



Chief Minister
Government of Jersey
19-21 Broad Street
St Helier
Jersey
JE2 3RR

11 April 2022

Our ref: DraftRNLIReport20220411Letter

Dear Chief Minister

Draft Report by Sir David Calvert-Smith QC

I open by saying that I am sorry to have to write in these terms.

██████████ has passed to me a copy of the draft report compiled by Sir David Calvert-Smith QC entitled "Report concerning events before and after the removal of the RNLI St Helier Lifeboat from service in November 2017" (the "Draft Report").

It was sent by Sir David in an email of 5 April 2022, in which he described it as his "*preliminary report*". Accordingly, this is presumably the confidential report referred to in paragraphs 1 and 4 of the attached terms of reference, that is, the report for you to decide whether an inquiry should now take place. As is clear from paragraph 1 of the terms of reference, it must therefore remain confidential.


The fact that it purports to make findings of fact (despite there never having been an inquiry and neither Ports of Jersey (POJ) nor ██████████ ever having been asked any questions as part of that inquiry, nor given the opportunity to answer criticisms set out in it), makes it all the more important that it is not published. To do so would not only breach basic principles of fairness (and the requirements of the professional conduct of inquiries) it would also prejudice any inquiry, should you decide that one should take place.

I should explain from the outset that should the Draft Report be published in its current (or materially similar) form, it is important for you to be aware that we (the Board of POJ) may take further action as we consider appropriate in the circumstances.

We and our advisors (who include ██████████ QC, a leading expert on inquiries and public law matters) are concerned that Sir David may by his actions expose you to criticism on the basis that the process has been conducted unlawfully, without due regard for fairness and contrary to the terms of reference. I would suggest that you may find it appropriate to seek the advice of the Law Officers on this matter.

Moreover, the full Board of POJ have reviewed the Draft Report in conjunction with our advisors and consider it to say the least disappointing. It is poorly drafted, poorly researched and highly partisan. It gives credence and oxygen to absurd conspiracy theories and seeks to impugn the honesty and integrity of Captain Sadler and our employees, executives and Board members.

Message # 1

Message Key: 000315DC9856B138753F8B9B264855D7BCA7224D 

From: Mark Chown <Mark.Chown@ports.je>
To: "J.LeF@gov.je" <J.LeF@gov.je>
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Subject: PoJ Letter to the Chief Minister
Date: Monday, April 11, 2022 12:35 UTC
Attachments: image001.png (7.8 KB), Draft Report by Sir David Calvert-Smith QC 20220411 letter to CM.pdf (500.7 KB), Original Terms of Reference.PDF (212.9 KB), Revised Terms of Reference PDF (96.3 KB), Metadata - Revised Terms of Reference PDF (140.8 KB), Chad Murray Report.pdf (1.2 MB), [REDACTED]

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Dear Chief Minister,

Please find attached a letter from PoJ Chairman.

Kind regards,

Mark Chown
Chairman
Ports of Jersey
St Peter / Jersey / JE1 1BY
T: 01534 [REDACTED]
E: [REDACTED]
W www.ports.je<<http://www.ports.je>>

[PoJ from beach cropped]

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The Draft Report has given great offence to all concerned and we have no confidence either in the Draft Report or the process which has been followed in reaching this stage.

As you are aware, we have responsibility as the Harbour Authority under Article 2(5)(b) of the Harbours Administration (Jersey) Law 1961 for "co-ordinating, or providing resources for co-ordinating, maritime search and rescue within territorial waters". The Minister with overall responsibility for our performance of that function is the Minister for Economic Development, Tourism, Sport and Culture. Accordingly, we have copied this correspondence to him.

1. Executive summary

This letter is by necessity a lengthy one. It sets out the following issues:

- a) Our concerns as to the process which appears to have been followed. In summary:
 - i) the Terms of reference require a ministerial decision to trigger an inquiry. We are not aware of any such decision. We are concerned that Sir David may have acted without due ministerial authority.
 - ii) Neither the Board (nor any Board member) of POJ has ever been formally asked to contribute to the process. Two individuals within POJ were written to in their personal capacity – [REDACTED] and [REDACTED] was written to at [REDACTED] (some address) – both of whom were told to keep the issues confidential. [REDACTED] asked specifically on 12 April 2021 in what capacity he was being asked to participate – there was no response. [REDACTED] is still uncertain in what status Sir David contacted him.
 - iii) Matt Thomas (our Chief Executive) was written to by Sir David on 5 April 2022. This was the first communication addressed to a member of the POJ Board after a process lasting nearly **twelve months**. Mr Thomas has been given six days to respond to serious criticisms levelled at POJ regarding which it has not had the opportunity to respond or address. This is unreasonable, especially in the light of Sir David's complaints of a "wall of silence".
 - iv) It would appear from the questions addressed to [REDACTED] that undue influence on the Terms of reference and the questions posed by Sir David had been exerted by members of the former crew of the St Helier Lifeboat and their supporters.
 - v) In summary, the conduct of this matter has been wholly unacceptable, legally questionable, unprofessional and highly partisan.
 - vi) The Draft Report should in our view be withdrawn in its entirety. If a further process is to take place, it should not involve Sir David; and
 - vii) We are concerned that the conduct of this matter by Sir David may expose both you and POJ to unfounded and unfair criticism and possible challenge as to the lawfulness of the process.
- b) [REDACTED] decision not to participate in the "informal" initial stage of the process - In summary, after discussion with legal advisers [REDACTED] was advised not to participate (with the support of the Harbour Authority) at this initial stage after his (wholly reasonable) queries and concerns were ignored.
- c) The serious issues with the quality and content of the Draft Report - It is apparent that the Draft Report is poorly researched, wholly partisan and not fit for purpose. It is unclear whether Sir David simply misread or ignored his terms of reference.



2. Procedural issues

We consider that the process that has been followed is neither lawful nor fair. In particular:

- a) POJ itself has never been formally approached to engage at any stage of this process. Matt Thomas, our CEO was emailed by Sir David on 5 April 2022. He has been given six days to respond to extremely serious (and unfounded) criticism aimed at POJ. This is not how professionals conduct inquiries. I would also note that it is absurd to engage in strong and lengthy criticism regarding a "wall of silence" from POJ when the simple truth is that Sir David has not at any stage formally asked POJ to contribute.
- b) The terms of reference (both the "official" version (sent to ██████████ in March 2021) and the version which was modified (see (j) and (k) below) and sent by Sir David to ██████████ in August 2021) refer to a two-stage process:
 - i) An initial review to be conducted in order to determine whether there is a need for a more in-depth inquiry. The initial review was to be "*compiled as a confidential report for the Chief Minister prior to a decision being taken to proceed to a more detailed inquiry.*"
 - ii) If a further inquiry is deemed necessary, an inquiry would take place followed by a report being compiled.
- c) Accordingly, to move to a more detailed inquiry, a ministerial decision by you as Chief Minister is required (although we note that, as referenced above, the Minister with statutory responsibility in this area is the Minister for Economic Development, Tourism, Sport and Culture). We are not aware of any such decision having been taken or published.
- d) Sir David refers to the Draft Report as his "preliminary report" and in it, says that if he is to carry out a full inquiry, he will need the assistance of specialised counsel (see paragraph 98 of the Draft Report). In view of that and since there appears to be no ministerial decision by yourself that an inquiry should take place (nor has any inquiry in fact taken place), it appears likely that despite purporting to be making findings of fact and drawing conclusions, this Draft Report is nothing more than the confidential initial report, on the basis of which it is for you to decide whether to carry out an inquiry. That being so, it should not be published under any circumstances, given its highly confidential, prejudicial and unfair nature (not least because those criticised have never been given an opportunity to address any of the criticisms made against them); see further below concerning Sir David's evident partisanship and lack of fairness. Publication will also destroy the validity of any subsequent inquiry.
- e) If in fact, the Draft Report is intended to be the conclusion of the further inquiry referred to above under (b)(ii), then this is deeply concerning. The terms of reference specifically require a decision by the Chief Minister in order to initiate a further inquiry on the basis of an initial "confidential" report. We are not aware of any such decision having been made. Had such a decision been made it should have been communicated to us. In any event, it is plain that if a full inquiry was to be carried out, the POJ and Captain Sadler should have been given an opportunity to take part in it. They should have been told the inquiry was being carried out



and asked questions as part of it. Once conclusions had been reached, they should have been given an opportunity to answer any criticisms made as is required in public inquiries.

f) We would also note that if this is indeed intended to be the conclusion of the further inquiry, Sir David appears to have disregarded much of his own Terms of reference, which (if a further inquiry is ordered) requires a report to be drafted addressing the following:

(a) the timeline and events leading to the breakdown in relationships between the RNLI and the crew of the RNLI St Helier Lifeboat Station, with a particular focus on;

- a. the dismissal by the RNLI of the St Helier coxswain on 6 April 2017
- b. the subsequent walkout of the St Helier Lifeboat Station volunteer crew on 7 April 2017 following the events described in (a);
- c. the subsequent decision of the RNLI to reinstate the St Helier coxswain on 28 June 2017; and iv. the withdrawal from service of the St Helier All-weather Lifeboat 'George Sullivan' on 17 November 2017.
- d. To consider the RNLI investigation into the complaint of the RNLI Area Manager by the St Helier Lifeboat Station crew.

(b) The lessons learnt from the actions, advice and activities of the Government of Jersey, as a whole, or Ministers individually or collectively, officers of Ministerial Departments, or any civil servants or employees of the States Employment Board, or other public bodies or their employees, relating to the events described in (a);

(c) whether any of the involvement described in (b) went beyond appropriate advice and mediation between the parties; and

(d) whether there were any conflicts of interest for any of the involved persons described in (b) and whether such conflicts were declared and managed appropriately.

The Draft Report only purports to address the first of these requirements (i.e. paragraph (a) the timeline and events leading to the breakdown in relationships between the RNLI and the crew of the RNLI St Helier Lifeboat Station), leading to significant confusion on our part as to what it is that this Draft Report is supposed to represent and what it is that Sir David thought he was doing.

