

08-03-2007 – UK – Kaylee McIntosh – Army Cadet – Training Boat Accident

Cadet, 14, dies as boat overturns

http://news.bbc.co.uk/2/mobile/uk_news/scotland/highlands_and_islands/6930718.stm

3 August 07



A 14-year-old girl has died after a boat carrying a party of army cadets overturned in a sea loch.

Kaylee McIntosh was among a group of eight cadets and four adults on the boat in Loch Carnan, South Uist, when it capsized at about 1240 BST.

Most of the party managed to get ashore but Kaylee, from Fyvie, Aberdeenshire, was reported missing.

She was found after a short search and taken by helicopter to hospital, where she was pronounced dead.

Summer camp

Northern Constabulary said that shortly after 1000 BST about 40 cadets from 2nd Battalion Highlands in Aberdeenshire set off from their camp on Benbecula with instructors and other staff to undertake training in Loch Carnan.

They were using three rigid inflatable boats.

One of the boats capsized and a search and rescue operation involving police and the coastguard was launched.

Kaylee was recovered from the water and taken to Western Isles Hospital, Stornoway, where she was later pronounced deceased.

A police spokesman said: "It is understood that no one else was injured during the incident.

"Northern Constabulary will now carry out an investigation into the circumstances surrounding the incident."

Loch Carnan is a sea loch littered with small islands on the east of South Uist. About 200 cadets from around the north-east of Scotland were at a summer camp on nearby Benbecula.

The Army Cadet Force (ACF) is a youth organisation that offers training in a range of skills including fieldcraft and first aid.

Boys and girls aged 12 to 18 are eligible to join.

Inquiry into cadet's loch death

http://news.bbc.co.uk/2/mobile/uk_news/scotland/highlands_and_islands/6931018.stm

5 August 07



An investigation has begun into the death of a 14-year-old girl in a sea loch in the Western Isles.

Kaylee McIntosh, from Aberdeenshire, was one of eight cadets and four adults on the boat in Loch Carnan, South Uist, when it capsized on Friday.

Northern Constabulary said it would be carrying out an investigation into the circumstances of her death.

The Marine Accident Investigation Branch (MAIB) will also be involved in the inquiry.

It has been reported locally that weather conditions at the time the boat capsized were poor, with strong winds and heavy rain.

'Tragic incident'

Most of the party managed to get ashore but Kaylee, from Fyvie, was reported missing.

She was found after a short search and taken by helicopter to hospital, where she was pronounced dead.

A group of about 40 cadets from 2nd Battalion Highlands Army Cadet Force Headquarters in Aberdeenshire had been training in Loch Carnan using rigid inflatable boats.

They were among 200 cadets from the north east of Scotland who were attending a summer camp on nearby Benbecula.

A statement from the Ministry of Defence said: "It is with deep regret that the MoD can confirm the death of an Army Cadet from The Highlanders Battalion Army Cadet Force while on camp in the Western Isles".

It said it would co-operate with the Northern Constabulary inquiry.

"The rest of the cadets taking part in activities will return home as soon as possible. The next of kin have been informed."

Defence Secretary Des Browne said: "This is a terrible and tragic incident and we will assist in every way we can with the investigation.

"Our thoughts and prayers are with her family, fellow cadets and instructors at this very difficult time."

The Army Cadet Force (ACF) is a youth organisation that offers training in a range of skills including fieldcraft and first aid. Boys and girls aged 12 to 18 are eligible to join.

Search delay' over death cadet

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/6938271.stm

9 August 07

A teenage cadet who drowned in the Western Isles may not have been discovered missing until more than 90 minutes after a boat capsized.



Kaylee McIntosh, 14, from Fyvie, Aberdeenshire, was on a training exercise on a sea loch off South Uist last Friday when the accident happened.

Police said a significant investigation was being held, but could not comment on the time delay claims.

It is possible a fatal accident inquiry will be held at a later stage.

Kaylee died last Friday after the assault craft she and 11 others - seven cadets and four adults - were on overturned.

Witness interviews

It is understood it may have been more than 90 minutes before she was reported missing.

When Kaylee was found she was taken to Western Isles Hospital in Stornoway where she was pronounced dead.

A spokesman for Northern Constabulary, which is co-ordinating the investigation into her death, said: "There is a significant ongoing investigation into the incident at South Uist on Friday.

"There are numerous witnesses still to be interviewed from both the Western Isles and north east of Scotland.

"A full report will be sent to the procurator fiscal in due course."

Summer camp

It has been reported locally that weather conditions at the time the boat capsized were poor, with strong winds and heavy rain.

A group of about 40 cadets from 2nd Battalion Highlands Army Cadet Force Headquarters in Aberdeenshire had been training in Loch Carnan using rigid inflatable boats.

They were among 200 cadets from the north east of Scotland who were attending a summer camp on nearby Benbecula.

Cadet drowns at the Hebrides

<http://www.watersafetymap.co.uk/map/details/66>

Date 15/08/2007

What Happened - Capsized

What Caused - Adverse environmental conditions

Casualty type/Qty - Casualty

Gender - Female

Causal Factors - Inadequate supervision

Injury Details - Drowning

Outcome - Accident suspected

Alcohol/Drugs - N/A



Description of Incident

A coastguard unit called out to a boating accident in which a young army cadet died was sent in the opposite direction, an inquiry heard today.

A coastguard unit called out to a boating accident in which a young army cadet died was sent in the opposite direction, an inquiry heard today.

The unit was given no prior information about the cadet training exercise, further hampering its efforts.

At a fatal accident inquiry into the death of 14-year-old Kaylee McIntosh, station officer Joseph Johnstone said he found the lack of information about the location of the accident "pretty frustrating".

