

Report concerning events before and after the removal of the RNLI St Helier lifeboat from service in November 2017.

The possibility that such a report might be produced, and that I¹ might produce it, was known to me in 2019. The events which gave rise to the request are no doubt well-known to the citizens of Jersey. In brief they involve a breakdown in the relationship between the then coxswain and crew of the St Helier All Weather Lifeboat and the Royal National Lifeboat institution (RNLI). This breakdown resulted in two periods in which the port of St Helier was left without an all-weather lifeboat and the fact that since early 2018 there have been two such lifeboats operating at the port. Terms of Reference (ToR) for my report, later finalised in 2021, were drafted in early 2020 just before the coronavirus 'lockdown'. Understandably the process was interrupted.

In March 2021 the Government of Jersey carried out an evidence-seeking exercise whereby it asked for and received suggestions as to persons who may be able to provide evidence to assist with the inquiry. As a result some 55 people received letters or emails from the Chief Minister's Office. Of those, 30 either replied saying that they did not wish to participate or simply did not reply and 25 did reply with such information and supporting evidence as they chose to send.

In May 2021 I received a very large volume of documentation – either supplied by those correspondents or by the Government of Jersey – in the form of contemporaneous emails, letters, statements or similar from persons who had had some direct involvement in, or knowledge of, those events at the time they occurred, together with, in some cases, their opinions on certain of the events now that some years have passed.

In July 2021 when I had had the opportunity to read the material and create a chronology of my own from the material supplied I was given access to the gov.je email system and began to write to some (23) of those to whom the government had written in March. In some cases the purpose in writing was with an eye to the ToR which had been finalised in June 2021 and to focus minds/ask questions on the specific issues within them; in others it was in the hope that they might change their minds about cooperating with this preliminary inquiry and address some of the issues within the ToR. To date I have had substantive responses from 17, no reply at all from 2, a 'holding' reply from 1, and 3 from persons who do not wish to contribute.

In March 2022 having sent a draft of my report to the Chief Minister (CM) and following discussions with him and his office over next steps

¹ See Note at conclusion concerning the author.

the draft was sent to a number of people for "Maxwellisation" so that any factual errors could be pointed out and corrected. Most of those to whom the draft was sent had little if anything to suggest. The exceptions were:

1. a person who had not been a witness to whom the CM had written in March 2021 or someone whose name had featured in any of the events of which I had been informed in the ToR or the voluminous correspondence I had received from various sources. This was the Chairman of PoJ. His letter verged on the abusive. It suggested that I had come to factual conclusions on certain of the events contained in the ToR which were biased and illogical. For the record I reject that assertion. I have sat, and still sit, in one judicial capacity or another for nearly forty years. No party to any case in which I have been the judge, or one of the judges, has ever accused me of bias. My conclusion for instance, that the "wall of silence" from PoJ might be one reason for the CM to wish to proceed to a more formal inquiry so that in future situations similar to this one could be dealt with with all parties contributing to the evidence was entirely justified by the evidence I had received thus far.

However, in contrast to the virulent tone of the letter it was accompanied by an important attachment, namely a document dated September 2021 purporting to be a draft of answers to questions I had asked of the Harbour Master in 2021 but in respect of which up to then I had received an indication that he would not contribute to this preliminary inquiry. I have assumed, I hope rightly, that the statements within this "draft" are now intended to form part of the material for me to consider and represent an important chink in the "wall of silence". I have done so and the report has been significantly altered to take account of it.

2. A submission from the JLA which pointed out some inaccuracies and included some pieces of documented information which I had not seen before. I have considered the contents of the letter and amended the report in the light of it.

The ToR split the events to be considered into 5 sections.

- i. the dismissal by the Royal National Lifeboat Institution (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 (i);**
- iii. the subsequent decision of the RNLI to reinstate the St. Helier coxswain on 28th June 2017;**
- iv. the withdrawal from service of the St. Helier All-Weather Lifeboat 'George Sullivan' on 17th November 2017; and**

v. the RNLi investigation into the complaint of the RNLi Area Manager by the St Helier Lifeboat² Station crew.

As to i.

The material I have sets out a long series of events which resulted in the dismissal of the coxswain. I summarise some of them.

1. For some years there had been tensions between two particular crew members who were employed by the Jersey Coastguard, and the coxswain and the rest of the crew.
2. During the period after 2010 there were tensions between RNLi personnel with supervisory duties in respect of the lifeboat and the coxswain, crew and Lifeboat Operations Manager (LOM) concerning training, personnel, maintenance and other matters.
3. In early 2016 issues concerning the two crew members – including an incident concerning the towing of a stricken ship, *L' Ecume* - led to tensions between the lifeboat coxswain and crew and its Local Operations Manager (LOM) on the one hand, and Ports of Jersey (PoJ) and the RNLi Lifesaving Manager on the other.
4. By April 2016 the problem had been referred to the CEO and at least one other senior officer of the RNLi, as well as to the Coastguard Manager, (later Deputy Harbour Master and now Harbour Master). In April 2016 a crew member wrote to a senior official in the RNLi warning him that the atmosphere within the crew had deteriorated because Coastguard employee crew members 'had an axe to grind'. By May 2016 one of the Coastguard crew members had resigned and the other had left the St Helier crew and volunteered instead with the St Catherine's lifeboat.
5. In mid-2016 the publication of a report by PoJ into the performance of the Jersey Coastguard (JC) led to a letter of criticism from the Local Operations Manager (LOM) to the Harbourmaster. Correspondence I have seen in August 2016 shows that PoJ (Harbourmaster) and the RNLi were actively discussing the issue and that the RNLi was anxious not to antagonise the Jersey Coastguard.
6. In the same month a tragic incident involving loss of life led to further tensions between the lifeboat on the one hand and JC and the newly appointed Deputy Harbourmaster on the other.
7. In October 2016 a second incident (the '*Star Tern*') occurred which marked the start of events which led later to the dismissal of the coxswain by the RNLi.
8. In October-November 2016 relations between the lifeboat crew on the one hand, and the RNLi and PoJ on the other continued to deteriorate. In late October 2016 the RNLi Senior Lifesaving Manager and another RNLi official visited the island. Tensions continued to rise over a "debrief" concerning the incident in August 2016. A person appointed by the RNLi to "represent" the lifeboat was not thought by the LOM to have