- a. Indeed, had you, as Chief Minister, made a decision to carry out a full inquiry, which we do not believe you have, we would have written to you at that stage to ask:
 - i) Why POJ had never formally been asked to be involved in the prior stage, that is the confidential preliminary report referred to in paragraph 1 of the terms of reference, and on which basis you had made your decision.
 - ii) For a copy of the confidential preliminary report and a copy of your formal decision as Chief Minister authorising the inquiry;
 - iii) An explanation as to why that Ministerial Decision was not published (as all decisions of this nature commonly are);
 - iv) What power was being relied upon to initiate this inquiry;

- v) How the decision to order such an inquiry was consistent with the clear and unambiguous decision of the States Assembly to reject Senator Sarah Ferguson's proposal for a Committee of Inquiry into the same events as those now considered by Sir David;
 - vi) Why neither [REDACTED] nor POJ were informed that the process had moved on to a full inquiry;
 - vii) How the terms of reference had been arrived at and who had input into that process; and
 - viii) That Sir David provide full answers to the entirely reasonable questions raised by [REDACTED] on 12 April 2021.
- b) Having had a lengthy period to produce the Draft Report, Sir David has given [REDACTED] only six days to respond to its contents. This is clearly unacceptable. It is unclear who the Draft Report has been copied to. This does not accord with the appropriate representations process, essential to ensure fairness – namely that everyone should be given an opportunity to answer criticisms and allegations made against them before publication of those allegations and criticisms.
- c) Please also confirm (if this is the final report of a full inquiry) whether you as Chief Minister have decided to publish it in accordance with paragraph 6 of the terms of reference. If so, we would be grateful if you would provide a copy of that decision and the reasons for reaching this conclusion.
- d) Finally, the original terms of reference for this process were provided to [REDACTED] on 29 March 2021. This document was on headed Government of Jersey notepaper setting out the terms of reference for the process. We attach a copy of that document for reference. Notably, it made no reference anywhere to anything being published. We would further note that those terms of reference have never been provided to POJ.
- e) In August 2021, Sir David QC sent two Word documents to [REDACTED]. One was a document (not on headed notepaper) headed "Final terms of reference". The metadata for that document shows that it was created (on 9 August 2021) and modified (on 11 August 2021) by Sir David himself. It included two additional paragraphs as follows:
- 5. To provide a first draft of the inquiry's report to the Chief Minister for review so that he may submit suggestions to the inquiry regarding typing errors, factual errors, wrong references and other minor corrections of that kind.
 - 6. In the event there is an inquiry, the report shall be made public in a manner considered expedient and appropriate by the Chief Minister."

We are not aware that the amendments apparently made by Sir David were authorised by you as Chief Minister.



I should emphasise that had we received notice of a decision of the Chief Minister to move to a full inquiry, POJ would have asked to participate, had we understood any of the allegations or the criticism against us. The process followed has denied POJ that basic right.

We are concerned that the conduct of this matter by Sir David may expose both you and POJ to unfounded and unfair criticism and possible challenge as to the lawfulness of the process.

3. [REDACTED] participation

On 3 March 2021, [REDACTED] was informed by [REDACTED] of your office that you had commissioned a review by an independent QC of the events and timeline leading to the breakdown in the relationship between St Helier RNLI and the RNLI's St Helier Lifeboat Station crew. He was informed that the process was entirely voluntary and importantly, it was emphasised that the matter was to be kept confidential. This was justified as being "so as not to prejudice the review."

[REDACTED] replied on 10 March 2021 explaining that he had no knowledge of the 'review' and needed further information, including:

- its full terms of reference, its objectives and details of to whom any recommendation would be made;
- the context in which he was being asked to engage;
- details of how any data shared will be handled and what data sharing agreements are in place; and
- details of other parties who had been asked to participate and the process undertaken to select them.

Despite chasing, he did not receive answers until 29 March 2021. He was sent the terms of reference but again, it was emphasised that these were "confidential and not to be disseminated further". It was again emphasised that only the initial review was being commissioned at this stage and that participation was voluntary.

[REDACTED] sought answers to [REDACTED] remaining questions by email of 12 April 2021 as follows:

"Dear [REDACTED]

I hope you are well, thank you for the terms of reference and the further information you have provided.

In principle Ports of Jersey Limited would of course be happy to assist where reasonably possible, but in order to confirm how such assistance could be provided we must have some clarity on the process of the proposed inquiry.

In relation to the terms of reference and the other information which you have provided, I have discussed your request for evidence and documents with my senior colleagues at Ports of Jersey Limited. We have also sought data protection advice, given the potential for personal data to be



shared and processed in connection with this exercise. I am also conscious of the duty of care which Ports of Jersey Limited owes to its employees, some of whom have previously been subjected to extreme abuse and vilification on social media platforms in relation to the subject matter in question.

Accordingly, I would be grateful if you could please clarify the following:

1. *Which "stakeholders" have been asked to nominate witnesses?*
2. *Why has Ports of Jersey Limited as the appointed Harbour Authority under the Harbours (Administration) (Jersey) Law 1961 responsible for Search and Rescue in Jersey Territorial Waters not been involved in that nomination process?*
3. *Have the RNLI been approached as a stakeholder and/or to nominate witnesses for this enquiry?*
4. *What conflicts of interest are alleged to exist – as referred to in the Terms of reference?*
5. *What capacity I and certain of my colleagues have been asked to comment in – have I (and my colleagues) been approached as private individuals, or as representatives/employees of Ports of Jersey Limited or of the Jersey Coastguard (or in some cases as members of the RNLI)?*
6. *If personal data is to be disclosed and processed in connection with this inquiry (as I would presume it will be) our advisors have raised the following queries:*
 - a. *Why a privacy notice has not been issued in connection with this inquiry?*
 - b. *Why no data sharing agreement has been put in place?*
 - c. *Why at least two of my colleagues have been written to at their private addresses and where that information was obtained and for what purposes?*
 - d. *What lawful basis under the Data Protection (Jersey) Law 2018 is being relied upon for the collection and processing of personal data in relation to this inquiry? We are concerned that Ports of Jersey Limited may be in difficulties in disclosing personal data in connection with an informal inquiry of this nature.*
 - e. *Whether a Data Protection Impact Assessment has been completed in connection with this inquiry and if not, why not? If one has been completed, then please may we have sight of it?*

More generally, I would note that I was interviewed (together with a number of other key individuals) some years ago in connection with the independent report compiled by Captain Chad Murray as attached. I am not sure that I would have anything further to add to what I said at that time. However, should any specific questions arise as to my previous statement, I would be fully prepared to provide answers in writing subject to the above queries being resolved to the satisfaction of Ports of Jersey and its advisors.

I would also note that Captain Murray's report and its conclusions were accepted by Ports of Jersey Limited and the Jersey Coastguard. We have put a significant amount of work into ensuring that the Jersey Search and Rescue Community are as effective and cohesive as possible following that report – which has been successful. I would hope that there is no suggestion of departing from Captain Murray's report or its conclusions – as to do so in my view would place at risk a lot of very constructive work on the part of all concerned.



I look forward to hearing from you further."

██████████ was informed the following day that responses to his questions could not be provided before the deadline for his response. Accordingly, on 19 April 2021 he replied that while keen to understand how he could help, he did not feel comfortable proceeding without the clarifications sought in his email of 12 April 2021.

On 17 August 2021, ██████████ received a set of questions from Sir David enclosing an amended terms of reference but not answering the very important questions which ██████████ had previously raised on 12 April 2021.

Surprisingly, the questions posed by Sir David to ██████████ demonstrate that from the inception of this process he was adopting a highly partisan approach in which the crew of the former St Helier Lifeboat and their supporters appear to have effectively been given control over the terms of reference and the questions put to stakeholders:

"You will not perhaps be surprised to learn that the majority of the assistance as to factual detail and the questions posed in the terms of reference has come from the crew of the former St Helier Lifeboat and supporters of it. It would of great assistance to the production of this preliminary report to learn what the response of such persons/institutions as Ports of Jersey is to the chorus of condemnation of which you will already be aware from the events as they occurred..."

Sir David in our view has serious questions to answer as to the nature and extent of his collaboration with the crew of the former St Helier Lifeboat and their supporters.

██████████ took advice on his position and the lawfulness of the process being followed. The advice provided to ██████████ concluded that he should not have confidence that the process that was being followed (which he was categorically assured was wholly voluntary in nature) was either lawful or fair and accordingly he concluded that he did not wish to participate in the process at the informal initial stage.

That view was endorsed by the Harbour Authority and was communicated by ██████████ to Sir David, by an email from ██████████ dated 7 January 2022, which stated as follows:

"Dear Sir David,

Happy New Year.

Further to our correspondence in recent weeks, I am writing on behalf of the Jersey Harbour Authority (Ports of Jersey) who have given the matter due consideration and sought external advice. On balance the Harbour Authority has decided not to participate in this inquiry at this informal stage.

Matters that weighed heavily in coming to this decision included the material already in the public domain, notably the report of the then Guernsey Harbour Master commissioned by the Minister for Economic Development, Tourism, Sport and Culture and the Hansard record of the

States Assembly debate on whether to hold a public inquiry. Uncertainty over the handling of information in the pre-inquiry process and the decision-making based on that information were additional factors in the Harbour Authority's decision. "

It is plain from that, that his view was that he was not going to get involved in the "informal" initial stage of the inquiry which was solely to decide whether an inquiry needed to take place.

There was no basis for Sir David to conclude from [REDACTED] email that either he or POJ were refusing to participate in any further inquiry.

In proceeding as he has, Sir David has failed in his duty to carry out a full and fair inquiry that meets the basic standards of natural justice, namely that those criticised or accused be given the opportunity to respond to those criticisms or accusations. [REDACTED] is still uncertain in what status Sir David contacted him.

I would note in passing that [REDACTED] drafted a full set of responses to Sir David's questions in 2021. These responses were never provided due to the lack of clarification received from Sir David in response to [REDACTED] queries of 12 April 2021 and his consequent lack of trust in both him and the voluntary process – a lack of trust which has turned out to be entirely justified.

As an indication of our commitment to transparency, I have decided that, despite our deep concerns as to the process followed, the lack of factual accuracy and the obvious partisan approach adopted that we should share these with you. A copy of those draft responses is attached. You will see that they are factual, professional and authoritative. You will also see that there are examples of significant variations from the interpretation Sir David has applied to the same events in his Draft Report.

4. The Draft Report

There are numerous issues with the Draft Report. Given the timescale dictated by Sir David, we have not had the time to undertake a full and proper review (another serious and unacceptable unfairness). I deal with some (but by no means all) of the issues below.

- a) Of 55 people approached by Sir David, 30 either declined to participate or did not respond. It is apparent that our (wholly justified) lack of confidence was (and remains) widely shared.
- b) **Paragraphs 1-26** – this statement of the "facts" appears to have been taken largely from what has been told to Sir David by the former crew of the St Helier RNLI station and repeated as fact. It is apparent that Sir David has not tested that evidence and (as he has from the beginning) simply adopted the most partisan of approaches.
- c) **Paragraph 29(i)** – *"The previous, and current, unwillingness of the senior management of PoJ of Jersey to account for its actions (in reporting the complaint to the RNLI and then providing it with evidence etc) and the reasons for them to the States, to me, or to*



the public at large is surprising and worrying, I would suggest, for the future." This criticism is entirely without foundation. POJ (and [REDACTED]) co-operated fully with the inquiry by Captain Murray and have subsequently answered a large number of questions. At no time have we sought to evade accountability for our actions. I would note once again that POJ have not been sent any questions by Sir David – I can only suspect that this was a deliberate step on his part to portray POJ and its management as being uncooperative. [REDACTED] was assured that his participation was "voluntary" and at no stage has Sir David written formally to POJ to ask any questions. As noted above, the first communication from Sir David with a member of the POJ Board was on 5 April 2022.