Kaylee, from Fyvie in Aberdeenshire, died in the training exercise last August at Lochcarnan on South Uist in the Outer Hebrides.

She drowned underneath her capsized boat after being pinned down by her life jacket.

During the third day of the inquiry at Inverness Sheriff Court today Mr Johnstone, 48, said Stornoway coastguard had initially told his team to travel the 15 miles from its base at Benbecula towards South Uist where four people were reported to be in the water.

However Mr Johnstone, station officer at Benbecula Coastguard Unit, said as he and his two colleagues made their way south, Stornoway Coastguard called again telling them to turn in the opposite direction towards North Uist.

A further call then received from Stornoway told the unit to turn for the original location in South Uist where the four people were reported to have been recovered.

Mr Johnstone said he was told when he arrived that there were ten children and three adults on the boat and he later learned that a girl was missing.

He then requested the rescue helicopter which had already left the scene and was almost back in Stornoway to return.

While Mr Johnstone maintained radio contact from the shore one of his colleagues - a local fish farmer - went out in a fishing boat and located Kaylee's capsized boat.

He said that once they located and lifted the upturned boat they "saw a leg of the young girl".

Mr Johnstone said it was normal procedure for anyone going out in the boat to inform the coastguard in advance - which the cadets failed to do.

He said: "The cadets really should have called about the conditions and said where they were going.

"It would have been far easier for us to pinpoint where they were.

"We were sent backwards and forwards through Benbecula which is pretty frustrating for us."

The inquiry has previously heard that no head count or roll call was taken before the cadets went out.

Kaylee's boat overturned after the driver tried to turn for home as conditions worsened.

A Marine Accident Investigations Branch report had previously found a failure in the head count meant it was 90 minutes before it was discovered Kaylee was missing.

The court later heard a recording of communications between the cadet and Stornoway Coastguard.

A message is initially heard from the cadet stating: "Mayday, mayday, mayday, one boat overturned."

But the coastguard is unable to establish if the incident is unfolding at Loch Skipport in South Uist or Loch Eport in North Uist.

The coastguard directed its helicopter to North Uist after receiving incorrect information that this was the location of the cadet.

At one point a member of the emergency services is heard saying: "We need these people to start telling us what they are up to because that could have been a disaster."

Major George McCallum, who was in charge of the cadets, then calls to confirm the people overboard have been rescued.

He is told by a member of the coastguard team that he should have provided clearer information.

Maj McCallum tells him there was an "awful lot of confusion" during the incident.

Hundreds attend cadet's funeral

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/6948041.stm

15 August 07



Hundreds of mourners have attended the funeral of 14-year-old army cadet Kaylee McIntosh, who died when her boat capsized during a training exercise.

Family, school friends and cadets gathered for the service at Fyvie Parish church, Fyvie, Aberdeenshire.

They brought flowers and paid tributes to the popular teenager, who drowned when the boat she was on capsized on a sea loch on South Uist.

Police, assisted by the Ministry of Defence, are investigating her death. Outside the church, friends from Turriff Academy sobbed, comforted by others.

Meanwhile cadets lined up before making their way into the service, which was attended by about 500 people.

Kaylee's parents - Derek and Lesley - and her older brother Jon, arrived along with the family's pet dog and went into the church by a side entrance.

Her coffin was draped in a saltire flag with the traditional Tam O' Shanter worn by all Scottish soldiers on top.

Flower of Scotland was played by lone army piper Captain Jim Stout, followed by the Flowers Of The Forest, a traditional army lament.

Mourners left floral tributes, including single red roses, with messages attached. One friend wrote: "You always knew what to say to cheer everyone up. Camp ain't gonna be the same without you... nothing is."

Another from her parents read: "You will leave memories that will last forever. Love you and miss you today and always."

Reverend Manson Merchant, who led the service, said Kaylee was a kind and considerate person, whose cheerful disposition won her the nickname "smiler". "Although Kaylee was only 14 years of age she was probably more mature than her age would suggest," he added.

"She tended to stand up for herself and her friends and she was quite often a peacemaker at school.

"She always had a smile on her face and I'm sure that smile helped lift many a person up on a gloomy day."

A member of the 2nd Battalion Highlanders Army Cadet Force, Kaylee was among a group of eight cadets and four adults on the boat in Loch Carnan, South Uist, when it capsized at about 1240 BST on 3 August.

It later emerged there may have been a delay of 90 minutes between the accident and the teenager being reported missing.

Her death was described as a "terrible and tragic incident" by Defence Secretary Des Browne.

Teen cadet death report submitted

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7176674.stm

8 January 08

A report into a boating accident which claimed the life of a teenage Army cadet has been submitted to the procurator fiscal.



Kaylee McIntosh, 14, from Fyvie in Aberdeenshire, died during an exercise in South Uist last August.

It later emerged there

Memorial for cadet boat tragedy

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7292312.stm

15 March 08



A memorial for a teenage Army cadet who died in a boating accident has been held in Aberdeenshire.

Kaylee McIntosh, 14, from Fyvie, died during an exercise in South Uist in the Western Isles last August.

Kaylee was among a group of eight cadets and four adults on the boat when the accident happened.

The memorial service took place in Fyvie Church. Kaylee's parents Derek and Lesley invited friends, relatives and army cadet representatives.

A report into the accident which claimed Kaylee's life has been submitted to the procurator fiscal.

It is expected her death will be the subject of a fatal accident inquiry. She was a member of the 2nd Battalion Highlanders Army Cadet Force. Hundreds of mourners attended her funeral last year.

Defence Secretary Des Browne described her death as a "terrible and tragic incident".

Dead cadet's parents seek charges

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7301873.stm

18 March 08



The parents of a teenage Army cadet killed in a boating accident have called for criminal charges to be brought against the organisers.