² Hereafter referred to as "the lifeboat".

properly reflected the crew's views as he had not been part of the rescue in August 2016

9. An email from the Deputy Harbour Master to the Harbour Master (HM), concerning the incident earlier that year in which a person had been drowned, in early November 2016 contains the words "I give up, they (*clearly a reference to the lifeboat crew*) are impossible". In his recently received draft letter the then Deputy HM explains that his frustration arose from a meeting on 25th October 2016 with a representative of the St Helier RNLI crew, and a further meeting in November at the request of the RNLI debriefing the coxswain, the LOM and others. The words of his email reflected his reaction to the attitude displayed by the coxswain and crew.
10. In mid-November the Deputy HM met members of the crew and the LOM concerning the August incident. It is said by a number of those who have described this meeting that when the recent *Star Tern* incident was mentioned during the conversation the Deputy HM was "visibly embarrassed". Those at the meeting with him now attribute that embarrassment to the knowledge that the complaint which led in due course to the dismissal of the coxswain had already been made to the RNLI but not yet aired. In his recently received draft letter the Deputy Harbourmaster rejects that allegation. It is further alleged that the crew were told that neither they nor the LOM would be shown the report into the August incident³. A complaint about this failure based on a JESIP protocol in force at the time has not yielded any result.
11. At the end of November the coxswain was informed that a particular RNLI person had been appointed to investigate a complaint into his conduct. At the beginning of December the RNLI investigator informed the coxswain that the complaint had been made by the HM and authorised by the CEO of the RNLI.
12. On 17th December 2016 the LOM was summoned by the Deputy HM to a meeting concerning a possible infraction of the rules because of some Xmas lights displayed by the lifeboat on a crossing of the harbour. In his recently received draft letter the Harbourmaster (then Deputy Harbour Master) states that PoJ has a legal obligation to enforce provisions critical to the safety of the movement of vessels. In short PoJ would have been failing in its duty not to raise the issue with the LOM at the very least so as to avoid any repetition of the behaviour. Captain Sadler is critical of the attitude displayed by the coxswain, who contacted the Watch officer on duty in what was considered to be an intimidating manner to say that he knew he, the Watch officer, had submitted a report. Captain Sadler suggests that the reaction of PoJ is an indication that at the time PoJ was attempting to repair relations with the RNLI St Helier crew in that in other circumstances the infraction might well have prompted a formal warning from the Harbour Master.

³ That remains the position. I have not seen it.

13. On 19th December a disciplinary hearing concerning the "Star Tern" complaint was held at a hotel in St Aubin. The coxswain denied having been involved in an alleged "self-launch", the subject of the complaint. Other witnesses called were: the LOM, a coastguard employee formerly a crew member of the lifeboat, the Harbour Master and one other. Although the meeting was transcribed the coxswain has informed me that he has never seen that transcript.
14. In January 2017 the "top brass" of the RNLI visited Jersey. The coxswain was praised and the investigation was not mentioned.
15. On 19th January an email with the sender's name now redacted was sent to a person whose name is also redacted asking "what are we prepared to give him" (the coxswain who had asked for a copy of the report about him).
16. On 6th February the coxswain received a heavily redacted copy of the investigation report into his conduct.
17. On 8th February the LOM emailed the relevant Regional Lifesaving Manager (RLM) for the RNLI. In this email – apart from complaining that emails from the crew had not been acknowledged or replied to - he suggested the possibility of mediation involving the then responsible minister, Lyndon Farnham.
18. On 28th February in the latest in a series of such requests the coxswain asked the RLM for copies of the unredacted report into his alleged conduct, his full HR file, and other material.
19. On 15th March the RLM summoned the coxswain by letter to a disciplinary hearing alleging (in summary) the use of inappropriate tone, refusal to communicate directly, and failure to discuss problems or issues without aggression.
20. The following day the coxswain emailed Deputy Steve Luce asking for advice concerning the letter.
21. On 20th March the coxswain consulted a lawyer for the first time.
22. On 27th March the HM tendered his resignation. His replacement was the former Deputy HM Captain Sadler.
23. On 6th April a meeting was convened at the Radisson Hotel. It was attended by many of the crew members, and the Regional and Area Lifesaving Managers of the RNLI. The RLM would not answer questions and announced that the coxswain was dismissed and told the crew that if they had a problem with his decision they should "leave (their) pagers on the table and go." No reason was given for the dismissal. The meeting was recorded by the LOM.
24. No material whatever has been forthcoming so far as I know – either then or now - from PoJ concerning the actions taken by its senior officials following the complaint which resulted in the investigation and the subsequent events described above. I have no information as to whether the RNLI informed PoJ or the Government of Jersey in advance of the decision to dismiss the coxswain. That remains the case, save that in his

recent draft letter Captain Sadler insists that he personally had no advance notice of the decision which was so far as he was aware taken by the RNLi without informing PoJ.