- d) **Paragraph 42** - Sir David seems confused as to the difference between a Freedom of Information request and a subject access request. [REDACTED] made a subject access request (under the relevant data protection legislation) which was appropriately redacted to remove personal data belonging to others.
- e) **Paragraph 82** - *"On 4 February 2018, the JLA was officially certified by the Royal Court. The next day the appointment of Captain Murray was announced. An allegation is made by the former RNLI coxswain that he was told by a senior civil servant that the report was to be used to discredit him and his crew. Over the next few days, a retired forensic analyst undertook to collate the available evidence of the previous years and he has supplied me with a helpful timeline and, in January 2022, with a detailed commentary on the terms of reference."* We assume that the "retired forensic analyst" referred to is [REDACTED] who was engaged by the former crew of the St Helier Lifeboat to produce an "independent" report into the events under consideration and (we assume) is one of the "supporters" of the former crew referred to by Sir David. Given his clear affiliation with the former crew, it is very surprising that:
- i) [REDACTED] "independent" report is not referenced;
 - ii) His clear position of conflict is not noted; and
 - iii) That he has apparently been given privileged access to provide "detailed commentary" on the terms of reference and potentially to influence the course of action taken by Sir David.
- f) **Paragraphs 82 – 84** – the report insinuates a lack of independence on the part of Captain Murray. This is entirely without foundation and I (and [REDACTED]) are concerned as to why criticisms of Captain Murray are repeated essentially as fact. POJ contributed fully to Captain Murray's inquiry which was conducted with independence and without being partisan in any way – in stark contrast to this current process. Why the JLA should be able to determine who should lead an inquiry and on what basis Captain Murray can be said to be conflicted is unclear. Captain Murray's report was accepted by the States Assembly.
- g) **Paragraph 86** – *"I believe that the answers to the questions of whether, and if so how, the senior officers of PoJ, the government of Jersey, or individual senior ministers (including the Chief Minister) knew of the RNLI decision announced on 17 November 2017 in advance and whether, if they or any of them did, they should have acted*



differently is highly relevant both to explaining why the island was left without lifeboat cover in St Helier for some weeks, and why the port of St Helier now has what more than one correspondent has pointed out, an expensive over-provision of lifeboat cover." The answer to this question is quite simple. So far as we are aware, POJ had no advance knowledge of the decisions taken by the RNLI. This was a purely internal matter for the RNLI. I should also point out that at no time was St Helier left without lifeboat cover and it is disingenuous to suggest that it was.

- h) Paragraph 87 – *"The responses of some of those who replied to the Chief Minister's office letters earlier this year – by no means confined to former crew members who may (understandably) be thought to be bearing grudges – has been to suggest that there was an unhealthy "Royal Navy old boy" relationship between senior officials of the RNLI and PoJ of Jersey which contributed throughout to the lack of openness in the way in which both organizations approached the problems at the time and have done so since. This suggestion gains some support from the (almost) complete 'wall of silence' which has greeted me from both."* The language in this paragraph is extraordinary and completely unacceptable. I am uncertain as to what is meant by a "Royal Navy old boy" relationship, which appears to be a deliberate smear and one which is then repeated by Sir David (see paragraph 98 below). [REDACTED] has never been a member of the Royal Navy and nor have any members of the POJ Board (nor has Captain Murray, in case that is suggested to be the source of his alleged "conflict"). To suggest that some form of conspiracy exists between the RNLI and POJ based on such status is absurd. Additionally, there has been no "wall of silence". [REDACTED] (with input from the Harbour Authority) elected not to participate in this (voluntary) exercise due a variety of factors – not least that he considered that these issues had been well explored previously. The Board of POJ were not approached for their input by Sir David until 5 April 2022. As it has turned out, the decision of the Harbourmaster and many others not to participate was clearly the correct one.
- i) Paragraph 88 – *"the fact that the island was left without proper lifeboat cover"* - at no time has there been any question that St Helier has been left without lifeboat cover. It is simply inaccurate and disingenuous to suggest otherwise. Sir David has evidently not undertaken the most basic of research into publicly available source material. As you would expect with this level of uncertainty, a great deal of contingency planning was undertaken by Government, Emergency Planning and the RNLI in the period under consideration. There was lifeboat cover at all times – something which was demonstrated by the incidents which arose during this period. The detail surrounding that planning is available in the briefing paper provided to States Members which is publicly available and attached.
- j) It should also be noted that the question of lifeboat cover was considered by Captain Murray in his report. Unlike Sir David, Captain Murray is a highly experienced mariner competent to opine on such issues.



k) Paragraph 89 - *The – totally secret – communications, if any, between PoJ and the RNLI throughout this (and the whole) period are a matter of great concern and should be of similar concern looking to the future. However, whether an inquiry whose principal focus would be to try to establish what has happened in the past, is the right way forward, rather than a positive legislative move to make POJ and its minister more obviously accountable to the government and citizens of Jersey while no doubt preserving the benefits of its comparatively recent “privatization”, is a difficult question to answer.* To my knowledge, there are no such "totally secret" communications and Sir David appears to be engaging in the promulgation of a conspiracy theory. The accountability of POJ is well established both in law and practice and it would appear to be something that Sir David has simply not seen fit to look into:

- i. POJ was appointed as the Harbour Authority with effect from 1 October 2015 when the Air and Sea Ports (Incorporation) (Jersey) Law 2015 (the "Incorporation Law") came into force and replaced Article 2 of the Harbours Administration (Jersey) Law 1961 (as amended) (the "Harbours Law").
- ii. It operates under these and other laws which set out clear accountability to Ministers.
- iii. It also operates under a Memorandum of Understanding which sets out ministerial accountability as follows:
 - (1) The Minister for Economic Development has been and will remain responsible for sea transport policy and associated matters.
 - (2) The Chief Minister is responsible for air transport policy and associated matters.
 - (3) The approval of the Minister for Treasury and Resources is required for certain matters and entering into certain material contracts which are outside the ordinary course of trading.

l) Paragraph 95 – "A strong prima facie conclusion, bearing in mind the way events unfolded during *late 2016 and 2017* would be that he was sent to the island to 'get rid of' the coxswain following the complaint made by the Coastguard *employee* and passed to the RNLI by PoJ. The fact that the original complaint which led to the dismissal of the coxswain was provably false and thus necessitated his reinstatement, meant that a further reason had to be found to remove him. By that time it would have been clear to the RNLI, PoJ and the government of Jersey that his removal would almost certainly result in the loss of the entire crew. In spite of this the events of November 2017 unfolded and have led in due course to the current situation, which as, some of my correspondents have said in passing, has resulted in a (no doubt very expensive) over-provision of lifeboats in St Helier as compared with the previous 100 years or more". Once again, Sir David engages in sensationalist and unhelpful language and analysis. He does not explain his conclusion that any "provably false" allegation



was made and nor does he explain on what basis POJ could have known that the removal of the Coxswain would result in the loss of the crew – or what they should have done about it.

- m) Paragraphs 97 and 98 – *"The one part of the "jigsaw" of this topic which may be amenable to further investigation/inquiry with a view to making PoJ more accountable to the government and people of Jersey than it now appears to be, is the role of PoJ or its employees in influencing the conduct of the investigation into the Regional Lifesaving Manager. Thus far questions to PoJ have led to the erection of a "wall of silence" allegedly created not by PoJ itself, but by the Freedom of Information Law/Data Protection Rules. My background in practice, at the Bar and on the Bench – has never extended to the examination of Data Protection or FoI since in criminal proceedings the State is under a duty to reveal any material relevant to the issues under consideration for prosecution, and if there is a prosecution, to the court and the accused.*

98. I make this point since if there is a single issue which should be dealt with to avoid chains of events such as those described, it is that PoJ should not in future be able to operate behind closed doors with no accountability for its actions so that private arrangements whether between old naval friends/colleagues or otherwise concerning a key public service – even if they were made with the best of intentions – should be eliminated if possible. I am unlikely – at least without the assistance of expert counsel - to be able to conduct such an inquiry which might possibly lead to legislative change". To describe these paragraphs as insulting and offensive does not do justice to the reaction of my colleagues. In particular:

- i. There has been no "wall of silence" and no one has sought to hide behind either FOI or data protection. Concerns have been (quite properly) raised as to the use of information and data by Sir David by reference to those Laws. These concerns would appear well founded given his admitted ignorance of data protection law and his wholly partisan conduct of this process.
 - ii. In paragraph 97, reference is made to POJ or its employees "influencing the conduct of the investigation into the Regional Lifesaving Manager". I am not aware of any questions being put to [REDACTED] or to POJ regarding this allegation.
 - iii. Reference is once again made to a supposed conspiracy between "old naval friends/colleagues". This is a wholly unsubstantiated conspiracy theory – as noted above, neither [REDACTED] nor the Board of POJ have served in the Royal Navy.
 - iv. At no time have POJ sought to operate behind closed doors and nor do we wish to. It is deliberately inflammatory and offensive to suggest otherwise. On the contrary, Sir David had not, until 5 April 2022, seen fit to approach the Board of POJ. Any "wall of silence" has been wholly on the part of Sir David.
- n) Paragraph 100 – **"PoJ seems to enjoy a status unbecoming a body which supplies crucial services to the public of Jersey and has been able to use the provisions of recent legislation to conceal its actions and the reasons for them from that public."** This is an extraordinary and unsubstantiated allegation. The tasks given to POJ are difficult and at times extremely sensitive. In particular, acting as the responsible authority for Search and Rescue matters in recent times has been difficult and demanding. The Board and senior employees of POJ are



experienced, professional and committed to public service. They have done nothing to merit the lazy and inaccurate slurs and attacks on their integrity which are contained in the Draft Report.

Conclusion

The process which should have been followed was that a confidential report would be made to you as Chief Minister for you to decide whether a further inquiry was required.

So far as we are aware, this has not happened, and we are left instead with Sir David's unfortunate report.

In summary, the conduct of this matter has been wholly unacceptable, legally questionable, unprofessional and highly partisan.

The Draft Report should in our view be withdrawn in its entirety. If there is to be a further inquiry, it should not be undertaken by Sir David who we perceive has gone well beyond his brief and competence. While we have copied this letter to him, we do not intend to correspond with him further.

We are concerned that the process adopted by Sir David is one that has been undertaken at significant public expense and instigated at the request of certain aggrieved parties, simply because they did not like the outcome of the previous inquiry held by Captain Chad Murray or the decision of the States Assembly that a Committee of Inquiry was not in the public interest.

As noted above, I am sorry to be writing in these terms. However, I cannot stand by while POJ and its employees are treated in such an unacceptable fashion and have their integrity questioned without any foundation. It is no exaggeration to say that the Board and senior management of POJ are all respected and experienced in their fields. They do difficult jobs exceptionally well. They deserve better than this.

I am happy to discuss the contents of this letter with you.