Kaylee McIntosh, 14, drowned after being pinned under a capsized boat while wearing the wrong kind of lifejacket, an investigation has found.

Kaylee, of Fyvie, Aberdeenshire, died on Loch Carnan on South Uist. Lawyer Glen Millar said Derek and Lesley McIntosh now thought Kaylee had been with a "21st Century Dad's Army".

Kaylee died during a training exercise in the Outer Hebrides last summer. A Marine Accident Investigation Branch report said her lifejacket was not approved for use by children.

It said the jacket's extra buoyancy would have pinned her under the boat.

The report also revealed that an error in a headcount taken after the incident meant the teenager was trapped under the boat for an hour-and-a-half before it was noticed she was missing.

Her parents said in a statement: "The report makes harrowing reading for us because it details an unbelievable catalogue of terrible mistakes and misjudgements that cost Kaylee her life.

"Nothing can bring our precious daughter back, and nothing can ease our pain at her loss.

"But justice demands that some of those who behaved so irresponsibly and who failed so completely in their duty of care to Kaylee must face criminal charges in connection with her death."

They welcomed the fact there is to be a public inquiry.

Chain of command

Kaylee's parents explained: "The report goes into a lot of detail about what happened on the day, but it leaves as many questions unanswered as answered.

"Among the questions that still haunt us, and which the inquiry has to answer, are how could they get the headcount wrong after the boat capsized?

"Surely the officer in charge must have known how many people were on the boat and must have realised when he could only account for 11 people that one person was missing?"

They went on: "How could the adult instructor who was under the boat with Kaylee not realise she was still trapped when she got out herself, and how did it take an hour-and-a-half before Kaylee was missed?"

"How far up the chain of command does responsibility lie for all these events, including the fact that the cadet force was issuing young people like Kaylee with adult lifejackets that could kill them instead of saving them?"

Mr and Mrs McIntosh said their daughter should not have been on an assault boat, as they had only given permission for canoeing and kayaking.

"The hardest part for us is that she was trapped in an air pocket under the boat with an adult's lifejacket that was so buoyant she could never get out on her own.

"And because the headcount went so badly wrong nobody realised she was missing so nobody tried to save her. When she was finally missed an hour-and-a-half later it was too late."

'Let down'

Her parents recalled: "The Army was her life. She loved being in the cadets, and jumped at the adventure involved in going on such a trip.

"She had her career in the Army all mapped out and was determined to serve her country. The report shows she was badly let down by them.

"It is tragic that the only way she will now serve the Army is if lessons are learned from her death so that this never happens again."

They concluded: "We just want every parent or carer who had a child on these boats to give them a hug and be grateful for the fact that they are alive.

"What happened to Kaylee could just as easily have happened to any one of the others on board that boat."

Co-operated fully

An MoD statement said: "The Army and Army Cadet Forces have taken actions in the light of this tragic accident.

"We are still awaiting directions from Stornoway procurator fiscal and it would be unwise to speculate or comment further until that decision is made.

"The Army has co-operated fully with investigations by Northern Constabulary and the MAIB and remains available to assist in any way possible.

"The Army will reopen its own Board of Inquiry into the incident once all the investigations have been completed by the procurator fiscal, the Northern Constabulary and the MAIB."

Capsize cadet's family want criminal charges

<http://www.telegraph.co.uk/news/uknews/1582142/Capsize-cadets-family-want-criminal-charges.html>

19 Mar 2008

The parents of a teenage Army cadet who drowned after being pinned under a capsized boat called yesterday for criminal charges to be brought over her death. Kaylee McIntosh, 14, from Fyvie, Aberdeenshire, died while on Loch Carnan on South Uist in the Outer Hebrides last summer.

An investigation found that she drowned after she was pinned under a capsized boat wearing the wrong type of lifejacket.

An error in a headcount taken after the incident meant she was trapped for an hour and a half before it was noticed she was missing.

Yesterday Derek and Lesley McIntosh said the findings of the Marine Accident Investigation Branch's report made "harrowing reading for us because it details an unbelievable catalogue of terrible mistakes and misjudgments that cost Kaylee her life".

They added: "Justice demands that some of those who behaved so irresponsibly and who failed so completely in their duty of care to Kaylee must face criminal charges in connection with her death."

The couple welcomed the fact there is to be a fatal accident inquiry in May.

A spokesman for the Ministry of Defence said: "We are still awaiting directions from Stornoway procurator fiscal and it would not be appropriate to comment further until that decision is made."

Fatal boat trip names 'not taken'

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7417472.stm

26 May 08



Organisers of a loch training exercise in which an Army cadet died did not log the names of those boarding the boat, a fatal accident inquiry has heard.

Kaylee McIntosh, 14, drowned during the exercise on Loch Carnan on South Uist in the Outer Hebrides last summer.

The youngster, from Fyvie in Aberdeenshire, died after being pinned under a capsized boat.

A Marine Accident Investigation had previously found that Kaylee was wearing the wrong kind of life jacket.

It uncovered a catalogue of errors including a failure to check that everyone was back on dry land following the accident.

Because no-one had noticed Kaylee, who was a member of the 2nd Battalion Highlanders Army Cadet Force, had been missing she was trapped under the boat for 90 minutes.

On Monday, at the opening of the fatal accident inquiry into her death, a fellow cadet spoke about the preparations for the exercise.

The 14-year-old boy, who cannot be named because of his age, told Inverness Sheriff Court he did not remember seeing any of the instructors taking names as he prepared to board his boat.

Kaylee was among a group of eight cadets and four adults on the boat when the accident happened last August.

The boy told procurator fiscal David Teale that the sergeant in charge only kept a mental note of who had boarded.

