold, and we've started the process of
3 obtaining relevant material. We have considered
4 questions concerning our procedural approach and have,
5 as I've already said, published initial procedural
6 protocol.

7 We've also put in place arrangements for the public
8 funding of legal assistance of representation in
9 appropriate cases with agreement from the Sponsor
10 Department. Again, full details of those arrangements
11 can be found on the website.

12 Looking ahead.

13 Although we're still in the early stages of our
14 investigation, it might be helpful to say a word or two
15 about the next stages of our work, and to look beyond
16 that to our full hearings.

17 Disclosure.

18 I've mentioned that the process of gathering
19 relevant material from those most closely involved in
20 the events of 24 November 2021 is under way. Once we've
21 obtained and analysed that material, we're likely to
22 want to follow up with specific requests where gaps in
23 the material have been identified, and also to seek
24 material from other individuals and organisations.

25 All material disclosed to the Inquiry will be
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1 questions of anonymity will fall to be considered.

2 Once that process is complete, copies of statements
3 will be provided to Full Participants to the extent that
4 disclosure is required to enable their effective
5 participation at the Inquiry.

6 Full hearings.

7 It's too early to say much about how our full
8 hearings will be conducted. As and when we're in
9 a position to say more, we will let the Full
10 Participants know and publish information on our
11 website. However, it might help to give a few details
12 of our current thinking; and again, this topic is
13 addressed in the initial procedural protocol on the
14 website.

15 First, the process at the full hearings will be
16 consistent with the inquisitorial nature of the Inquiry.
17 Accordingly, there will be an opening statement by
18 Counsel to the Inquiry followed by short statements by
19 those Full Participants who wish to make one.
20 Thereafter, the evidence will be called and questions
21 put to witnesses by Counsel to the Inquiry. Indeed,
22 I'll expect the bulk of questioning to be undertaken by
23 Counsel to the Inquiry. Full Participants will have the
24 opportunity to suggest lines of Inquiry, and specific
25 questions for witnesses to Counsel to the Inquiry. They

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1 uploaded on our document management system. That will
2 enable us to review and analyse it as efficiently and
3 speedily as possible. After that, we'll liaise with
4 document providers about redactions and any questions of
5 anonymisation. That will be in accordance with the
6 protocols on disclosure and redaction which we'll
7 produce, and which will also be published on our
8 website. We'll then consider the extent of disclosure
9 required to Full Participants to enable their effective
10 participation in the Inquiry, and then disclose that
11 material to them.

12 Witness evidence.

13 The Inquiry will make decisions as to those persons
14 from whom a witness statement will be required following
15 our analysis of the material disclosed to us. The
16 expectation will be that the draft statement will be
17 prepared on behalf of a witness by a legal
18 representative, following consideration of a letter from
19 the Inquiry setting out the topics which the witness
20 should cover, and the questions to be answered in the
21 statement. Once the draft has been received, the
22 Inquiry will consider whether further evidence or
23 clarification of the draft statement required, and also,
24 whether redactions are appropriate in accordance with
25 the protocols I've mentioned. At that stage, too, any

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1 will also be able to make short closing statements at
2 the end of the full hearings.

3 Secondly, the full hearings will be held in public.
4 I wish as much of possible of our work to be conducted
5 in an open and transparent manner. I acknowledge that
6 there may be exceptional circumstances which justify
7 holding a hearing in private. However, a decision to
8 hold any part of the hearing in private will only be
9 made after careful consideration and a decision by me.
10 I would usually expect to give reasons for any such
11 decision in public.

12 That's all I wish to say at this stage.

13 So the time has now come for the representatives of
14 those Full Participants who wish to make brief
15 statements to do so. Firstly, I'll call on Philippa
16 Kaufmann, King's Counsel, who appears for a survivor and
17 families of some of the victims.

18 **Statement by MS PHILLIPPA KAUFMANN KC**

19 **MS KAUFMANN:** Good morning, sir. As you've just indicated,
20 I represent one of two survivors of the catastrophic
21 events of 24 November 2021, and the families of 20 of
22 those who tragically lost their lives. Our clients
23 wholeheartedly welcome the opening of this Inquiry. It
24 is something that they fought hard to establish. And
25 having endured a long and painful wait of 27 months, our

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1 clients are grateful to you, sir, for your commitment to
2 conducting a prompt and thorough investigation. And as
3 Full Participants, we look forward to assisting the
4 Inquiry in any way that we can.

5 Our clients have high hopes for this Inquiry. They
6 hope that it is going to establish the truth as to what
7 happened, and how it is that such a significant loss of
8 life occurred. As part of that, they hope that insofar
9 as they were failed by any authority tasked with
10 planning search and rescue operations that night in the
11 Channel, that those will be identified and explained.
12 Finally, they hope that lessons will be learned that can
13 help prevent such a terrible loss of life in the future.
14 We look forward to working with you, sir.