Yours sincerely

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cc Sir David Calvert-Smith QC
Senator Lyndon Farnham, Minister for Economic Development, Tourism, Sport and Culture



Government of JERSEY

Proposed Lifeboat Inquiry

Terms of Reference

Background

1. In November 2017, relationships within the Jersey Search and Rescue Community broke down, as between the Royal National Lifeboat Institution ("RNLI") and the RNLI's St Helier Lifeboat Station crew.
2. The catalyst for the events of 2017 was an alleged complaint that the RNLI St Helier Inshore Lifeboat (ILB) was self-launched by the RNLI St Helier Lifeboat Station Coxswain and not at the request of Jersey Coastguard on 28th October 2016.
3. This resulted in a RNLI investigation which found whilst the boat was self-launched without being requested by Jersey Coastguard, RNLI procedures were mostly followed and therefore the complaint regarding the self-launch allegation was not upheld.
4. Nonetheless, the St Helier Coxswain was stood down by the RNLI further to its investigation, because the RNLI considered that there were breaches of the volunteer code, and a breakdown in communications and working relationships. The entire St Helier Lifeboat Station crew subsequently 'walked out' in protest at this action.
5. The RNLI responded by providing a relief lifeboat crew to maintain cover at the St Helier Station.
6. An appeal was made by the former Coxswain and considered by the RNLI whilst at the same time, all relevant parties including the States of Jersey, Jersey Coastguard, the RNLI and members of the St Helier Lifeboat Station crew met. It was broadly acknowledged that all parties could have intervened at an earlier stage prior to the breakdown in relations and it was agreed to put the past behind them and move forward.
7. On this basis, the former Coxswain and crew were reinstated by the RNLI at the RNLI St Helier Lifeboat Station.
8. Relationships continued to fail between the RNLI and the RNLI St Helier Lifeboat Station crew which resulted in a complaint being lodged by the crew about the RNLI Area Manager's conduct during the previous investigation. This complaint was considered by the RNLI but was not upheld.

9. Discussions followed between the RNLI and the St Helier RNLI Lifeboat Station crew during the week of 6th November 2017. These discussions ultimately resulted in the RNLI closing the St Helier Lifeboat Station and the crew were stood down on 17th November 2017. The RNLI returned the all-weather lifeboat (ALB) 'George Sullivan' from St Helier to Poole whilst a local crew was not in place.
10. Subsequent focus shifted on restoring the RNLI ILB at St Helier by working closely with the St Catherine's RNLI Lifeboat station and the Jersey Fire and Rescue Service. An RNLI ILB capability was declared at St Helier on 4th December 2017.
11. The RNLI returned the ALB to St Helier on 5th December 2017 and a new crew for the RNLI St Helier Lifeboat Station ALB has been operational since 28 February 2018. The ALB was serviced in the interim using UK crew and local volunteers.
12. The formation of the Jersey Lifeboat Association (JLA) was formally approved by The Royal Court on the 2nd February 2018. The JLA was granted official status ('declared') in April 2019. Former members of the St Helier Lifeboat Station crew now service the lifeboat activities of this independent organisation.
13. In March 2018, an Independent Report entitled "*Breakdown of Relationships within the Jersey Search and Rescue Community*" was published by the Guernsey harbourmaster, having been commissioned by the Department of Economic Development, Tourism, Sport and Culture. However, this review had a limited scope focussed on the breakdown of relationships. Furthermore, there have been calls in the States Assembly for a public inquiry (see **P.36/2018**) and on 14 March 2018 the Council of Ministers minutes record that the Council's position was "*that it did not support the convening of a Committee of Inquiry at this juncture, although it was acknowledged that (at some future date) this could be the only mechanism capable of establishing the facts of the matter to the satisfaction of all parties.*"
14. The Chief Minister has therefore commissioned this inquiry and requested it to establish the facts and circumstances of this matter and to understand the role played by public officials in the events leading up to the formation of the JLA, in order to inform the Government on any lessons to be learned for the future, regarding this issue or for potential other similar situations in the future that might arise.

Terms of Reference

- (1) To undertake a review of all necessary documents and where appropriate, interview any personnel and receive relevant submissions to determine if there is a need for a more in-depth inquiry. That this initial review to be compiled as a report for the Chief Minister prior to a decision being taken to proceed to a more detailed inquiry.
- (2) Subject to (1) above, if a further report is deemed necessary for the Chief Minister of Jersey's consideration, it should include:
 - (a) the timeline and events leading to the breakdown in relationships between the RNLI and the crew of the RNLI St Helier Lifeboat Station, with a particular focus on;

- i. the dismissal by the RNLI of the St. Helier coxswain on 6 April 2017
 - ii. the subsequent walkout of the St. Helier Lifeboat Station volunteer crew on 7th April 2017 following the events described in (a);
 - iii. the subsequent decision of the RNLI to reinstate the St. Helier coxswain on 28th June 2017; and
 - iv. the withdrawal from service of the St. Helier All-weather Lifeboat 'George Sullivan' on 17th November 2017.
 - v. To consider the RNLI investigation into the complaint of the RNLI Area Manager by the St Helier Lifeboat Station crew.
- (b) The lessons learnt from the actions, advice and activities of the Government of Jersey, as a whole, or Ministers individually or collectively, officers of Ministerial Departments, or any civil servants or employees of the States Employment Board, or other public funded bodies or their employees, relating to the events described in (a);
- (c) whether any of the involvement described in (b) went beyond appropriate advice and mediation between the parties; and
- (d) whether there were any conflicts of interest for any of the involved persons described in (b) and whether such conflicts these were declared and managed appropriately.
- (3) To receive the views of any appropriate stakeholders or interest groups, as deemed necessary by the reviewer, and where relevant, to be taken into consideration. Where the inquiry considers that the views of certain persons or groups should be sought, such persons or groups may be specifically written to for the purposes of inviting their views.
- (4) To provide an indicative timescale for the completion of the inquiry, following an initial review of documentation, as set out in (1).

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Final ToR

Terms of Reference

- (1) To undertake a review of all necessary documents and where appropriate, interview or write to any personnel and receive relevant submissions to determine if there is a need for a more in-depth inquiry. That this initial review to be compiled as a confidential report for the Chief Minister prior to a decision being taken to proceed to a more detailed inquiry.
- (2) Subject to (1) above, if a further inquiry is deemed necessary, the report of the inquiry should be furnished to the Chief Minister with any recommendations considered appropriate by the inquiry and should include consideration of the following:
 - (a) the timeline and events leading to the breakdown in relationships between the RNLI and the crew of the RNLI St Helier Lifeboat Station, with a particular focus on;
 - i. the dismissal by the RNLI of the St. Helier coxswain on *6 April 2017*
 - ii. the subsequent walkout of the St. Helier Lifeboat Station volunteer crew on 7th April 2017 following the events described in (a);
 - iii. the subsequent decision of the RNLI to reinstate the St. Helier coxswain on 28th June 2017; and
 - iv. the withdrawal from service of the St. Helier All-weather Lifeboat 'George Sullivan' on 17th November 2017.
 - v. To consider the RNLI investigation into the complaint of the RNLI Area Manager by the St Helier Lifeboat Station crew.
 - (b) The lessons learnt from the actions, advice and activities of the Government of Jersey, as a whole, or Ministers individually or collectively, officers of Ministerial Departments, or any civil servants or employees of the States Employment Board, or other public bodies or their employees, relating to the events described in (a);
 - (c) whether any of the involvement described in (b) went beyond appropriate advice and mediation between the parties; and
 - (d) whether there were any conflicts of interest for any of the involved persons described in (b) and whether such conflicts were declared and managed appropriately.
- (3) For the purposes of the initial review under Paragraph (1), and if an inquiry is necessary then for that purpose also, to receive the views of any appropriate stakeholders or interest groups, as deemed necessary by the reviewer, and where relevant, to be taken into consideration. Where the inquiry considers that the views of certain persons or groups should be sought, such persons or groups may be specifically written to for the purposes of inviting their views.
- (4) If an inquiry is necessary, to provide an indicative timescale for the completion of the inquiry, following an initial review of documentation, as set out in (1).
- (5) To provide a first draft of the inquiry's report to the Chief Minister for review so that he may submit suggestions to the inquiry regarding typing errors, factual errors, wrong references and other minor corrections of that kind.
- (6) In the event there is an inquiry, the report shall be made public in a manner considered expedient and appropriate by the Chief Minister.

STATES OF JERSEY



BREAKDOWN OF RELATIONSHIPS WITHIN THE JERSEY SEARCH AND RESCUE COMMUNITY: INDEPENDENT REPORT

Presented to the States on 19th March 2018
by the Council of Ministers

STATES GREFFE

Independent Report

Breakdown of Relationships

within the

Jersey Search and Rescue Community

This independent report is commissioned by the States of Jersey
Department of Economic Development, Tourism, Sport & Culture

Disclaimer

While the author has made every attempt to ensure that the information contained in this report has been obtained from reliable sources, the author is not responsible for any errors or omissions, or for the results obtained from the use of this information. All information in this report is provided "as is", with no guarantee of completeness, accuracy, timeliness or of the results obtained from the use of this information, and without warranty of any kind, express or implied, including, but not limited to warranties of performance and fitness for a particular purpose. Nothing herein shall to any extent substitute for the independent investigations and the sound technical and business judgment of the reader. In no event will the author be liable to you or anyone else for any decision made or action taken in reliance on the information in this report or for any consequential, special or similar damages, even if advised of the possibility of such damages.

1.0 Terms of Reference

1.1 The terms of reference supplied to the author were:

TOR 1

To gather information and compile a report into the breakdown in relationships in the Jersey search and rescue community including, but not limited to the events leading up to

- a. the walkout of the St. Helier Lifeboat Station volunteer crew on 7th April 2017 following the dismissal, by the Royal National Lifeboat Institution (the RNLI), of the St. Helier coxswain,
- b. the subsequent decision of the RNLI to reinstate the St. Helier coxswain on 28th June 2017, and
- c. the withdrawal from service of the St. Helier All-weather Lifeboat 'George Sullivan' on 17th November 2017;

TOR 2

To review and report upon whether the Government response from April 2017 onwards to the events cited above were sufficient to mitigate the risk of lives being lost at sea; and

TOR 3

With reference to sub-paragraphs TOR 1 and TOR 2 above, to make recommendations with a view to further improving the resilience of the Island's capacity to save lives at sea.

2.0 Information Gathering

2.1 The information gathered to compile this report was derived from both document review and one-to-one interviews in Jersey over a 3-day period and included, but was not limited to, input from Jersey Coastguard, Jersey Fire and Rescue Service, the Jersey Harbour Master and volunteers from the Jersey RNLI operations team. The RNLI also participated providing written response to questions submitted. The information was provided voluntarily.

3.0 Background

- 3.1 Relationships within the Jersey Search and Rescue (SAR) Community appear to have deteriorated over many years, dating back at least 10 years prior to 2017, when they completely broke down between the local RNLI volunteer crew in St. Helier, certain organisations and key personnel.
- 3.2 The catalyst for the recent events of 2017 was an alleged complaint that the RNLI St Helier Inshore Lifeboat (ILB) was self-launched by the RNLI St Helier Lifeboat Station Coxswain and not at the request of Jersey Coastguard (JCG) on 28th October 2016.
- 3.3 This resulted in an RNLI investigation which found whilst the boat was self-launched without being requested by Jersey Coastguard, RNLI procedures were mostly followed and therefore the complaint regarding the self-launch allegation was not upheld.
- 3.4 It was however determined during the investigation that due to significant breaches of the volunteer code, a total breakdown in communications and a serious breakdown in working relationships resulted in the St Helier RNLI Coxswain being 'stood down' by the RNLI. The entire St Helier crew subsequently 'walked out' in protest at the perceived treatment of the Coxswain.
- 3.5 The RNLI reacted by providing a relief lifeboat crew to maintain cover at the St Helier Station.
- 3.6 An appeal was made and considered by the RNLI whilst at the same time, all relevant parties including the States of Jersey (SoJ), Jersey Coastguard, the RNLI and members of the RNLI St Helier Lifeboat station met. It was broadly acknowledged that all parties could have intervened at an earlier stage prior to the breakdown in relations and it was agreed to put the past behind them and move forward.
- 3.7 On this basis, the former Coxswain and crew were reinstated by the RNLI at the RNLI St Helier Lifeboat Station.
- 3.8 Relationships continued to fail between the RNLI and the RNLI St Helier Lifeboat Station crew which resulted in a complaint being lodged by the crew about the RNLI Area Manager's conduct during the previous investigation. This complaint was considered by the RNLI but was not upheld.
- 3.9 Discussions followed between the RNLI and the St Helier RNLI Lifeboat Station crew during the week of 6th November 2017. These discussions ultimately resulted in the RNLI closing the St Helier Lifeboat Station and the crew were stood down on 17th November 2017. The RNLI also re-positioned the all-weather lifeboat (ALB) 'George Sullivan' from St Helier and returned the vessel to Poole for servicing whilst a local crew was not in place.