The boy said: "I don't think there was a clipboard, he was counting us off in his head. The adults were memorising the faces of the cadets."

Mr Teale asked: "You did not hear any cadets giving their names to the instructors?"

"Not that I heard," the boy replied.

Tipped over

The inquiry was also told that the man at the boat's controls, Maj George McCallum, had become concerned when one of the other two boats on the exercise had gone far ahead.

A second cadet, 17-year-old Jake Watson, said Maj McCallum then sped up to try to catch it - but when he gave up and turned round, the boat "started filling up with water".

As the boat turned, it listed to the left. The instructor ordered the cadets to the right of the boat and, as they did so, it tipped the other way and capsized.

Mr Watson said he got onto the upturned hull of the boat with a number of others and was taken ashore on the boat they had been chasing.

He said the weather had been drizzly that day, but from the pier there was no sign of rough seas before they set out.

The inquiry, before Sheriff Alastair MacFadyen, continues.

Cadet probe hears of rescue hope

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7421279.stm

27 May 08

An Army cadet instructor told a teenager who died on an exercise she would "come back and get her" after a boat capsized, a court has heard.



Vicky Lorimer, 21, said she managed to get two other youngsters out from under the craft which overturned on Loch Carnan on South Uist last August.

Ms Lorimer told a fatal accident inquiry (FAI) she promised to return for 14-year-old Kaylee McIntosh.

But Ms Lorimer drifted from the vessel when her lifejacket was inflated. Kaylee, who was from Fyvie, Aberdeenshire, and a member of the 2nd Battalion Highlanders Army Cadet Force, drowned in the confusion which followed the incident.

Ms Lorimer, who found herself under the raiding craft with the three youngsters, said she had expected Major George MacCallum, who was in charge of the training expedition, to go to get Kaylee.

She told the FAI at Inverness Sheriff Court that when she was trapped with the three cadets she was "distressed" and acting "on my own instincts".

Ms Lorimer, an organiser on the trip, said she managed to get two cadets out.

She said: "I knew Kaylee was in the boat as well. The last thing I said was 'I will come back and get you'."

Absence noticed

Once out from under the hull, Ms Lorimer first met Major MacCallum.

She said: "He realised I was gasping for breath. He inflated my life jacket and I drifted out to sea. I was panicky. I was quite hysterical. I was cold.

"I thought because Major MacCallum saw me come out from under the boat his first port of call would be to go under the boat to check. "I did not know he had not done it himself."

Ms Lorimer went on to say that when the cadets had returned to the base camp, Kaylee's absence was noticed.

She said she gave a description of Kaylee over the phone to a senior officer who was at the pier.

The inquiry previously heard from other witnesses on the capsized boat that no roll call or list of names was taken on the day of the exercise.

The inquiry, before Sheriff Alastair MacFadyen, continues.

Family's tears over cadet search

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7423549.stm

28 May 08



The family of an Army cadet who died on a training exercise broke down in tears when a fatal accident inquiry was told of the confused search for the girl.

Kaylee McIntosh, 14, of Fyvie, Aberdeenshire, drowned after the boat she was in capsized on Loch Carnan, South Uist, last August.

Coastguard volunteer Joseph Johnstone told Inverness Sheriff Court searchers were given the wrong location.

The team was mistakenly sent to North Uist at one stage.

Mr Johnstone, station officer on Benbecula, told the inquiry a lifeboat and search and rescue helicopter were stood down after emergency services were told no-one was missing.

The lifeboat and helicopter were later called back out when the Coastguard volunteer heard a cadet instructor on the phone asking for a head count and was told a girl was missing.

Recording played

During his evidence, Mr Johnstone said his team were asked to go to Loch Skipport, in South Uist, then turn back to Loch Ebor, North Uist, before receiving an instruction to head back to Skipport.

He finished his evidence by criticising the Army Cadet Force for their lack of organisation.

Kaylee's body was found under the upturned vessel by another Coastguard volunteer.

A recording was played in court of the mayday call made to Stornoway Coastguard, and the confusion there was.

Another message was also broadcast saying that all the people who had gone into the water had been rescued.

However the messages are short and difficult to hear because of the poor communications on the loch where the boat had capsized.

A 'disaster'

A coastguard officer is heard on the recording talking to a colleague, saying that one message was just "was just screaming and shouting" and that unless they could get clearer information there would be a "disaster".

One army cadet instructor is heard on the recording being castigated by a coastguard officer for his failure to communicate the boat's position properly.

The officer told the army cadet instructor: "We were working blind here. Especially as you are away with children you should let us know when you depart to do these things."

The inquiry previously heard from other witnesses on the capsized boat that no roll call or list of names was taken on the day of the exercise.

The inquiry, before Sheriff Alastair MacFadyen, continues.

Boat officer was 'ill-prepared'

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7425538.stm

29 May 08



An officer in charge of a boat in which an Army cadet died has admitted he was in unknown waters, had no maps and did not know the weather forecast.

Charles Milne admitted he was "ill-prepared" for the exercise in which Kaylee McIntosh, 14, of Fyvie, Aberdeenshire, drowned.

The boat she was in capsized on Loch Carnan, South Uist, last August.

Mr Milne also told a fatal accident inquiry (FAI) of the discovery of the teenager's body.

Mr Milne, 43, was in the boat directly behind Kaylee's as it set off on the exercise.

Only adult

Mr Milne, who since the exercise has been promoted to captain, was speaking on the fourth day of the FAI at Inverness Sheriff Court.

He told Simon Di Rollo QC, representing Kaylee's family that he had not seen a weather forecast for the day, he had no maps and he had been trained in powerboats "in house" by other cadet officers.

Mr Milne, who was the only adult on his boat, was also unable to explain why he was unclear in evidence to police about the numbers on Kaylee's boat, which was being driven by cadet leader Major George McCallum.