25. The responsible minister at the time, Lyndon Farnham, has informed me that no suggestion was made to him that he might embark on or impose a process of mediation during 2017. (See 17 above).
26. Recently, (January 2022) I spoke to the current CEO of the RNLi, the previous post-holder having left and being unwilling to respond. Of course, he was at pains to stress, and I understood completely, that he was not in a position to make any detailed assessments of these events. His *ex post facto* take on the events as he now sees them is that the RNLi should perhaps have acted more decisively than it did. If the RNLi felt in late 2016 that the relationship between it and one of its coxswains had broken down to the extent that it could not be fixed it should have been brought to an end there and then instead of going down the road of "quasi-employment tribunal proceedings" based as they were at least in part on a mistaken allegation made by PoJ.

Discussion

1. The rights and wrongs of the personal dispute or disputes which seem to have formed part of the background to the events of 2016-April 2017 are not in my view a suitable topic for a public inquiry, and in any event fall outside the ToR.
2. Nor, in my opinion, are the rights and wrongs of the complaints etc which were clearly current during the same period between the lifeboat and the RNLi. The government of Jersey has no jurisdiction to interfere with the business and investigational methods of a UK charity however unsatisfactory they may have been.
3. However, two matters arise which could perhaps engage the attention of a government looking back at these events and trying to ensure that such problems are dealt with better in future.
 - a. The previous unwillingness of the Deputy Harbour Master/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. As I understand the position PoJ, clearly a key public body in an island country like Jersey, is funded to some extent by the public and of course carries out public services. I have no idea even whether PoJ referred the issue to its responsible minister at the time as he has declined to assist with this inquiry beyond the statement I have referred to above and I have heard nothing from PoJ on this topic. On 7th January 2022 – following my first approach to the current Harbour Master on 16th August 2021 and the letter sent to him from the Chief Minister's Office in March 2021 he indicated that he was not

prepared to assist my inquiry.⁴ As will be clear from the matter referred to several times already, namely the recently received draft letter from Captain Sadler, this stance has shifted significantly. It remains 'surprising and worrying' that it took a year and the receipt of my draft report to provoke a response which would, had it been received earlier, have no doubt provoked further inquiries. The Chairman of PoJ has not informed me one way or the other in his letter whether he, let alone the responsible minister, was informed of the events as they unfolded.

- b. Depending on whether the responsible minister was being kept in touch with the developments which affected the safety of all those on or in the seas surrounding the island – there must be a need for future ministers to keep the States and thus the public informed of such events and the reasons for them, whether or not the direct/executive responsibility for particular services lies with a Jersey public authority or an outside body such as the RNLI. Was the possibility even that "pagers might be left on the table", thus withdrawing the St Helier lifeboat from service for an unknown period, known to PoJ, to those in the responsible ministry, to the minister himself, to other ministers or the Chief Minister? If not, what should be done to try to ensure that that never happens again? If it was, what did those who knew about it do to try to avoid the possibility? This general topic may well benefit from future examination. Whether such examination requires a full-blown public inquiry or other means is ultimately a matter for the government of Jersey

As to ii.

1. As will be well known to the reader the crew reacted to the RLM's suggestion by accepting it and resigned/withrew their volunteership. Offers from the crew to stay in post if the coxswain's dismissal was rescinded pending an appeal were rejected by the RNLI. St Helier was thus left without an all-weather or inshore lifeboat.
2. The following day, 7th April 2017, the RNLI issued a press release stating that the coxswain had been "stood down". Over the next days and weeks a replacement crew from the UK was installed. There is a view strongly held among some of those who have corresponded with me that States member, Steve Luce, must have known in advance of the decision announced on 6th April before it was taken. (*See Discussion at 3b above*).
3. The LOM resigned.
4. On 9th April 2017 a public meeting was organised. It was attended by a number of States members and it is said that Senator Routier promised

⁴ I also wrote – by recorded delivery – to the previous Harbour Master. The letter was delivered, I assume, since Royal Mail did not return it. I received no reply.

a formal inquiry into what had happened. I have seen no published record of it and have relied on the recollections of those who have supplied me with narrative.

5. On 10th April the Jersey Evening Press headlined the story of the previous day's meeting. "*Ministers call for inquiry into lifeboat cox sacking*. Senator Routier, then Assistant Chief Minister, who said that he had the backing of the Chief Minister Ian Gorst, was due to meet the Lieutenant Governor to see whether he could assist as the Crown's representative in Jersey. He is quoted in the article as saying "...We have to have an independent inquiry because the RNLI is a national organization and it is not serving the island very well...". Paul Battrick, who had organized the meeting, made the point that the RNLI action in changing the locks at the Lifeboat Station within hours of the walkout on 6th April made it look as though the appeal process was a foregone conclusion.
6. On 11th April Senator Routier wrote to the RNLI asking it to reinstate the coxswain and thus enable the return of the crew. He indicated that the question/possibility of a public inquiry into the matter should await the decision of the RNLI whether to reinstate the coxswain. The same day Deputy Steve Luce emailed the dismissed coxswain suggesting an inquiry.
7. Over the following days Senator Routier, speaking in the States, withdrew his support for an inquiry. There was also considerable press coverage concerning the events and the cost of supplying a replacement crew from the mainland etc. It seems – though I have not seen it – that there was correspondence, whether written or verbal, between Jersey politicians and the RNLI in an effort to work out a solution which would result in the return of the coxswain and crew to their posts. Senator Routier wrote to the now former LOM asking the crew to return while the situation with the coxswain was resolved. It seems too from correspondence I have seen that he was in touch with Ms Harwood, a senior RNLI representative who figures largely in later events. As well as a flurry of correspondence, part of which I have seen, there was much comment in the Jersey press.
8. On 16th April a former Lieutenant Governor of the island wrote to the Chairman of the RNLI expressing a number of concerns. In particular:
 - a. Concerns that an RNLI crew, was now operating in some of the most dangerous waters in the country with which it was unfamiliar – and approaching a very busy time of year.
 - b. Emphasising the importance of having experienced rather than novice crews for the lifeboat.
 - c. Suggesting that like any other charity the RNLI should be putting the interests of its charitable purpose before those of its own employees.
 - d. Supporting the dismissed coxswain with his perhaps unrivalled knowledge of the waters, islets and rocks surrounding the island.