- 3.10 Subsequent focus shifted on restoring the RNLI ILB at St Helier by working closely with the St Catherine's RNLI Lifeboat station and the Jersey Fire and Rescue Service (JFRS). An RNLI ILB capability was declared at St Helier on 4th December 2017.
- 3.11 The RNLI returned the ALB to St Helier on 5th December 2017 and the RNLI has since been working on recruiting a new crew for the RNLI St Helier Lifeboat Station ALB. The ALB has been on service using UK staff crew and local volunteers.

4.0 Detailed findings/observations

4.1 Ref: TOR 1a

- 4.1.1 Relationships have deteriorated between certain parties within the Jersey SAR Community over a period of approximately 10 years. These parties were primarily individuals within the RNLI St Helier Lifeboat Station volunteer crew but also more widely the organisations of JCG, the RNLI St Catherine's Lifeboat Station and the JFRS.
- 4.1.2 There has been inconsistent oversight and management of the RNLI St Helier Lifeboat Station by RNLI headquarters, resulting in a lack of leadership and guidance at the station. This essentially resulted in the RNLI St Helier Lifeboat Station being left to its own devices without appropriate scrutiny from the parent organisation.
- 4.1.3 In recent years the local management of the RNLI St Helier Lifeboat Station has largely been ineffective and has not functioned as it should. The formal local management structure of a Lifeboat Management Group with a Lifeboat Operations Manager (LOM) leading the wider operational team was not properly enforced.
- 4.1.4 Despite the best efforts of a succession of LOMs, the RNLI St Helier Lifeboat Station continued to suffer from an inability to manage at a local scale. A culture existed where the Coxswain was effectively 'in charge' without oversight or opportunity for challenge. This situation strengthened in recent years when a well-respected LOM was replaced, allowing the Coxswain to further influence the station. In defence of the Coxswain, due to the lack of management, some form of leadership and decision making was required however, this may not have aligned to the RNLI policies and procedures.
- 4.1.5 In recent years, a 'toxic culture' ensued where members of the RNLI St Helier Lifeboat Station would not challenge decisions made by the Coxswain, in fear of reprisals. A 'selective cult' was described to exist. Behaviour which could be construed by some as 'Cyber bullying' on social media was prevalent.
- 4.1.6 The RNLI recognises that governance and oversight of the RNLI St Helier Lifeboat Station was lacking for many years. Attempts were made to correct this matter with the introduction of more frequent and focused management. It is possible that this concentrated attention, after many years of very little presence, overburdened the station and its members. A plethora of policies and rules which had not been

implemented and adhered to, descended upon the station with little explanation which may have been interpreted by the Coxswain and others as being critical of the existing operation.

- 4.1.7 This also coincided with a period where Jersey Radio was re branded and re modelled as a Coastguard service to meet Jersey Coastal State responsibility. This also resulted in process and procedures being formalised. It would appear that through this process Jersey Coastguard and several Harbour Masters became remote and failed to understand the importance of maintaining local relationships.
 - 4.1.8 Communications between JCG and the RNLI have historically been primarily at a local level, without RNLI headquarters oversight. Furthermore, most communications appear to have been with the Coxswain and not the Lifeboat Management Group or former LOM, further fuelling the issue of lack of oversight.
 - 4.1.9 An informal complaint was made by the 'then' Jersey Harbour Master to the Chief Executive of the RNLI regarding an alleged 'self-launch' of the St Helier ILB. The RNLI CEO instructed an investigation into the allegation be carried out.
 - 4.1.10 It is understood that the investigation determined the 'self-launch' was mostly appropriate and authorised in accordance with RNLI procedures despite the ILB not being requested by Jersey Coastguard. However, due to 'breaches of the volunteer code, breakdown in communications and a serious breakdown in working relationships', the St Helier Coxswain was 'stood down'.
 - 4.1.11 With the benefit of hindsight, given the informal nature of the complaint made by the 'then' Jersey Harbour Master over the RNLI 'self-launch', the formal investigation undertaken by the RNLI should have quickly determined there to be no case to answer and terminated at that point. The issue was between the RNLI and Jersey Coastguard as the ILB was not requested by the Coastguard. This should have further highlighted the need for the RNLI to instil better management at the St. Helier station.
 - 4.1.12 The decision for the entire volunteer crew of the RNLI St Helier Lifeboat Station to walkout on 7th April 2017 is reported as not being unanimous however, fear of reprisal and behaviour which could be construed by some as 'cyber-bullying' on social media resulted in no crew willing to speak out.
- 4.2 Ref: TOR 1b
- 4.2.1 The subsequent decision of the RNLI to reinstate the St Helier Coxswain on 28th June 2017 was because of a series of events and detailed discussions.
 - 4.2.2 The Coxswain appealed the decision of the RNLI to 'stand him down' and a senior officer of the RNLI from Northern Ireland was appointed to hear the appeal.

- 4.2.3 During this appeal, several meetings took place between the various parties, including States of Jersey, RNLI Management (both headquarters and local), Jersey Coastguard, the Coxswain and volunteer crew.
- 4.2.4 The States of Jersey were successful in mediating the process between all parties. It was broadly acknowledged that all parties could have intervened at an earlier stage prior to the complete breakdown in relations and it was agreed to put the past behind them and move forward to allow for the reinstatement of the Coxswain.
- 4.2.5 In addition, at a meeting attended by most of the RNLI volunteer crew, it was agreed that the Coxswain and crew would all sign the RNLI Volunteer Code of Conduct and agree to abide to it.
- 4.2.6 As a result of this successful mediation by the States of Jersey, the RNLI reinstated the St Helier Coxswain and volunteer crew on 28th June 2017.
- 4.2.7 Despite a resolution being achieved at this point, concerns were voiced over the ability for individuals in the St. Helier crew to put the matter in the past without seeking 'revenge'.
- 4.3 Ref: TOR 1c
- 4.3.1 A complaint was immediately made by the volunteer crew of the RNLI St Helier Lifeboat Station over the conduct of the RNLI Area Manager during the previous investigation.
- 4.3.2 RNLI headquarters considered the complaint over several weeks and determined that it would not be upheld. Allegations that the conduct of the Area Manager was inappropriate and that proper process was not followed were unsubstantiated. In fact, an interview between the Area Manager and the Coxswain was secretly recorded by the friend accompanying the Coxswain which, reportedly, confirms the conduct of the Area Manager to be entirely appropriate. The recording was not available when compiling this report.
- 4.3.3 During the week of 6th November 2017, the RNLI Director of Community Lifesaving & Fundraising met with the volunteer crew of the RNLI St Helier Lifeboat Station to advise that after investigation the complaint over the Area Manager was not upheld.
- 4.3.4 During the meeting, the Coxswain reportedly advised the RNLI that he and the crew wished to resign and operate an independent lifeboat service. Approximately only 7 or 8 crew were in attendance. Again, this decision is reported to not be unanimous and some volunteer crew wished to remain part of the RNLI. Again, fear of reprisal and behaviour which could be construed by some as 'cyber-bullying' on social media resulted in no crew willing to speak out. The RNLI Director of Community Lifesaving & Fundraising acknowledged this declaration and indicated the RNLI would not oppose this action. She advised that the RNLI would consider their position and report back later in the week.

- 4.3.5 Prior to reporting back, during the interim period, social media was used by some of the RNLI St Helier Lifeboat Station crew to make derogatory comments about the RNLI and expressed that the 'relationship was broken'. This view was confirmed in a letter to the RNLI.
- 4.3.6 Given the fractious relationship, the RNLI Director of Community Lifesaving & Fundraising asked the crew if they wished to continue to volunteer under 'the RNLI flag'. They subsequently indicated their desire to leave the RNLI and establish a lifeboat service independent of the RNLI, however also declared their willingness to continue to crew the RNLI lifeboats at St Helier and follow RNLI procedures and policies until they could set up their own independent lifeboat.
- 4.3.7 On the 17th November 2017, having considered the 'broken' relationship, the position of the crew, and the RNLI's ability to safely and effectively manage the St Helier station, the RNLI stood the St Helier crew down and closed the station.
- 4.3.8 With the station closed, the decision was made by the RNLI to reposition their St Helier ALB to Poole for a brief period to undergo a service.
- 4.4 Ref: TOR 2
- 4.4.1 Following the events of April 2017, The States of Jersey and the Harbour Master organised a series of workshops designed to facilitate more collaborative working amongst the Search and Rescue (SAR) community and thereby avoid the situation of the past. These workshops have proved extremely productive despite a lack of engagement from the St Helier crew (although the Deputy Launching Authority individuals did attend).
- 4.4.2 Co-ordinated by the Harbour Master, the States of Jersey, Ports of Jersey Limited, Jersey Coastguard, the Emergency Planning Officer, JFRS and RNLI worked collaboratively to ensure appropriate contingency plans were reviewed, modified and effective.
- 4.4.3 During the period where the RNLI St Helier Crew were not declared (until 28th June 2017), the RNLI provided a professional relief lifeboat crew to Jersey to maintain ALB cover. It was acknowledged at the time that this relief crew would lack the local knowledge of the volunteer crew and mitigations were put in place.
- 4.4.4 Following the events of November 2017 where the entire RNLI St Helier Lifeboat Station crew were stood down and the RNLI re-positioned the St Helier ALB back to Poole for servicing, a further risk assessment was conducted by the Harbour Master.
- 4.4.5 It was assessed that existing assets remaining available to Jersey were adequate to provide appropriate SAR responses in Jersey waters. This assessment considered the use of remaining RNLI assets, JFRS inshore rescue boats, Ports of Jersey Limited – Marine Section and MANCHEPLAN initiated support from flank stations.

- 4.4.6 The risk assessment concluded that the overall ability to allocate an appropriate asset was not impacted, however there was the potential for an increased transit time dependent on weather and tidal conditions and the possibility that protection of property may not always be prioritised.
- 4.4.7 Jersey assets remained available for inshore and coastal incidents and offshore capability from Guernsey and France through MANCHEPLAN.
- 4.4.8 Since November, the RNLI, JCG, JRFS and the SoJ have worked very closely to implement arrangements resulting in the RNLI St Helier ILB being available on 4th December 2017. This work consisted of establishing training and interoperability between existing locally trained volunteers of the RNLI and JFRS.
- 4.4.9 In an effort to re-establish an ALB capability in St Helier, a core of local Jersey volunteers underwent intensive training in early December 2017 to allow them to crew the ALB, in support of RNLI staff Coxswain, Navigator and Engineer. This provision was made available when the weather conditions were forecast to be outside of the operating limits of the RNLI IRB (Beaufort Force 7).
- 4.4.10 In summary, risk assessment rightly determined that there was an increased risk in the ability to protect property only and even so, this risk was tolerable.