15 **SIR ROSS CRANSTON:** Thank you very much indeed.

16 I'll now call on James Maxwell-Scott, King's
17 Counsel, who represents the Maritime and Coastguard
18 Agency.

19 **Statement by MR JAMES MAXWELL-SCOTT KC**

20 **MR MAXWELL-SCOTT:** Mr Chairman, the thoughts of those who
21 work and volunteer at the Maritime and Coastguard Agency
22 are with the families of those who died in this tragic
23 incident. The MCA is committed to assisting this
24 Inquiry to help the bereaved and survivors better
25 understand the events of 23 and 24 November 2021.

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1 1974 International Convention for the Safety of Life at
2 Sea, the 1979 International Convention on Maritime
3 Search and Rescue, and the 1982 United Nations
4 Convention on the Law of the Sea. HM Coastguard is the
5 organisation through which the UK discharges its
6 obligations under those international conventions.

7 The International Convention on Maritime Search and
8 Rescue says this:

9 "Parties shall ensure that assistance be provided to
10 any person in distress at sea. They shall do so
11 regardless of the nationality or status of such
12 a person, or the circumstances in which that person is
13 found."

14 This fundamental principle with maritime search and
15 rescue is one that I wish to emphasise today.

16 A person in distress at sea is a person in distress
17 at sea. It does not matter whether they are in the
18 course of a commercial voyage, a recreational voyage, or
19 a clandestine voyage. It does not matter whether or not
20 they have a legal right to enter their intended
21 destination.

22 The phenomenon of migrants attempting to cross the
23 English Channel in small boats is a comparatively recent
24 one. Between July 2014 and May 2016, Home Office data
25 records that there were nine confirmed incidents of such

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1 The MCA has already begun the process of assisting
2 the Inquiry with identifying relevant documents for
3 disclosure, and last week it hosted a visit by you and
4 some of your team to its Joint Rescue Co-ordination
5 Centre to enable you better to understand the nature of
6 its work.

7 I would like to take this opportunity to say a few
8 words about what the Maritime and Coastguard Agency is
9 and what it does. The MCA is an executive agency of the
10 Department for Transport. It was established in 1998.
11 Within the MCA exists a much older institution, His
12 Majesty's Coastguard, which was founded in 1822. The
13 MCA and HM Coastguard are operationally independent of
14 the Department for Transport.

15 The strategic overview of search and rescue in the
16 UK states that:

17 The tasking of adequate resources to respond to
18 maritime search and rescue, and the co-ordination of
19 that response is the responsibility of the MCA through
20 HM Coastguard. HM Coastguard is the UK's only national
21 emergency service. For many decades, it has provided an
22 emergency response service 24 hours a day, 365 days
23 a year.

24 The United Kingdom is a signatory to important
25 international maritime conventions. These include the

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1 Channel crossings. From those modest beginnings, there
2 has been an enormous growth in the number of crossings.
3 In December 2018 the Home Secretary declared a major
4 incident after approximately 200 people attempted such
5 crossings in November and December of that year. The
6 numbers continued to increase rapidly after that date.
7 The risks associated with small-boat crossings were
8 first identified on the UK's National Risk Register in
9 2020. In 2021 over 27,000 people crossed the Channel in
10 small boats.

11 Small-boat crossings have given rise to new and
12 distinct challenges. Search and rescue procedures and
13 practices have necessarily had to evolve, as
14 HM Coastguard has sought to respond to these new
15 challenges and to the increasing number of crossings.

16 Whilst search and rescue procedures and practices
17 have evolved, the role of HM Coastguard has stayed the
18 same. It is, and always has been, to respond to those
19 in distress and to treat all persons at sea equally.

20 Now I conclude by saying that the MCA welcomes this
21 Inquiry and will do all that it can to assist you and
22 your team in your important work.

23 **SIR ROSS CRANSTON:** Thank you very much.

24 Mr Prashant Papat, King's Counsel, represents the
25 Home Office.

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Statement by MR PRASHANT POPAT KC

MR POPAT: Sir, first and foremost, the Home Office wishes to take this opportunity to express its profound sorrow at the events that unfolded in the early hours of 24 November 2021 when at least 27 people tragically lost their lives in the Dover Channel.

The Home Office is grateful to the Inquiry team that has taken on the task of examining and understanding who the deceased were, and when, where, and in what circumstances they came by their deaths. It hopes that this Inquiry brings some degree of resolution to the survivor and the friends and families of those that died. We also welcome the exercise that the Inquiry will conduct in identifying further lessons to be learned from the events of that night. This will hopefully help to reduce the risk of such a tragedy happening again.