He received no reply. I have asked the RNLi for its reaction to this – and subsequent – letters and have been told that there is now no trace of any reply having been considered or sent.

9. On 17th and 18th April 2017, for the first time that I have been able to discover, the question of “independence/going it alone” was mooted in correspondence and then at a meeting at the Chief Minister’s office attended by the now former coxswain and LOM. On the 18th allegations were made by a deputy in the States of “piracy” against PoJ.
10. On 21st April 2017, with the authorities understandably concerned by the lack of lifeboat provision in St Helier and the prospect of the appeal process taking a considerable time, unsuccessful attempts were made to persuade the crew to return. The crew (at least one of them) took the view that if they did return the appeal process would take “for ever”. Their decision was communicated on 27th April.
11. In late April 2017 I have seen information which suggests that an internal investigation by PoJ into the allegation that a knowingly false allegation had been made against the coxswain by a PoJ employee concluded that the allegation was “baseless”. I have seen no record of the investigation or of its findings or of course the reasons for them. That remains the case following the recent draft letter from the Harbour Master.
12. On 2nd May 2017 the former Lieutenant Governor wrote again to the Chairman of the RNLi. His letter expressed concern that the RNLi was not really interested in resolving the situation and that the inquiry set up was internal and far from independent. It contained an offer to help in any way he could. There was no reply.
13. On 3rd May 2017 the coxswain has informed me that he met the CEO of PoJ. He had made a subject access request because of the paucity of information forthcoming from the heavily redacted investigation report prepared by the RNLi. He was told at the meeting that since PoJ is a private company and thus not subject to the Freedom of Information (FOI) Law PoJ was not obliged to, and would not, share full information about the original complaint. He received instead a heavily redacted set of documents.
14. During May and June the RNLi, who had appointed Ms Classon to conduct the appeal, held a number of meetings. During the same period the possibility of the St Helier lifeboat “going independent” was covered in the press. A representative of the crew was quoted as saying that the crew did not want to do so.

Discussion

- a. As can be seen from the above summary, the government, including Messrs Routier and Luce, were clearly seized of the situation which had not been brought about by them and were searching for ways to resolve it. (There have been suggestions made by some of those who have replied to my letters that Mr Luce was an inappropriate person to be involved in the attempts

to resolve the issues, because of his previous service as a member of the St Catherine's lifeboat crew. I note however that no such complaint was made at the time by the St Helier crew although that fact must have been common knowledge at the time. Mr Luce has declined to assist me). I have been informed by the JLA following its receipt of the draft report that the crew did raise concerns with the Chief Minister directly.

- b. It may well be said that the way in which the RNLI conducted itself during this phase of the saga fell far short of what might be expected of a charity whose first priority is safety at sea. However, I am not privy to the internal workings/politics of the organization which may have provoked it into rejecting or ignoring the idea of mediation or of the 'redeployment' of staff. And more importantly, as I have already said, the government of Jersey has no power to inquire into let alone regulate the workings of a UK charity and the topic therefore quite rightly falls outside my ToR. Future ministers and governments should perhaps have this well in mind. There may be a gulf between the goodwill engendered by the institution (and the volunteers who work for it), ceremonial visits and suchlike, and the reality of the day-to-day procedures and working relationships, which need to be created between it and its local operations, and which on occasion will break down.
- c. However, the fact that the RNLI and, I infer, PoJ and, possibly, members of the government, from where the complaint had originated which led to the dismissal of the coxswain, may have known of the possibility that 'pagers would be left on the table' and thus expose the public to an unacceptable risk while a replacement crew was recruited or sent out either to cover waters with which it was unfamiliar or to spend additional time on shore learning RNLI procedures etc, is a matter of concern. The question of whether PoJ, or its responsible minister could and should have done more to prevent it is shrouded in mystery – albeit that the position is now somewhat clearer in respect of PoJ because of the recent submission by its Chairman of the draft letter from Captain Sadler.
- d. I deal below with the general question of whether the state of knowledge of members of the government was such that they could have done more to prevent the situation arising in April 2017 and then later in December of the same year.

As to iii.

1. On 28th June 2017, following the reinstatement of the coxswain, a meeting was held, attended by the coxswain, members of the crew, Ms Classon and three other RNLI representatives. Unsurprisingly I have received a number of descriptions of this meeting from the statements

and comments made by those to whom the letter from the Chief Minister's Office was sent in March 2021. Almost all refer to the constructive attitude displayed by Ms Classon and two other RNLI representatives, Messrs Krige and Stephens, and to the aggressive and confrontational attitude of the RLM, who had conducted the investigation whose finding had been overturned. A strong view has been expressed that, had it not been for his presence and behaviour then and subsequently, what followed later that year would never have happened. This has led in turn to expressions of a view that the Jersey government (Mr Luce in particular) should have either have attended the meeting, or asked the RLM not to, or both.