5.0 Conclusions

- 5.1 There has been inconsistent oversight and management of the RNLI St Helier Lifeboat Station by RNLI headquarters, resulting in a lack of non-operational leadership and guidance at the station. This essentially resulted in the RNLI St Helier Lifeboat Station being left to its own devices without appropriate scrutiny from the parent organisation.
- 5.2 Recently, local management of the RNLI St Helier Lifeboat Station has largely been ineffective. The formal local management structure of a Lifeboat Management Group with a Lifeboat Operations Manager (LOM) leading the wider operational team, was not properly enforced. Despite the best efforts of a succession of LOMs, the RNLI St Helier Lifeboat Station continued to suffer from poor local management. A culture existed where the Coxswain was effectively 'in charge' without oversight or opportunity for challenge from the LOM, which strengthened in recent years when a well-respected LOM was forced out and replaced.
- 5.3 In defence of the Coxswain, the lack of management required some form of leadership and decision making however, this may not have aligned to the RNLI policies and procedures.
- 5.4 Since 2008, a 'toxic culture' ensued where members of the RNLI St Helier Lifeboat Station would not challenge decisions made by the Coxswain, for fear of reprisals.

- 5.5 Communications between Jersey Coastguard and the RNLI have historically been primarily at a local level, without RNLI headquarters oversight. This is not appropriate given the increasing demands for compliance and governance.
- 5.6 The informal complaint made by the 'then' Jersey Harbour Master to the RNLI CEO over an RNLI 'self-launch' should not have been investigated and led to conspiracy theories around the matter. There is a poor understanding of the relationship between Jersey Coastguard and RNLI declared assets which fuelled the conspiracy theories.
- 5.7 The States of Jersey were successful in mediating the process between all parties. It was acknowledged that all parties could have intervened at an earlier stage prior to the breakdown in relations and it was agreed to put the past behind them and move forward. Despite a resolution being achieved at this point, concerns were voiced over the ability for individuals in the St. Helier crew to put the matter in the past without seeking 'revenge'.
- 5.8 The conduct of the RNLI during investigations was satisfactory however, it was construed by many to be cumbersome and lacking in understanding of local issues and respect.
- 5.9 Leading up to 17th November 2017, social media was used by some of the RNLI St Helier Lifeboat Station crew to make derogatory comments about the RNLI and confirming that the 'relationship was broken'.
- 5.10 Given the state of the relationship, the RNLI Director of Community Lifesaving & Fundraising asked the crew if they wished to continue to volunteer under 'the RNLI flag'. They subsequently indicated their desire to leave the RNLI and establish a lifeboat service independent of the RNLI, however also declared their willingness to continue to crew the RNLI lifeboats at St Helier and follow RNLI procedures and policies until they could set up their own independent lifeboat.
- 5.11 On the 17th November 2017, having considered the position of the crew and the RNLI's ability to safely and effectively manage the St Helier station, the RNLI stood the St Helier crew down.
- 5.12 Once it was clear the RNLI could not safely operate the St. Helier Station as the crew had made their feelings and intentions clear, the decision by the RNLI to re-position the St Helier AWB to Poole for servicing was entirely theirs to make and did not result in risk to life, however the ability to save property was impaired.
- 5.13 The recent collaborative effort to re-establish full service provision should be recognised and congratulated.
- 5.14 The RNLI should remain a major partner in Jersey's SAR Community. The St Catherine's Station and Beach Lifeguard service operate with none of the issues experienced over many years in St. Helier.

5.15 The events of 2017 were essentially an internal staffing matter within the RNLI St. Helier Lifeboat Station. At no point were lives put at risk and the issues are now in the past. The key point is that lessons have been learned and increased communication and the establishment of an open environment where issues can be raised in a safe manner is now in place which would prevent a reoccurrence. The SAR community is, by its very nature a collaborative one where no one asset has primacy and the ability to work as a team to established standards and practices is vital.

6.0 Recommendations

- 6.1 Memorandums of understanding (MoU) should be established between Jersey Coastguard and all SAR partners to define relationships, asset availability, expectations and common lines to take.
- 6.2 In addition to a MoU between Jersey Coastguard and the RNLI, specifically, Jersey Coastguard, the States of Jersey and the RNLI should agree a routine communications strategy to ensure the correct level of engagement at strategic, tactical and operational levels is in place. This should prevent 'blurred lines' which will otherwise almost inevitably occur in small communities.
- 6.3 The RNLI should continue with its progress to provide a more regular presence of management in Jersey by way of the Area Manager and Area Lifesaving Manager roles. It is acknowledged this was already in progress prior to these events.
- 6.4 The RNLI should consider a joint Jersey RNLI Management Group to provide oversight, governance and leadership to all RNLI interests in Jersey. This is essentially the informal default position adopted over recent months and has proved successful.
- 6.5 The local SAR committee should be formalised with terms of reference agreed and published. Membership should reach a broad base and not be limited only to organisations providing assets. For example, these could include representations from boating associations, fishermen, ferry operators, education, health, parish officials and any other interested parties.
- 6.6 Policies should be reviewed and re-issued by all organisations for individuals to be able to report welfare matters in confidence and without reprisal. One-to-one meetings is an effective option to be considered.
- 6.7 Policies around the use of social media should be reviewed and re-issued by all organisations to attempt to prevent misinformation and deformation of organisations or individuals.
- 6.8 A formal Committee of Enquiry, whilst ultimately a matter for the States Assembly, is considered unnecessary at a professional level given the amount of information available in the public domain and that essentially, the events of 2017 were an internal matter for the RNLI St Helier Lifeboat Station.

[REDACTED]

Sir David Calvert-Smith

QEB [REDACTED]

By email to [●]

Dear Sir Calvert-Smith

RNLI/JLA

I am writing in response to your email dated

Before responding to the specific questions posed to me in your email dated 16 August 2021, it may helpful to set out some background.

Background

Through the Territorial Sea Act 1987 (Jersey) Order 1997, Jersey has a twelve mile territorial waters (TTW) and as a result has a number of obligations it must fulfil internationally as a Coastal State, this includes the requirement "to ensure that necessary arrangements are made for distress communication and coordinating in their area of responsibility and for the rescue of persons in distress at sea and around its coast" (1974 Safety of Life at Sea Convention).

The UN Convention on the Law of the Sea, 1982 includes a general statement at Article 98, paragraph 2, dealing with search and rescue:

"Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the water and, where circumstances so require, by way of mutual regional arrangements, cooperate with neighbouring States for this purpose".

The responsibility for coordinating maritime search and rescue within Jersey TTW is delegated to the Harbour Authority under the Harbours (Administration) (Jersey) Law 1961 and as a Public Service Obligation in the Air and Sea Ports (Incorporation) (Jersey) Law 2015.

Jersey is a member of the Anglo-French Accidents Technical Group (AFATG) and co-operates in the MANCHEPLAN which is the Anglo-French Joint Maritime Contingency Plan for the English Channel. AFATG and MANCHEPLAN have existed for many years and is considered a model of best practice for international collaborative working arrangements.

The MANCHEPLAN is a formal Maritime Contingency Plan for the English Channel, including the Channel Islands and allows neighbouring states to request and mobilise each other's SAR assets provided that it is done through a designated Marine Rescue Coordination Centre (MRCC) and each MRCC keeps the others informed on asset availability.

Practical Application

Practically the coordination of Search and Rescue activity in Jersey TTW is undertaken by Jersey Coastguard from their dedicated MRCC at Maritime House. This is a 24 hour a day service operated 365 days a year which provides SAR services to ensure that assistance is rendered to persons in distress within Jersey's Search and Rescue Region (SRR) using shore-based, maritime and aeronautical SAR facilities as deemed necessary.

[REDACTED]

SAR incidents within Jersey's SRR number between 150-180 per year on average. For this purpose, SAR incidents can be defined as any incident that Jersey Coastguard are alerted to that requires a physical response or interaction such as the deployment of SAR assets, assistance from other mariners or members of the public, broadcast action or further investigation by officers to establish an outcome. Jersey Coastguard bases its service provision on the guidelines prescribed in International Aeronautical and Maritime Search and Rescue Manual (IAMSAR). In addition, Watch Officers and Search Mission Coordinators are trained and certified by HM Coastguard either attending training in the UK or from HM Coastguard trainers undertaking courses in Jersey.

Compliance and Assurance

Jersey Coastguard undertake periodical peer reviews with HM Coastguard (HMCG), the last review was in October 2017 and the next in 2021/2022. We are currently awaiting a date for the commencement of the next peer review. These reviews are shared with Government and the responsible Ministers.

The 2017 review concluded that:

"it is appropriate to conclude that Jersey Coastguard has implemented the necessary arrangements required for distress communication and co-ordination in their area of responsibility, and for the rescue of persons in distress at sea around its coasts; the arrangements are deemed practicable and necessary by the States of Jersey".

Jersey is also currently undertaking an extensive review with the Maritime Coastguard Agency of its Coastal, Port and Flag States of responsibilities as part of the United Kingdom's instrument Implementation Code (IIC Code) by the International Maritime Organisation.

The RNLI and the Jersey Lifeboat Association

I, together with Ports of Jersey and Jersey Coastguard have already participated in and contributed to the investigation conducted by Captain Chad Murray. We have accepted the findings in his report¹ (the "Murray Report") and where appropriate and relevant we have sought to implement the recommendations which he made.

It is considered that the SAR community within Jersey is in an excellent position in terms of its assets and in terms of relationships which the Jersey Coastguard has built with all relevant stakeholders.

In particular, the Jersey Coastguard has done a significant amount of work with the Jersey Lifeboat Association (the "JLA") to assist them in meeting the international standards required from SAR assets.

I am not sure what is to be gained by reopening matters. The States Assembly have already considered the Murray Report (together with a briefing commissioned by the JLA²) and then held a vote as to whether a Committee of Inquiry should be held. The proposition was rejected by the States Assembly following a full debate.

¹ Breakdown Of Relationships Within The Jersey Search And Rescue Community: Independent Report - <https://statesassembly.gov.je/assemblyreports/2018/r.29-2018.pdf>

² [\(P.36-2018Add\(re-issue\).pdf \(gov.je\)\)](#)

[REDACTED]

I would note the statement of Deputy Steve Luce in the debate in March 2018³ regarding whether a Committee of Inquiry should be instituted. I agreed with him then and I consider that nothing has changed in the interim. As noted above, I am concerned that by reopening matters, the relationships between SAR stakeholders which we have worked very hard to build will be damaged to the ultimate detriment of marine safety in Jersey's waters, which as Harbourmaster I regard as my first priority at all times.