The Home Office is committed to cooperating with and supporting the Inquiry in its investigation, and it will consider carefully any relevant recommendations that arise from the Inquiry's review of the events of that night, as it did in connection with the Marine Accident Investigation Board's inquiry into this tragedy.

The Home Office looks forward to receiving further information from the Inquiry as to its precise scope and

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Finally, I'll call on David Blundell, King's Counsel, who represents the Department for Transport.

Statement by MR DAVID BLUNDELL KC

MR BLUNDELL: Sir, at the start of this Inquiry, the Department for Transport wishes to express its deepest sympathy to the bereaved, to the survivors, and to all those who have been affected by what happened on 24 November 2021. The Department welcomes the fact that this Inquiry has been established and has now begun its important work. The Department stands ready to support it in whatever ways it can in seeking to understand both what happened in that tragedy, and what can be learned from it. It may be of assistance at the outset, of the Inquiry to give a very brief overview of the Department's role in this context. The marine and coastguard agency, the MCA, of which His Majesty's Coastguard forms part, is an executive agency of the department. The MCA are separate Full Participants in this Inquiry, reflecting the fact that the MCA has day-to-day operational independence from the Department and that his majesty's coastguard has responsibility for discharging the UK's international search and rescue obligations and responding to any person in distress at sea.

The Department works closely with the MCA to support

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the specific issues it would address. The Home Office will then focus its attention on providing such assistance as it can to the Inquiry to enable those issues properly to be addressed.

So I hope it is helpful to make clear at this early stage of the Inquiry that the Home Office's overall response has always been guided by the preservation of life, whether by deploying its law enforcement vessels to aid in search and rescue operations when requested to do so by His Majesty's Coastguard, or by working with colleagues in the UK and abroad to break the criminal organisations who profit from, and prey upon, those who want to come to the UK.

May I conclude by expressing the firm hope of the Home Office that in addition to bringing some degree of solace to the survivors and bereaved, and whilst noting the limits of the Inquiry as you indicated, sir, in your opening statement, this Inquiry's review of the events of the early hours of 24 November 2021 will materially contribute to the goal of stopping these criminal gangs from putting so many people in such perilous situations so that such a tragedy never happens again.

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

SIR ROSS CRANSTON: Well, thank you, Mr Popat.

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it in discharging that role. It is responsible for the policy framework within which the agency operates, and for agreeing its strategic objectives. The Secretary of State for Transport is accountable to Parliament for all matters relating to the MCA. Specifically, with respect to people crossing the Channel in small boats, the Department ensures that the role of the Department and the MCA are understood across wider government, and this includes fulfilment of the UK's relevant international obligations relating to small boats, including the UN Convention on the law of the sea and the international convention for the safety of life at sea.

The Department recognises the importance of this Inquiry, and the public interest in ensuring a full and proper investigation into the events of 24 November 2021.

The Department is committed to learning any lessons from this trajectory and to working with the Inquiry and with other Full Participants to ensure that the Inquiry can carry out a full and proper investigation into the tragic events of 24 November 2021. Thank you.

SIR ROSS CRANSTON: Well, thank you very much for all your submissions, and I especially am grateful to all of you for confirming, on behalf of your clients, their intention to cooperate with the Inquiry and to support

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1 its work. Let me conclude the hearing by reiterating 1
2 some of the key points about how I intend to proceed. 2
3 First, I remind all of those present and those who 3
4 are following this hearing online, that the Inquiry is 4
5 an independent Inquiry. I intend to establish the facts 5
6 and make recommendations in a process which is both 6
7 thorough and fair. 7
8 In all of the procedural decisions which will be 8
9 taken, I will consider the overarching question which 9
10 I posed earlier: what would best and was effectively 10
11 assist the Inquiry in its work and so enable me to 11
12 discharge the task inferred by the terms of reference? 12
13 I don't underestimate the magnitude of the task. 13
14 I will count on the assistance and cooperation not only 14
15 of the Full Participants, but all of those the Inquiry 15
16 will en December with in the course of their work -- in 16
17 our work. This will be vital to the success of the 17
18 investigation. And finally, I stress again that anyone 18
19 with evidence or other material about the events which 19
20 are at the heart of the Inquiry shouldn't hesitate to 20
21 come forward and to contact a member of the team. We 21
22 will readily consider any such approach. 22
23 That concludes our business this morning. Thank you 23
24 again for coming, and thank you to those of you watching 24
25 this hearing online. 25

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(The hearing concluded until a future date)

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