Mr Di Rollo said: "The reality is you did not know at the time how many were in Maj McCallum's boat."

'In pickle'

Mr Milne replied: "My head would have been in a pickle after the event - you are just getting over the shock of what happened."

When asked by procurator fiscal David Teale if he was "ill-prepared", Mr Milne agreed he was.

Kaylee's family wept as Mr Milne described the moment his colleague lifted the beached boat she was under and he "lifted her up on the rocks". The inquiry, before Sheriff Alastair MacFadyen, continues.

Cadet officer 'not told' of boats

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7549696.stm

11 August 08



A safety officer overseeing an Army cadets training camp said he was not given prior notice of a boating exercise on which a teenager died.

Kaylee McIntosh, 14, of Fyvie, Aberdeenshire, drowned after a boat upturned on Loch Carnan, South Uist, on the Western Isles last year.

A fatal accident inquiry (FAI) has resumed in Stornoway, Lewis.

Ian Hay, 48, told the inquiry that on the night before the accident there was "no mention of insertion of boats".

He said the first he heard of the boating trip came after he received reports of an incident that day.

Mr Hay said he understood the cadets would be transported to their location by bus, not boat.

He told procurator fiscal David Teale he would have carried out checks if he had known about the exercise in advance.

When pressed Mr Hay admitted he would have taken commanding officer Major George McCallum's word.

He said: "As cadet executive he has quite a strong personality - if he says something it is quite hard to argue with him.

"If he is focused on an activity it will go ahead."

Mr Hay added he would not question the major's integrity.

Risk assessment

The safety officer told Simon Di Rollo QC, representing Kaylee's family, that he only became aware that the capsized Rigid Raiding Craft power boat was being used when he saw pictures of it on the evening news.

Mr Di Rollo questioned why Mr Hay had not been aware of the presence of the boats at camp given they were "pretty big pieces of kit".

Mr Hay said he discussed the matter with senior officers after the incident. The QC went on to ask Mr Hay: "Are you not horrified that you were not told about these activities?"

"Yes sir," replied Mr Hay.

Mr Di Rollo said: "Do you agree that the training safety adviser should know what equipment has been provided and have a role in ensuring it is safe equipment?"

Mr Hay said: "Yes, sir."

The officer said he received a copy of the risk assessment for the exercise the morning after the incident

Teenage cadet Kaylee McIntosh wearing 'wrong lifejacket' when she died

<http://www.telegraph.co.uk/news/uknews/2547516/Teenage-cadet-Kaylee-McIntosh-wearing-wrong-lifejacket-when-she-died.html>

12 Aug 2008 By Auslan Cramb, Scottish Correspondent

An Army cadet died who died under a capsized boat was wearing an "assault troop" lifejacket designed for fully-equipped soldiers, a fatal accident inquiry was told.

The inquiry heard that 14-year-old Kaylee McIntosh was trapped under the upturned vessel by the extra buoyancy of the lifejacket.

She died after the boat capsized in choppy seas in Loch Carnan on South Uist last summer. An error in the headcount after the incident meant that it was 90 minutes before anyone realised she was missing.

An independent investigation found she had been wearing the wrong kind of lifejacket.

Kaylee, from Fyvie, Aberdeenshire, was one of 34 cadets taking part in the three-boat training exercise last August.

John Adams, a senior Army investigator, told the inquiry at Stornoway sheriff court that she should not have been wearing the adult lifejacket and a notice had been sent to cadet forces warning them of the dangers. He said it was designed for servicemen carrying 45kg equipment.



Kaylee McIntosh was wearing a lifejacket designed for servicemen carrying heavy equipment

Kaylee's family left the court as the inquiry was shown a reconstruction of the incident in which a marine - described as "the smallest we could find" - found it impossible to escape while wearing the lifejacket.

When he put on the type of jacket that Kaylee should have been wearing he was able to swim under the boat.

Mr Adams, a retired lieutenant colonel, outlined a number of other errors on the outing involving cadets from the 2nd Battalion Highlanders Army Cadet Force.

He said the Rigid Raider vessel should not have been out in windy conditions but winds of up to Force Eight were forecast that day.

There were also too many people on board, with four instead of two adults standing up, which caused the vessel to become unstable.

A machine gun should not have been fitted, and caused a change in weight distribution, and there was only one outboard engine that was mounted to the side when it should have been placed centrally.

He also told the inquiry that the boat's bailers should have been used immediately to allow water to flow out of the boat.

He added that Maj George McCallum, who was in charge of the excursion, was not properly trained to operate the craft and that a proper risk assessment did not take place.

In addition, there was no roll call before or immediately after the accident, leading to a 90-minute delay in discovering that Kaylee was missing.

He said a number of recommendations had been made since, including a requirement for a proper risk assessment.

Earlier, an Army cadet leader said he had been given assurances over safety issues before the boating exercise.

David Taylor said that although there was no separate safety boat on the outing, Maj McCallum said there would be enough space on the boats involved in the exercise to pick up anyone who fell overboard.

Mr Taylor, 56, a commander with the cadet force at the time of the incident, added: "The cadets were to be taken in three boats, and I asked George how the safety boat would work in that arrangement.

"He confirmed to me that that was a safe arrangement where the boats would act as safety boats for each other, with each having the capacity to uplift capsized people from other boats."

Mr Taylor told Simon Di Rollo QC, representing Kaylee's family, that he accepted his share of responsibility for the incident.

He said he had nothing to do with the acquisition of lifejackets, but was assured by Maj McCallum that they were "appropriate".

The inquiry continues.

Cadet team 'had safety assurance'

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7556188.stm

12 August 08



An Army cadet leader has told an inquiry he had been given assurances over safety before a boating exercise in which a teenage cadet died.