2. Following the meeting one of the crew sent an email to the RNLI asking that the RLM be replaced.
3. On 30th June 2017 the CEO of PoJ sent a conciliatory letter to the crew conceding that PoJ could have been more proactive in working with them.
4. In July 2017 the former Lieutenant Governor wrote to the Chairman of the RNLI for the 3rd time and suggested that the RNLI's full report should be made available and that 'the sensible way forward was to be as open and transparent as possible'. Once again there was no reply.
5. In the same month a senior RNLI employee was asked to conduct an investigation into the RLM's conduct of the investigation. Further correspondence with PoJ in attempts to receive information resulted in repeated reliance on the FOI Law.
6. The RNLI person appointed to conduct the investigation did not visit the island but conducted video interviews.
7. On 5th October 2017 a senior RNLI representative, Leesa Harwood, informed the crew at a meeting that the RLM was not going to be replaced. At this meeting the possibility of "going independent" was mentioned. Opinions are divided about which "side" was pushing for it. However, it seems that there were on the lifeboat crew side a number of 'deal-breakers' on which the RNLI was unwilling to move its position and that on the other Ms Harwood was actively supporting the independence idea with the promise of RNLI assistance if that was the decision. Later a suggestion that the full RNLI report be sent to the Chief Minister or to the Royal Court was declined "on legal advice". The coxswain suggested a meeting with Ms Harwood, the Chief Minister Mr Gorst, and Mr Luce. This meeting was recorded by the coxswain.
8. On 9th October a follow up letter went to the RNLI suggesting the idea of mediation to be conducted by the former Lieutenant Governor and Mr Ben Shenton (at the expense of the latter). It was rejected.
9. The recent draft letter from Captain Sadler claims that in the months following the reinstatement of the coxswain and the return of the St Helier RNLI crew to service in June 2017 he made efforts to repair the relationships which had been damaged by recent events. He met the coxswain on several occasions between June and November 2017. Such conversations 'inevitably ended up focusing on the coxswain's desire for an independent station and what would be required.' Captain Sadler

states that he believes other crew members disagreed with the idea. This issue is clearly an important one in view of subsequent events and the subject of a dispute which could not be resolved within the confines of a preliminary report of this kind.

Discussion

- a. It will be apparent from the summary of events above that hopes that the crew's relationship with the RNLI could be mended bilaterally were never high and were eventually dashed.
- b. It must have equally obvious to ministers that the issue of the lifeboat had gone far beyond a personal dispute between a PoJ employee or employees and current members of the lifeboat crew.
- c. The possibility of mediation by independent persons such as the former Lieutenant Governor had been raised with the alternative of an inquiry such as the one now being considered. It hardly needs a full independent inquiry now to be set up to come to the conclusion that mediation or an inquiry would have been a more sensible way of trying to bring the matter to a satisfactory conclusion than leaving the matter entirely in the hands of the RNLI. However, the role of PoJ would certainly have come under scrutiny in such a process – in particular its apparent failure to check on the false information which had led indirectly to the dismissal of the coxswain in April 2017.
- d. The involvement, or lack of it, of responsible ministers during this period would be worth investigating in order to discover if possible what role the government of Jersey played and to point the way to better handling of such a problem in future. The unwillingness of those in post at the time to assist with this topic thus far may not inspire confidence in the current Chief Minister that a similar situation would be dealt with any differently in future. Whether a full-blown inquiry into the events rather than the creation of a Ministerial Code which governed the role and duties of ministers and which required them to account to the States and thus the public for the actions or inactions resulting from events such as these is the most sensible way forward must be a matter for the Chief Minister. It is relevant in this context to note that – albeit at the 11th hour – PoJ, through the current Harbour Master, has provided some information in relation to some of the topics raised in the ToR but the responsible ministers have not.

As to iv.

1. During the next few days a particular crew member seems to have taken a commendable lead in trying to find ways in which the RNLI/lifeboat relationship could be mended and things return to normal and, on 19th October 2017 met the RNLI representative appointed to look into the conduct of the RLM

2. On 2nd November 2017 the crew was summoned to a meeting by Mr Krige of the RNLI. The meeting took place on 8th November with Leesa Harwood of the RNLI. It was recorded.
 - The complaint against the RLM was rejected⁵. And, at least by implication, the RLM was to stay in post on the island.
 - The coxswain was not to receive a copy of the report into his behaviour.

Ms Harwood, no doubt sensing the reaction to those decisions, suggested that if the crew wished to “go independent” the RNLI would support it. I have found no particulars in the material I have been shown of what the possible support might involve. The crew was given 24 hours to make a decision.

The recording makes it clear that in the crew’s opinion the question would have to be considered by the States/people of Jersey and responsible ministers rather than being a matter confined to the crew and the RNLI before a decision could be made.

3. On 11th November there was a meeting between crew members and a senior civil servant. Also at the meeting were Sarah Ferguson, a deputy, Steve Luce, and Captain William Sadler the Harbourmaster. The coxswain has told me that Steve Luce had told him the crew would have the backing of the States if they ‘went independent’. Mr Luce has declined to assist me.
4. On 13th November the crew met and decided to explore the possibility of independence. A crew member drafted a statement to go to the RNLI copied to crew members. It contained the following words: *“We would now like to explore further, setting up an independent lifeboat station at St Helier.....**we confirm that we will continue to operate with the RNLIuntil such time Jersey has its own independent operational lifeboat service.**”*
5. On 14th November a further offer of mediation by the former Lieutenant Governor and Mr Shenton was sent.
6. On 15th November in the afternoon Steve Luce sent an email to the Chief Minister asking for a “pre-meet” today. The same evening the senior civil servant emailed the Chief Minister and ministers concerning a meeting now fixed for 17th November. *“The RNLI meeting with representatives of the crew together with [redacted.....redacted]s now set for 10am on Friday. I have been asked to be present at that meeting. Leesa Harwood would like to meet you at 5.30pm tomorrow evening if possible. **I am in possession of the details of where this is likely to go soⁱ** if we can meet tomorrow morning it would be advantageous.”*
7. On 16th November at 21.31 Steve Luce asked for news from the RNLI. The reply was “Nothing yet”. At 23.13 an email (with names now redacted) was sent to the senior civil servant at the Chief Minister’s office. It contained the words – *“Attached the RNLI statement. We will send this out*

⁵ Followed up the next day by an email saying that the decision was “full and final”.

to media immediately after the 10am meeting tomorrow. Until then, please treat it as confidential."