In relation to your specific questions

1 - So far as the events of late 2016 (the 'Star Tern' incident of 28th October 2016) and mid-2017 are concerned involving the suspension/dismissal and subsequent reinstatement of the coxswain [REDACTED]

(a) What part did you personally, or Ports of Jersey in general, play in those events? The suggestion has been made, perhaps borne out by [REDACTED] subsequent successful appeal, that the accusation –

a. emanated from within Coastguard/Ports of Jersey,

b. that it was passed to the RNLI without any, or any proper, check to establish whether it was justified.

The following is directly from the incident form for JE 128/16, Star Tern, Power Boat broken down off Gorey. The contents of the incident form are accurate to my knowledge and reflect the incident from the coordinating authority's perspective.

"JCG RX a call from vessel Star Tern on VHF CH82 informing that they had engine trouble and were drifting and required a tow. JCG transmit a any vessel call on VHF CH16. Moments later JCG RX a call from J69 Soixante Neuf, who was in St Catherine's bay and able to assist with ETA approx 10 mins. Info was passed to Start Tern. Decision was made jointly by duty AHM and Skipper of Star Tern to tow vessel to Gorey to assess as it is possibly lack of fuel. Start Tern skipper informed Jsy CG that all was well on board, conditions were calm and that they were in no danger. During this time and once J69 Soixante Neuf had already agreed to respond and was on way, the MOC RX several calls from St Helier Lifeboat Coxwain informing that he intended launching the SHILB. Officers in the MOC replied that Skipper of Star Tern was happy to be towed to Gorey to assess as it was likely fuel problem and that a lifeboat was not required. Duty AHM calmly informed the LOM of the situation, that it was all in hand, a vessel of adequate size was already towing the casualty to a safehaven and that the skipper of Star Tern was happy with the response and plan to be towed to Gorey. Indication from LOM was that launching of the SHILB was at the prerogative of the Coxwain. SHILB launched at 1402utc and proceeded to Gorey area. J69 arrived at Gorey with Casualty Vessel at approx 1425, the same time as the SHILB arrived on scene. All vessels tied up on Fuel Pontoon. J69 skipper assisted with re-fuelling and bleeding the engine of Star Tern whhich was successful. Vessel then made its own way back to St Helier along with the SHILB."

The Star Tern was not in distress. IAMSAR defines a vessel in distress as "a situation wherein there is reasonable certainty that a person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance".

This was a routine incident, with no risk to life and was being appropriately managed by the Coordinating Authority. The deployment of a SAR asset to this incident would not have been appropriate and, given the non-life threatening the nature of the incident, the self-launching of a SAR asset away from its area of standby was neither justified nor appropriate.

³ See Hansard at <https://statesassembly.gov.je/assemblyhansard/2018/2018.03.21%20states%20-%20edited%20transcript.pdf>

[REDACTED]

If a similar incident occurred today, it would be raised with the SAR providers. In fact such an incident was raised earlier this summer with the chairman of the Jersey Lifeboat Association. No issues have subsequently arisen.

As far as I am aware there was no formal complaint as such regarding the self-launch of the St Helier ILB to the Star Tern. My understanding is that [REDACTED] the then Harbour Master, attended a meeting at the RNLI in Poole at the invitation of the then RNLI CEO [REDACTED]

During that meeting I believe operational matters were discussed including the strained relationships the RNLI St Helier Station had with Coastguard and other SAR stakeholders on the island. My understanding is that [REDACTED] subsequently requested the self-launch be looked at after the meeting with [REDACTED]

I was not party to, nor have I seen, the RNLI's investigation into the Star Tern incident. I did provide at the request of [REDACTED] (RNLI) through [REDACTED] the incident form for J128/16, the contents of which I am satisfied are true and accurate, the incident form was also I believe provided to [REDACTED] around the same time.

(b) How high up within Ports of Jersey did the complaint made against [REDACTED] go before it was decided to refer it to the RNLI? The evidence currently before me (a letter from [REDACTED] of RNLI to [REDACTED] suggests that it was made on 8th November 2016 by the then Harbourmaster [REDACTED] to the Chief Executive of the RNLI [REDACTED]. Is that correct?

See answer to (a) above

(c) What if any checks were made by you personally, or Ports of Jersey in general, as to the accuracy of the complaint? Did the fact that the complaint had emanated from within Coastguard mean that Ports of Jersey assumed that it was true and acted accordingly thereafter in respect of its dealings with the St Helier crew?

See answer to (a) above

(d) I have been supplied with a copy email from you to [REDACTED] dated 10th November 2016 in which you said in reference to a debrief (apparently that concerning the tragic death of [REDACTED] in August 2016) he had attended, "How did your meeting go, I give up they are impossible, I really don't where this is going, they are worse than ever", apparently referring to the crew of the St Helier lifeboat. What did you mean?

The relationship between the St Helier RNLI crew and the Jersey Coastguard was difficult at the time. I would draw your attention to the report compiled by Captain Murray in this regard.

We had endeavoured to secure a debrief with the attendance of the Coxswain and members of the St Helier crew in late August, early September in relation to SAR 092 (which related to the death at sea of an individual in August 2016). A number of dates were suggested by Coastguard which the Coxswain and the Crew were unable to attend. [REDACTED], the RNLI Divisional Operation Manager, asked on the 19th of September to avoid further delay that [REDACTED] attend for the St Helier Crew. I accepted this on the 06th of October as a short-term solution and stated as follows:

"Whilst I accept for the upcoming debrief [REDACTED] will represent the station I want to get back to a position as soon as we can where on an operational level the LOM and Coxswain work directly with my [REDACTED] whilst [REDACTED] and myself work at a more strategic level"

A debrief was then held on the 25th of October which [REDACTED], the States of Jersey Police, the Jersey Fire and Rescue Service and the States of Jersey Ambulance Service attended, minutes were produced, agreed and shared with all parties, including the RNLI St Helier.

[REDACTED]

There was then a subsequent complaint that the St Helier Coxswain and crew had not been invited to the debrief. My email reflected my frustration that the process was being misrepresented. A debrief subsequently took place on 17th of November 2016 which was attended by me, [REDACTED], [REDACTED] and [REDACTED]. Notes from that meeting were provided by [REDACTED] and were added to the meeting note from the original debrief on the 25th of October.

(e) On the same day (10.11.16.) you agreed to a debrief concerning the tragic incident involving the death of Joy Godfray in August 2016. On 17th November 2016 you met [REDACTED] and [REDACTED] for that debrief. During the meeting the 'Star Tern' incident was mentioned. You are reported to have been embarrassed. Were you? Had the incident/complaint been referred to the RNLI by then? The first intimation to [REDACTED] of the investigation by the RNLI is dated 1st December 2016.

Your question is misleading. A debrief took place on 25 October 2016 which was attended by representatives of all of the relevant stakeholders. As noted above, we had sought to arrange a date and time which would enable the RNLI Coxswain to attend. In the event, [REDACTED] attended on behalf of St Helier RNLI.

Subsequently, the RNLI requested that a further debrief be held with the Coxswain and other RNLI representatives. This took place on 17 November 2016.

I do not recall having been embarrassed in relation to the Star Tern and nor would I have been – it was a wholly routine issue which I regarded as closed.

(f) On 17th December 2016 it is said that you summoned [REDACTED] to a meeting concerning an alleged contravention of the rules concerning lights in the harbour. It is alleged by some respondents that this summons would not have been issued if it had not been for the ongoing possibility of the investigation by the RNLI into the 'Star Tern' incident. Is this allegation true?

On the 11th of December the St Helier ALB proceeded against the IALA lights in contravention of General Direction 3.

The following is taken directly from the incident log POJ-IR-8328 (11Dec2016) St. Helier Lifeboat outbound through Red IALA lights crossing CCL bow turning onto west berth, the contents of which are accurate to the best of my knowledge.

"The St. Helier Lifeboat contacted VTS on departure from her berth informing going out to proceed to Eli castle and to return to drop off Santa at St. H yacht club. VTS Informed negative as the CCL inbound at Small Roads.

St. Helier Lifeboat proceeded at slow speed from berth up the harbour stopping briefly in between pierheads as CCL was arriving dolphin to start turn for the west berth astern. As the CCL was turning and start moving astern and while still using bow thruster, St. Helier lifeboat proceeded outbound passing the CCL under her bow and the IALA lights still Red. No VHF contact."

By way of context, "CCL" above refers to the Condor Ferries vessel the Commodore Clipper. This is a conventional ferry capable of carrying in excess of 300 passengers. It is approximately 129 metres in length and 23 metres wide. Unsurprisingly, there are significant safety issues when such a vessel is manoeuvring.

The IALA lights are an important safety control measure which allow large commercial vessels the room to safely manoeuvre onto their berths. Contravention of a General Direction 3 is an offence and subject to level fine 3 (up to £10,000) under Regulation 7 of Harbours (Jersey) Regulations 1962.

[REDACTED]

The Ports of Jersey as the appointed Harbour Authority has a legal obligation to enforce these provisions which are critical to the safe movement of vessels in a busy marine environment where space and the ability of vessels to stop and change direction suddenly is limited. Where we can and it is appropriate to do so, we endeavour to resolve matters informally.

This was a serious breach of a Harbour Regulation. The St Helier ALB was not engaged in SAR activity - she was undertaking a cruise past the St Helier yacht club with Christmas lights and Santa onboard. Accordingly there was no justification for them to proceed against the lights particularly where permission had been sought and refused on the basis that another (very large) vessel was manoeuvring.

Attempts were made to engage with [REDACTED] the Life Boat Operation Manager, on the contravention. At the very least, we needed an acknowledgment of the issue and an undertaking that it would not be permitted to recur. These attempts were frustrated by a lack of acknowledgement of the issue by [REDACTED] and then were further escalated when [REDACTED] contacted the Watch Officer on duty that evening to inform him he knew that he had submitted an incident report. This call was intimidating for the member of staff concerned and I am aware that Ports of Jersey HR were informed.

[REDACTED] was requested to attend a meeting at Maritime House in order to resolve matters.

This incident demonstrates the effort taken at the time to try and build the relationship between the RNLI crew and the Jersey Coastguard. If this incident had been a commercial or private vessel, the minimum of a Harbour Master's warning would have been issued. In this case the warning was drafted but not issued to try move the relationship forward.

This incident was not formally raised outside the local RNLI management team but I did discuss it with [REDACTED] (the Area Life Saving Manager).

(g) From 6th-10th March 2017 Ports of Jersey organised what has been described to me by others as "the largest SAR simulation exercise ever run in Jersey". The St Helier lifeboat was not asked to take part. Why?

I assume from your question that you are referring to Exercise Jaguar, which took place in March 2017.

The exercise was organized by Emergency Planning with Ports of Jersey taking the lead coordination role. Each service had their own objectives they wanted to achieve. Coastguard wished to stress test their new Silver Command, Fire wished to exercise their Marine Response, Ambulance mass casualty response and Police, victim identification.

To meet those objectives a scenario of the Condor Rapide having a car deck fire was chosen. Most of the scripting involved the vessel being alongside Elizabeth terminal, other than a small winching exercise at sea for the fire service. As such this wasn't a SAR incident and no afloat assets were used. This was discussed with RNLI management at the time. Jersey Coastguard organizes multiple SAR exercises with SAR assets throughout the year.