Kaylee McIntosh, 14, of Fyvie, Aberdeenshire, drowned after a boat upturned on Loch Carnan, South Uist, on the Western Isles last year.

David Taylor said he was told there would be enough space on boats to collect anyone who fell overboard.

The fatal accident inquiry (FAI) is taking place in Stornoway, Lewis.

Mr Taylor, a 2nd Battalion Highlanders Army Cadet Force Commander at the time of the incident, said he had asked the exercise leader, Major George McCallum, about the use of safety boats.

Mr Taylor said that although there was no separate safety boat on the exercise, he was told there would be enough space on the participating boats in the event of an accident.

Mr Taylor said: "The cadets were to be taken in three boats, and I asked George how the safety boat would work in that arrangement.

"He confirmed to me that that was a safe arrangement where the boats would act as safety boats for each other, with each having the capacity to uplift capsized people from other boats."

Mr Taylor told Simon Di Rollo QC, representing Kaylee's family, he accepted his share of responsibility for the incident.

Lifejackets 'appropriate'

Mr Di Rollo said: "Nobody seems to be taking much responsibility for this, it all seems to be shifting to Mr McCallum.

"Do you agree that other people were responsible too?"

Mr Taylor said: "Yes sir."

Mr Di Rollo asked: "Including yourself?"

"Yes sir," he said.

Mr Taylor said he was given assurances by Maj McCallum that the lifejackets for the exercise were "appropriate" for use by the cadets.

He said he thought that the power boats used on the exercise were only on short-term loan to the cadets, when they had in fact been gifted permanently.

'So dangerous'

He said he was opposed to the cadets receiving the boats permanently due to the cost of maintaining them.

Mr Di Rollo said: "I suggest to you that an activity of this kind, so different and so dangerous, should have been discussed in a lot more detail. Do you agree?"

Mr Taylor: "In hindsight I agree with that, yes."

Mr Taylor was asked by procurator fiscal David Teale whether he had any reason to doubt Maj McCallum.

He said: "No. Maj McCallum had dealt with many situations - disciplinary situations, child protection situations, and very difficult ones.

"I have never had any occasion to doubt Maj McCallum's integrity."
The inquiry continues.

Cadet organiser admits mistakes

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7558316.stm

13 August 08

The man who organised a boating exercise in which an Army cadet died has admitted he had not been prepared for the possibility of a capsiz.

Kaylee McIntosh, 14, from Fyvie in Aberdeenshire, drowned last August after a boat upturned on South Uist.

Expedition organiser Major George McCallum accepted that his planning of the trip had been "exceptionally bad".

He was speaking at Stornoway Sheriff Court, on the eighth day of a fatal accident inquiry into Kaylee's death.

She died while on Loch Carnan in the Outer Hebrides, while taking part in a three-boat training exercise on 3 August, 2007.

A rescue operation was launched after the power boat carrying the schoolgirl and 12 others capsized in choppy seas.



An error in a headcount taken after the incident meant the teenager was trapped under the upturned boat for one-and-a-half hours before it was noticed she was missing.

Earlier this year, an investigation found she had been wearing the wrong kind of lifejacket, which had kept her pinned under the boat.

Maj McCallum told procurator fiscal David Teale that he was relying on a "buddy boat" system during the exercise, rather than having a separate safety boat.

He said this would allow any of the three boats to pick up a man overboard, but would not be sufficient in the event of a whole boat capsizing

'Systematic failure'

When questioned about this, he said: "I never took into account the possibility of a capsizing."

Maj McCallum, who nominated himself as the safety adviser for the exercise, was asked by Mr Teale if he now appreciated the need for a separate safety adviser.

"I certainly do, sir, yes," he said.

"After experiencing the event when I was in the water myself, I could not possibly do the job - I was up to my neck in water."

Mr Teale said: "Do you accept this was exceptionally bad planning on your part?" "Yes sir, I have got to accept that," the Major said.

The inquiry also heard from an Army accident investigator, Lt Col John Adams, who also said there was a "systemic failure" in the organisation of the expedition.

He told Simon Di Rollo QC, who was representing Kaylee's family, the exercise should have been supervised by a safety officer but there was no evidence that anyone had been appointed to the role.

Col Adams also agreed that a machine gun mounted on the bow of the boat had affected the stability of the craft.

At the end of his evidence, Col Adams paid tribute to the girl's family, who have been present at the proceedings.

He said: "I have met the McIntosh family on a number of occasions. "I have been humbled by their dignity and would like to give my public condolences to them."

Major accepts responsibility for outing in which cadet died

<http://www.telegraph.co.uk/news/uknews/2553285/Major-accepts-responsibility-for-outing-in-which-cadet-died.html>

13 Aug 2008 By Auslan Cramb, Scottish Correspondent

The man who organised a boating exercise on which a teenage Army cadet died yesterday accepted "total responsibility" for the outing.

Maj George McCallum, 48, who led the exercise on a sea loch in the Western Isles, told a fatal accident inquiry that his planning had been "exceptionally bad".

He added: "I was the officer in charge. I had responsibility as the person who had planned and organised it. Ultimately the responsibility was down to me."

Kaylee McIntosh, 14, died during the training camp trip on Loch Carnon in South Uist last summer when she became trapped under the hull of a capsized boat.

The hearing at Stornoway sheriff court was told earlier that she was trapped while wearing the wrong type of lifejacket that was designed for a soldier carrying a full pack.

Her mother Lesley, from Fyvie, Aberdeenshire, wept as she listened to Maj McCallum tell the court that he thought everyone had been rescued after the incident.

Nobody realised she was missing until 90 minutes after the boat overturned in choppy seas.