8. On 17th November the Chief Minister emailed Mr Luce concerning "today". He said he would speak for the government. The meeting took place at a government building. The crew were informed that they were all dismissed with immediate effect and that the locks would be changed at the lifeboat station and the lifeboat taken to Poole. *"The RNLI has notified the coastguard that there is no longer a declared RNLI search and rescue service at St Helier."* A public statement was made by the CEO of the RNLI claiming that the decision had been taken after talks with the Government of Jersey and the Harbourmaster.
9. In connexion with the events leading up to the decision to close the St Helier RNLI, Captain Sadler says that he, and PoJ, had nothing to do with the decision taken by the RNLI, and indeed, regretted it in particular in view of the efforts made by Captain Sadler personally to repair damaged relationships and maintain the RNLI St Helier lifeboat service. He also supplied me with a lengthy statement issued by PoJ on 14th November 2017 in which PoJ regrets the 'decision of the crew to go independent' and says that the only option for PoJ was to close the station and declare that for now there would be no lifeboat service from St Helier until both an ALB and ILB service can be provided.
10. The States appointed Mr Luce to look into the matter. This move caused concern among the now former lifeboat crew since he had been and his sons now were, fellow crew members of the St Catherine's RNLI lifeboat with the person referred to earlier as being the likely source of the mistaken complaint of self-launch in 2016.
11. On 21st November a crew member – and, I assume, all crew members - received a letter from the RNLI formally standing him down and asking for the return of all RNLI property. It contained the words *"we have considered your proposal to operate within the RNLI in the interim period, however we have come to the conclusion that this is untenable"*.
12. On 24th November a press article quoted Mr Luce as saying that he hoped the lifeboats will be returned to St Helier by the end of the year.
13. On 25th November Mr Luce replied to an email suggesting an informal meeting. His reply contained the words "Harbourmaster key to making progress....."
14. On 27th November the States debated the matter.
15. On 28th November Mr Luce sent an email to the (now former) coxswain copied (among others) to Sarah Ferguson, the Chief and Assistant Chief Ministers and the Harbourmaster Mr Sadler, concerning the current situation. He had decided not to attend a public meeting to be held but said that he thought an Inquiry might be a good idea depending on its terms of reference etc.
16. From the terms of a letter sent to Messrs Battrick and Rondel from the Chief Minister dated 2nd February 2018 which I have seen I understand that the RNLI supplied a replacement inshore lifeboat to St Helier on 4th December 2017 and an all-weather lifeboat (ALB) on 13th December 2017.

17. I have seen correspondence between a supporter of the dismissed crew and Mr Luce dated 10th and 11th December concerning the continuing absence of an ALB from St Helier.
18. On the 11th December the now former coxswain emailed Mr Luce
 - raising the possibility of an inquiry
 - complaining of the severe redactions applied by PoJ of Jersey to a report disclosed to him and
 - accusing Mr Routier of breaking a promise concerning a report and PoJ of protecting its own staff from proper inquiry.

Mr Luce replied. He pointed out that Mr Routier had raised the possibility of an inquiry in April. It is worth quoting in full since it is so closely related to my ToR.

"I've been asked questions in the States Assembly this afternoon about where we are with a possible public inquiry into your situation with the RNLI. Paul Routier said we should have a public inquiry right at the beginning of all this back in April. Since then we've had two separate investigations (one into your suspension from the RNLI and also one at Ports following your own complaint). I know that we messaged each other about the possibility of another inquiry on 4th December. I had said on the BBC earlier that day that I thought a new investigation might be a good idea. This afternoon I've yet again committed to look at an inquiry and how we might call one. In that regard I just wanted to ask once again if there is any evidence in black and white that you, or any of your crew, would wish to provide? Anything would help, otherwise we are going to have to consider holding an inquiry with extremely vague objectives. I know you have your redacted report from the Institution, but I've never seen it. I guess we could just do an inquiry into "where we are now and how we got there"... but I would prefer to have something more specific than that for a question if at all possible. I am also a little unclear as to the purpose now, but that's not what I'm looking at initially....I've been asked to see about how I might get an inquiry started. If you have anything at all that I and officers could look at it would be of great help. If there isn't anything then that's fine, and we will have to look at exactly how we phrase the aims of any inquiry and what we are seeking to achieve."

The following day Mr Luce reiterated his views in the States, expressing
'nothing but admiration for (the coxswain) and his crew.'