(h) On 6th April 2017 [REDACTED] of RNLI, at a meeting at the Radisson Hotel attended by many members of the St Helier lifeboat crew, announced the RNLI's decision to sack [REDACTED]. Were you/Ports of Jersey aware of this decision before it was announced? If so when, and what plans had been made by Ports of Jersey to deal with the possible consequences of it?

I was not aware of the meeting. I remember on the day I was duty Pilot and I had gone out on the Jersey Duchess to do a survey. When I returned I saw [REDACTED] and [REDACTED] outside the lifeboat station, I waved, they didn't wave back which I thought was odd.

Later that evening whilst onboard the Ronez preparing to depart, I received a call from the [REDACTED] of the RNLI.

[REDACTED]

So far as I am aware the decision by the RNLI to remove [REDACTED] was not disclosed in advance to Ports of Jersey – it certainly came as a surprise to me.

Following [REDACTED] reinstatement in June a commitment was made by Ports of Jersey, Government of Jersey, the RNLI, and [REDACTED] together.

One of the initial actions taken to rebuild relationships was to form the Jersey SAR committee which has since evolved into the Jersey Strategic Water Safety Forum. This brought all SAR community members round the table for the first time and continues to be a success and the SAR community, as recognized by many of its members, is much stronger as a result.

Whilst the SAR community fully committed to the forum, [REDACTED] didn't engage and this was an early indication that it would be difficult for [REDACTED] to fully reengage with the RNLI and the broader work to rebuild the SAR community.

Between June and November 2017, I met with [REDACTED] on several occasions.

Whilst the aim of these conversations was to help us move forward the conversations inevitably ended up focusing on [REDACTED]'s desire for an independent station and what would be required. I did my best to assist with this process and indeed have continued to provide a great deal of advice and assistance in relation to the JLA, its volunteers and its assets.

I was not convinced independence was something all the crew desired and I worked hard with Government, [REDACTED] and members of the local guild to try and find some resolution with the RNLI. Regrettably this didn't succeed, and it was the crew which ultimately publicly announced their desire to split from the RNLI on the 13th of November 2017.

As you would expect with this level of uncertainty a great deal of contingency planning was undertaken by Government, Emergency Planning and the RNLI. Much of this detail surrounding that planning is available in the briefing paper provided to State Members which is, I believe, publicly available⁴

https://www9.gov.je/Freedom%20of%20Information%20library/ID%20FOI%20States%20Briefing%20Paper%2001_03_18%2020190513.pdf

(i) In the immediate aftermath of the decision and the "walk-out" by the majority of the crew, at a public meeting on 9.4.17. a formal inquiry was promised into the events by Senator Routier. In the end no such inquiry was held. What, if any, role did Ports of Jersey or you personally play in the eventual decision not to hold an inquiry?

None.

(j) have a note in the papers supplied that [REDACTED] retired as Harbourmaster in April 2017. Did you take over immediately?

I became Harbourmaster in June 2017, shortly after [REDACTED] return to the UK to take up the role of Southampton Harbour Master.

(k) On 3rd May 2017 I have been informed that [REDACTED] met [REDACTED] the CEO of Ports of Jersey in connexion with his request for information surrounding the investigation which had led to his

[REDACTED]

dismissal. He reports that he was told that since Ports is a "private company" it would not support an inquiry or supply the information as it is not subject to the laws concerning Freedom of Information. While of course you cannot say what was said at the meeting,

a. Is that your understanding?

b. Is it appropriate for a publicly funded body like Ports to be able to take this line? Would Ports have any objection were the legislation which created it to be amended so as to make it subject to those laws? In any event was there any good reason for not disclosing the information?

As you note, I cannot state what was said at this meeting.

Whilst the Freedom Information of Information (Jersey) Law 2011 does not (yet) extend to Ports of Jersey, Ports of Jersey aims to act as if it does and will deal with requests through its "ask@ports.je" portal.

The Chief Minister's office wrote to Ports of Jersey (Jan 20) informing Ports of Jersey of the intention to include them in the legislation, Ports of Jersey had no fundamental objections to this and awaits sight of the required changes to be made by Government.

Regarding the requests made by [REDACTED], [REDACTED] made a Subject Matter Access request in the Autumn of 2017 to Ports of Jersey, this request was answered fully in accordance with the Law. I also understand that [REDACTED] and the Jersey Lifeboat Association have been provided with a great deal of information when it has been requested.

I would also note that whilst the 2011 Law does not yet apply to Ports of Jersey, there have been a number of requests made to Government on the Lifeboats issue. Responses and documents from Ports of Jersey to Government have been picked up and published as part of this process.

(I) What lessons, if any, have you, or Ports of Jersey in general, learned from these events or any of them, and what measures if any have since been put in place to avoid such a sequence of events occurring in the future?

As noted above, we have taken a number of steps, including but not limited to those recommended by Captain Murray and the formation of the Jersey SAR committee which has since evolved into the Jersey Strategic Water Safety Forum.

2. Many of the respondents to the letters sent by [REDACTED] suggest that the decision to sack [REDACTED] and the crew was the result of a joint decision taken not simply by the RNLI but in concert with, among others, the Harbourmaster. What role if any did you play in discussions which may have preceded that decision?

I don't believe your question accurately reflect the events. On the 13th of November [REDACTED] and the St Helier crew publicly announced their decision to split from the RNLI, releasing a statement to the media in which they described their relationship with the RNLI as "broken".

This was of genuine regret to myself and those who had worked hard with all parties over the preceding months to build relationships and move forward. I released the following statement on the 14th of November which I stand by today.

"I am disappointed to hear of the break down in relations between the RNLI and the St Helier crew.

We recognise and value both the RNLI's long track record of saving lives in Jersey and also the selfless service of its volunteer crews and we will work hard with both to ensure this continues.

[REDACTED]

The RNLI has served Jersey for over 100 years and the Island is indebted to the charity and its volunteers for saving hundreds of lives during that time.

It has a proven track record, invested heavily in boat design and technology, and its training is second to none. Equally, I have a huge respect for the local volunteer crew, support staff and fundraisers.

Since becoming Harbourmaster in June 2017, I have made it a priority to strengthen relationships between all organisations involved in search and rescue (SAR) and I'm pleased we've made significant progress.

As Harbourmaster, I have a legal responsibility to coordinate search-and-rescue operations in Jersey's territorial waters and will therefore continue to work with existing SAR partners, both volunteer and full time to give the most comprehensive provision of search and rescue coverage for the Island as we can and will look to work positively with any new proposed service"

It was subsequent to the decision by **[REDACTED]** and the crew to split from the RNLI that the RNLI decided on the 17th of November to accept their decision and rebuild the station with a new crew. That decision was that of the RNLI and the St Helier Crew.

"Today is a sad day. As you know the St Helier crew met with the RNLI earlier this week to say they felt that the relationship with the RNLI is broken and that they want to establish an independent station. I have taken some time to think and speak with the chief executive and the trustees of the RNLI and I can now confirm our next steps.

It's with regret that we have made the difficult decision to close the St Helier lifeboat station for the immediate future. It is impossible to run a station when the relationship with the RNLI and crew has broken down to this extent.

The crew have made it quite clear that they want to leave the RNLI and set up an independent lifeboat station. In the interim period, while they pursue that aim, I do not believe that they can fully commit to the RNLI. I no longer have confidence that the station can be run without constant challenges and without constant threat of crew resignation.

The lifeboat station and shop in St Helier will be closed and secured. The crew have been stood down. The RNLI has notified the coastguard that there is no longer a declared RNLI search and rescue service at St Helier.

We would like to reassure the Jersey community that St Catherine's RNLI lifeboat station remains open and we will be doing everything we can to restore an RNLI all-weather lifeboat service to the island as quickly as possible, working alongside the States of Jersey, the coastguard and the maritime community.

Our immediate focus will be on restoring an inshore lifeboat service in St Helier. Re-establishing all-weather lifeboat cover will take a few months and in the meantime the RNLI will transfer the Tamar class lifeboat to Poole, where it will be fully serviced and stay while we make plans for the future.

I would like to thank the St Helier Crew for their service to the RNLI and recognise their time and commitment over the years. It has been very much appreciated."

3. The appointment of Chad Murray in January 2018 to compile a report.

The suggestion has been made that he was selected to prepare the report because he was well known to senior staff in Ports. Is there any truth in this suggestion in your opinion? What part if any did you or, to your knowledge, Ports of Jersey play in his selection?

[REDACTED]

Captain Murray was appointed by the Government of Jersey. So far as I am aware, Ports of Jersey played no part in his appointment.

Captain Murray is reasonably well known to the Jersey Coastguard. I have no reason to doubt his honesty, integrity or his independence and I would be concerned as a fellow mariner and coastguard if you or anyone else saw fit to question those qualities.

4.

ii. **Importantly you refer to a statement you made for the purposes of the Chad Murray report and the likelihood of most if not all of the issues raised in her letter being covered in that statement. I do not have a copy of that statement and would be very grateful to see it.**

In a subsequent email you indicated that you were 'keen to understand how I can help'..... but felt unable to do so without the comfort sought in the earlier email. I hope the content of this email give an idea of how you might be able to help.

I would suggest that you approach Captain Murray so that you are able to see the totality of the evidence collected by him.

In relation to the "comfort" provided by your email, I have already indicated above that I am not comfortable with this process. I remain of that view and your email has done nothing to address those concerns.

5. **You will not perhaps be surprised to learn that the majority of the assistance as to factual detail and the questions posed in the ToR has come from the crew of the former St Helier lifeboat and supporters of it. It would of great assistance to the production of this preliminary report to learn what the response of such persons/institutions as Ports of Jersey is to the chorus of condemnation of which you will already be aware from the events as they occurred.....**

I would need to see the factual detail and allegations made. In particular, whilst I am aware of certain criticisms of the Jersey Coastguard and Ports of Jersey, I am not aware of a "chorus of condemnation of Ports of Jersey

As noted, the facts and matters which are the subject of your enquiry have been rehearsed at length, in particular in Captain Murray's investigation and report and I would direct you to his findings of fact and his recommendations, which I agree with.

As Captain Murray notes, this matter has been characterised by conduct which has given understandable concern as to the possibility of reprisals. As Captain Murray noted, social media in particular has been utilised at times in ways which may be construed as cyber-bullying. Given that fact, it is perhaps unsurprising that people may be reluctant to speak out either publicly or via your enquiry.

I would note that the Jersey Coastguard has put significant effort into ensuring that the Jersey SAR community is a strong one in which all stakeholders are recognised.

We now have more accredited SAR assets than previously and the operational relationships between the Jersey Coastguard, the RNLI and the Jersey Lifeboat Association are excellent. So far as I am concerned, that is the best possible response to the events of 2016 and I am concerned that by seeking to reopen matters now we may see those relationships damaged once again.

6. **For the same reasons I would be interested to ask [REDACTED] about events preceding his retirement from Ports of Jersey. I have no email address for him. I understand he now works for the**

[REDACTED]

PLA? If you are still in touch and he consents I would be grateful if he or you could give me an address, postal or email, for me to write to him. Perhaps you could let me know one way or another.

I believe [REDACTED] contact details are available online if you look.

In conclusion, I note what you say regarding sharing your questions and this response with others. Given my concerns regarding this process and your conduct of it, I can give no such undertaking.

Yours sincerely

[REDACTED]