Maj McCallum, who climbed on to the shell of the capsized powerboat, said: "I shouted out 'is everyone safe?' and the answer came back that they were. "There was no one else in the water that I could see. I assumed everyone was there.

It was impossible to count because some were trying to get on the boat with me and some had been rescued."

He added that he had not considered the possibility of the vessel capsizing and admitted that there was no dedicated safety boat when three powerboats set out on the trip with 34 cadets.

Maj McCallum, who is currently suspended from his post of Cadet Executive Officer for 2nd Highland Battalion, added: "I now appreciate a safety boat is needed.

"The system we were operating was a buddy boat system which was sufficient to pick up a man overboard.

"I never took into account the possibility of capsizing. Buddy boat support obviously does not have the capacity of a full boat capsizing."

He said he nominate' himself as safety officer for the operation instead of using someone on land, adding: "I did not think there was a need to have someone dedicated full time."

He said he now appreciated the need for a safety officer having been "up to his neck" in water.

He also told the inquiry he had not realised that the lifejacket worn by Kaylee was designed for fully-equipped soldiers.

He said no one had warned him of its unsuitability, and he was not aware a warning had been set out that it should not to be used by minors.

Maj McCallum also accepted that no head count or roll call was made prior to the cadets boarding the three boats, that no call was made to Stornoway Coastguard to inform them of the excursion, and that they were not equipped with Admiralty Charts.

The inquiry continues.

Cadet death officer accuses MoD

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/7689417.stm

27 October 08



An Army cadet officer who led a boating exercise in which a teenager drowned has said he was not solely responsible for her death.

Major George McCallum said his part in the accident which led to the death of Kaylee McIntosh would "stay with me for the rest of my life".

But he insisted more could have been done by the Ministry of Defence and "certain individuals".

He was speaking on the 10th and final day of a fatal accident inquiry.

Kaylee, 14, from Fyvie in Aberdeenshire, died while on Loch Carnan on South Uist in the Outer Hebrides.

She was one of 34 cadets on the three-boat training exercise on 3 August last year.

A rescue operation was launched after the vessel carrying Kaylee and 12 others capsized in choppy seas.

But an error in a headcount taken after the incident meant she was trapped under the upturned boat for an hour and a half before it was noticed she was missing.

She had also been wearing the wrong type of life jacket, which resulted in her being pinned beneath the boat.

Major McCallum told the hearing at Inverness Sheriff Court that the inquiry had "helped me to realise that I may not be the only person who bears responsibility for the events of that day".

He said that barely a day had passed when he had not considered how he could have done things differently, and that "there is perhaps a natural tendency to blame oneself for everything that went wrong".

Major McCallum argued that he was sufficiently experienced to operate the powerboat used on the day of the tragedy and he knew the area of the exercise.

"There is no intention on my part to duck responsibilities that were fairly mine - they will stay with me for the rest of my life regardless of the outcome of this inquiry," he said.

"Nevertheless, I do feel that I did not receive the level of support that I could reasonably have expected from the Ministry of Defence in the way that the system of safe training was being applied at that time, or from certain individuals who could have done more either prior to the accident or in its immediate aftermath."

Risk assessment

Advocate Andrew Webster, representing the MoD, said the "immediate cause" of the accident which resulted in Kaylee's death was Major McCallum's instruction for those in the boat to move to the right when it began to take water.

Earlier, Procurator Fiscal David Teale said a wide range of failures at the planning stage contributed to the accident, including a failure to give coastguards advance notice of the exercise, a lack of communication between the boats and a failure to keep a list of names.

Simon Di Rollo QC, representing Kaylee's family, said a risk assessment for the task was a "worthless document" failing to meet specific requirements.

He said there was evidence of systemic as well as individual failures, and "much of what went wrong occurred because of a failure to exercise basic common sense".

Sheriff Alastair MacFadyen closed the inquiry by offering his condolences to Kaylee's parents, who sat through the hearing.

He said he would provide a written determination at a later date.

Kaylee McIntosh: sheriff's findings in full

[http://www.heraldscotland.com/news/12389888.Kaylee McIntosh_sheriff apos s findings in full/](http://www.heraldscotland.com/news/12389888.Kaylee_McIntosh_sheriff_apos_s_findings_in_full/)
26 May 2009

The following are the summary findings of the Sheriff Alasdair MacFadyen in the Kaylee McIntosh case:

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT INVERNESS UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY (SCOTLAND) ACT 1976

DETERMINATION by Sheriff Alasdair Lorne MacFadyen In an Inquiry into the death of KAYLEE SUSAN McINTOSH INVERNESS, 27th MAY 2009

The sheriff, having resumed consideration of all the evidence adduced, Determines in terms of the Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 section 6(1): (a) Kaylee Susan McIntosh, Roemah, Camaloun, Fyvie, Aberdeenshire, born 10 October 1992 died between 10.15am and 1.20pm on 3 August 2007 in Loch Carnan, Isle of South Uist following an accident, namely the capsize of a boat, namely a Rigid Raider Mark II, in which she was being carried during a training exercise held by the Army Cadet Force in said Loch Carnan, on that date.

(b) (i) The cause of death was immersion in water under the upturned hull of the boat leading to either drowning or reflex cardiac arrest. Once the lifejacket worn by the deceased inflated she would have been unable to escape from under the upturned boat. The chances of survival diminished as time went on.