19. And on 13th December the new lifeboat team became "fully operational"⁶.
20. On 19th December there was an important meeting arranged by Connétable Refault. It was attended by, among others, the Chief Minister, Mr Luce and Ms Ferguson, and representatives of the projected Jersey Lifeboat Association (JLA). It seems that by then the tide was turning against the idea of an inquiry. The Chief Minister is said to have asked why (you) want an inquiry – 'it could get messy'. Mr Luce is said to have said that if there was an inquiry he would 'have to consider his position'. During the meeting the question of the "redacted report" came up. The Chief Minister is said to have asked for a copy. He was no doubt supplied with one by Mr Luce who already had it. There is a strong feeling within the former crew 'camp' that this redacted document was later used by Chad Murray the Harbourmaster of Guernsey whose report referred to a "toxic

⁶ The writer, with no relevant knowledge, wonders whether the term "fully operational" really applied to a crew with no previous experience of the waters surrounding the island compared to that of the previous crew.

culture of bullying” within the crew – no doubt, at least in part, a reference to the bad feeling between the crew member and Coastguard (PoJ) employee who had instigated the unfounded complaint against the coxswain in 2016⁷. It was suggested that the then responsible minister Mr Farnham would be able to supply the necessary details.

20. The next day the former coxswain and others gave a presentation to States members on the topic.
21. In January 2018 matters progressed concerning the formation of the JLA. Messrs Battrick and Rondel – the latter a governor of the RNLI – corresponded with the Lieutenant Governor. In Mid-January Ms Ferguson put forward a motion in the States asking it to support the new JLA and on 21st January Ms Ferguson put forward a second proposition to the States asking it to set up a Committee of Inquiry.
22. On 31st January Chad Murray was commissioned to produce a report into the events of the last 18 months.
23. On 2nd February the Chief Minister wrote an important letter to Messrs Battrick and Rondel who were in the process of setting up the JLA. The letter stated a number of legal principles and made a number of allegations. As to the principles:
 - Jersey is responsible for the safety of its territorial waters through the relevant Maritime Convention and an Order made in 1997 under the Territorial Sea Act 1987.
 - This responsibility is delegated to PoJ of Jersey which manages day to day activity through the Coastguard.

As to the allegations:

- The crew, following the reinstatement of the coxswain in June 2017, had shown that they did not wish to be cooperative.
- The crew had made the decision to “go independent” when their complaint against the RNLI person was rejected.

Finally, the letter effectively warned the JLA not to criticise the RNLI and stated that there was no question of removing the RNLI from St Helier.

Unsurprisingly this letter has attracted strong criticism from the former RNLI crew members who have seen it and submitted their representations to the Chief Minister’s office earlier this year.

24. On 4th February 2018 the JLA was officially certified by the Royal Court. The next day the appointment of Mr 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

⁷ See **i.** paragraphs 3 4 etc.

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 ToR.

25. On 7th and 10th February 2018 the JLA made it clear to the Chief Minister and a senior civil servant that it disapproved of the selection of Mr Murray and would be playing no part in the production of the report.
26. In the event only one former member of the St Helier RNLI crew spoke to him. There was no reference to his evidence or the fact that he had been interviewed within the report when it was produced. He has sent a helpful reply to the Chief Minister's Office. He had had nearly 30 years' service on the Channel Islands lifeboats by the time of these events. He is an employee of the Coastguard. His letter is moderate in tone but critical of the way in which the RNLI handled the issues in 2017. He enclosed a letter he wrote to Ms Ferguson in March 2018 in which he points out, inter alia, that there is no reference in the report to the various criticisms he had made of the RNLI's handling of the events of 2017 and of his categorical denial of any 'toxic culture' within the crew in the previous years. The former LOM was invited to contribute. He replied saying he believed that Captain Murray was "conflicted" and should be replaced and was not therefore prepared to speak to him. This opinion was reflected at the time in an article in a local newspaper. Another former crew member who would have been prepared to speak to him could not manage the very limited dates he had been offered.

Discussion

- a. I am aware that in the above summary I have gone beyond the terms of the ToR in the paragraphs following the immediate fall-out from the RNLI decision to close down the St Helier lifeboat station. I have however omitted (although I have read relevant material) the events beyond the decision to invite Captain Murray to produce a report and the subsequent motion, debate and vote in the States concerning the setting up of a public inquiry.
- b. 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 17th 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 all-weather 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.
- c. 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”⁸ 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.

- I have written to the current and former Harbourmasters. I sent the former Harbourmaster a recorded delivery letter to the address supplied by the Chief Minister’s office. I received no reply. I emailed the current Harbourmaster, (Deputy Harbourmaster at the relevant time) and received a ‘holding’ reply, followed more recently in January 2022 by his decision not to contribute. That decision, as will be clear from previous paragraphs appears to have changed. Although Captain Sadler has not himself written again, the Chairman of PoJ has sent me in response to a ‘Maxwellisation’ letter the draft document of September 2021 referred to many times already.
- I wrote to the current, and then, Chairman of the RNLI, Stuart Popham QC, and received a reply from his personal assistant. She informed me that he has not been well recently. I have spoken to her on the telephone in the autumn of 2021, and, following email requests subsequently but as yet have not heard anything back from him. I have sent an email to the address supplied by the Chief Minister’s office to the now former CEO of the RNLI, Vice-Admiral Boissier but have not had a reply. (It may be that he no longer uses that address). The result is that I have nothing from the RNLI to throw any light on the reasons for decisions taken by it, and, importantly, whether those decisions were or were not communicated to the government of Jersey in time for it to take appropriate action to perform its duties under the relevant legislation to ensure the safety of its territorial waters.

The same is currently true of the relevant government ministers at the time – Messrs Gorst, Farnham and Luce. Mr Luce did respond to a request from me for further information concerning particular events in the history – in particular the subject of ToR 4, and that response was a “holding response”. His role in the days leading up to the dismissal of the crew and subsequently was obviously very important. Without any input from him to explain his actions before during and after 17th November it is hard to come to any firm conclusions as whether, and if so how, the government of Jersey should have handled the situation differently. I presume – though I have no clear information from him and none at all from the then Chief Minister – that he was at all times acting under the supervision of the Chief Minister. Since then he has

⁸ In his recent response the Chairman of PoJ informs me that neither of the two Harbourmasters have ever served in the Royal Navy.

indicated that he does not wish to contribute to this inquiry. Mr Farnham replied as follows:

'the dispute was caused by a personal disagreement the details of which I do not know. I would have been prepared to mediate if called upon to do so. I do not believe an inquiry is necessary or a wise use of public resources in our current circumstances.'

- d. Clearly the fact that the island was left without all-weather lifeboat cover was then, and is now, a matter of great concern, and the questions of whether responsible Ministers knew that it was going to happen, and the role, if any, of PoJ, in the process likewise. Of course, the island currently has two all-weather lifeboats operating from St Helier and so the consequences of the sudden withdrawal of either would not be so potentially calamitous as they were in late 2017. Correspondents have rightly pointed out that 2 ALBs at St Helier is an "over-provision" which must be costing a substantial sum when all the relevant expenses of maintaining them are considered.
- e. 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. (And see below).
- f. When presenting a draft of this report to the Chief minister I was asked to venture an opinion on whether the Government (Ministers and senior officers) acted as a neutral facilitator. The almost complete "wall of silence" erected by both to the requests from the current Government in March 2021 and subsequently from me make it impossible to come to a final conclusion. The weight of evidence now before me suggests that more could have been done by the government to try to prevent the breakdown which led to the withdrawal of the ALB for a significant period but the lack of cooperation of the then responsible ministers with this preliminary inquiry makes it difficult to reach a firm conclusion. Only an inquiry with powers to compel answers from those concerned could enable conclusions one way or the other to be drawn.

As to v

1. I have taken this to refer to the complaint made following the reinstatement of the coxswain in June 2017.
2. The events surrounding this topic are already set out in the summary in paras 1-7 of topic **iii** above.

3. The fact is that nothing is known outside the RNLI, (except the fact that there was one and that he was found not to have done anything which called for his dismissal or replacement), about the RNLI investigation into the conduct of the RLM, or as to why, even if his conduct had not infringed any codes of conduct set down by the RNLI, it was thought suitable that a person whose relationship with the crew seems to have been clearly incapable of repair should continue to perform the role of Local Area Life Saving Manager.
4. My attempts to persuade the RNLI to assist me with answers to questions have so far come to nothing – see earlier. Likewise those of the former coxswain.
5. 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 of Jersey. The fact that 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.
6. However, without any material before me to be able to see how the matter was progressed within the RNLI I cannot venture even a preliminary conclusion.
7. The one part of the “jigsaw” of this topic which might 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 RLM. 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. That wall of silence has now been breached to some extent by the recent submission by the Chairman of PoJ of a draft response to my questions from Captain Sadler.
8. 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 friends/colleagues or otherwise concerning a key public service – even if

they were made with the best of intentions – should be eliminated if possible or exposed. 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.

The RNLI

My attempts to obtain any relevant information, or suggestions for future improvement on the topics the subject of the ToR, eventually produced a short summary of the events themselves together with the final words. *'RNLI confirms that lessons have been learned since the events outlined above with a new regional and local management structure in place where issues can be raised in a safe manner to prevent a reoccurrence'*. In January 2022 I was offered the chance of a half hour talk with the new CEO Manager. Please see my summary of this conversation in the Discussion section at the end of ToR i above.

Concluding thoughts

I hope it will be clear from what I have written that although the particular situation which surrounds the provision of ALBs in the UK and Channel Islands is unique and that therefore the series of events set out above is most unlikely to be replicated in any other part of the provision of public services in either, there are features of the events of 2016-2018 which suggest that:

- a. PoJ seems to enjoy a status unbecoming a body which supplies crucial services to the public of Jersey and has thus – with the limited exception of the recent draft letter from the Harbour Master – so far been unwilling to explain its state of knowledge or its actions in connexion with the events of 2016-8.-
- b. That although ultimately the actions of the RNLI are beyond the reach of the government of Jersey it is reasonably clear that the government, in particular the responsible ministers at the time, were kept informed by the RNLI of its intentions both in April and November 2017 and could perhaps have done more to prevent the consequences of the RNLI action which left the island without ALB cover for significant periods and has resulted in the current situation of 2 such lifeboats. The almost complete silence from that quarter to my requests for assistance does not inspire confidence for the future.

Note concerning the author.

Sir David Calvert-Smith was called to the bar of England and Wales in 1969. From 1986 he was one of the Treasury Counsel appointed to prosecute serious criminal cases at the Central Criminal Court. During the same period he sat as an Assistant and then full Recorder of the Crown Court trying criminal cases. In 1997 he was made Queen's Counsel and was Chair of the Criminal Bar Association. From 1998 to 2003 he was the Director of Public Prosecutions for England and Wales. In 2005 he was appointed a High Court Judge. In that role he served as a Presiding Judge of the South Eastern Circuit and the Judge in charge of the Terrorist Cases List. He retired from the Bench in 2012. From 2012 to 2017 he served as a Judge of the Courts of Appeal of Jersey and Guernsey and from 2014 to 2016 as Chairman of the Parole Board of England and Wales. From 2014 to 2017 he was also the Commissioner for Jersey under the Regulation of Investigatory Powers (Jersey) Law 2005. In 2017 he rejoined the Parole Board as a judicial member. He has recently – February 2022 - been asked by the Attorney General of England and Wales to conduct a review of the Serious Fraud Office.

ⁱ My bold type.