(ii) The causes of the accident resulting in the death were: i. The Rigid Raider II was being operated in weather conditions at or beyond its design capacity. The operating limit of the vessel was Beaufort force 5. The weather forecast issued at 0700 for the morning of 3 August 2007 indicated that the wind was south or southwest 5 to 7, perhaps gale 8; the sea state slight to moderate, becoming moderate or rough, occasionally very rough in west. There was a significant swell beyond the shelter of the area at the jetty at Loch Carnan.

ii. The boat was overloaded and was subject to bad trim. There were 10 seats but 12 passengers. A General Purpose Machine Gun and its tripod, which were heavy, together with an instructor were positioned at the bow of the vessel. The boat was designed to operate with two engines but there was only one on the port side.

iii. The self-bailing devices at the stern of the vessel were not opened until just before capsize. The boat should not have been operated without lowering those. The boat will ship water as it is sailed unless those devices are lowered. The vessel did ship water once out in the open sea.

iv. As a result of the combination of the circumstances described above in i, ii, and iii there was a considerable quantity of water aboard the vessel. The engine choked. Finally the coxswain ordered the boat's occupants to move to the starboard side. The free-surface effect of the trapped water on the port side shifting to the starboard resulted in the craft being overwhelmed. An attempt to save the situation by instructing the boat's occupants to move to port failed and the vessel capsized.

v. After the capsize, most of the occupants were thrown out from the vessel. Three cadets, including the deceased and one instructor found themselves under the upturned hull. Two of the cadets and the instructor managed to escape. The deceased did not escape.

(c) (i) That the following were reasonable precautions whereby the accident resulting in the death might have been avoided: 1. If the cadet instructor in charge of the voyage between Loch Carnan and Loch Skipport on 3 August 2007, namely Major George McCallum, had, on that date obtained an up-to-date weather forecast on weather and sea conditions in Loch Carnan, then it would have been

apparent that the weather conditions were too severe for the Rigid Raider II to embark on the voyage at all.

2. The making of an advance reconnaissance voyage into the open sea at Loch Carnan before setting off on the voyage carrying the cadets and instructors.

3. The deployment of the self-baling equipment on board the vessel, the Rigid Raider Mark II, carrying the deceased as soon as the vessel was under way from the jetty at Loch Carnan.

4. Familiarisation of the coxswain of the Rigid Raider Mark II, namely Major George McCallum, with its operational limits as to weather, weight of crew, passengers and equipment and distribution thereof, deployment of the self-bailing equipment and handling qualities.

5. The appointment of a safety officer, separate from the operation of the voyage itself, with responsibility to check in advance the safety of the activity and with the power to order, on safety grounds, that the voyage not take place.

6. The devising of and adherence to a detailed risk assessment of the intended voyage from Loch Carnan to Loch Skipport might have led to a decision being made on 3 August 2007 not to embark on the voyage at all.

(ii) That the following were reasonable precautions whereby the death might have been avoided: 1. A numerical head count of those ordered on board the Rigid Raider II before it set off from the jetty at Loch Carnan.

2. A nominal roll call those ordered on board the Rigid Raider II before it set off from the jetty at Loch Carnan, based on an accurate manifest held by the coxswain of the names of all on board that vessel.

3. The taking of copies of that manifest and passing those to a shore-based adult instructor.

4. While at sea and after the capsize a numerical head count and nominal roll call of all of those thrown from the Rigid Raider II, namely all the cadets and instructors who had been on board that vessel.

5. Having on the exercise a fourth vessel which could have been used as a designated safety boat. After the capsize, the rescue of those in the water could have been co-ordinated by another officer with responsibility only for safety of the voyage.

6. The issuing of appropriate life-saving equipment to the cadets, in particular, in the case of the deceased, of a lifejacket of appropriate buoyancy for a 14 year old female.

7. The possession by all adult instructors participating in the exercise on 3 August 2007 of detailed information as to the route to be followed by the three Rigid Raider craft between Loch Carnan and Loch Skipport, both South Uist.

8. Notification by the ACF in advance to HM Coastguard, in particular at their control room in Stornoway, Isle of Lewis, of the intended route, date and intended time of the voyage between Loch Carnan and Loch Skipport on 3 August 2007.

(d) That the following defects in systems of working contributed to the death and the accident causing the death: 1. The leaving by the camp commandant of all aspects of the organisation of the voyage from Loch Carnan to Loch Skipport on 3 August 2007 to the Cadet Executive Officer, Major George McCallum, without having in place any safety check or risk assessment of the voyage by any other officer. This amounted to an exclusion of this voyage from the requirement of all activities during the camp to be assessed appropriately and competently for risks to the safety and wellbeing of the cadets, including the deceased. On the basis that the camp commandant and other senior officers organising and delivering the activities during the camp were aware of the intended voyage, it was a defect in the system of working, namely the organisation of the camp, to allow this voyage to be treated, so far as organisation and risk assessment were concerned, differently from all other activities during the camp.

2. The failure to have a training and safety adviser present throughout the duration of the camp. The training and safety adviser's time and attention were divided between two camps, hundreds of miles apart, running over overlapping periods. Had the training and safety adviser been present throughout the camp and able to concentrate on only one set of activities, he most likely would have detected the lack of a proper risk assessment of the voyage.

3. The failure of the system said to be in place to secure the issue of appropriate life-saving equipment for use by cadets in that it allowed the issue of a number of Assault Troop Lifejackets, of 498 Newton, to Major McCallum for use by cadets, when it was self-evident that those were unsuitable for use by any cadets.

4. The failure of the Battalion to have appointed a separate safety officer for the voyage with the responsibilities mentioned above. The system of working provided for the appointment of such a safety officer. The failure of the officers responsible for planning and organising of the camp to ensure compliance with Army and ACF regulations by the appointment of such a safety officer amounted to a failure in a system of working which contributed to the accident.

(e) That the following facts are relevant to the circumstances of Kaylee McIntosh's death: 1. The absence of reliable radios on board the Rigid Raider II or the other two Rigid Raider vessels, which together formed a flotilla. The absence of such equipment prevented those on board the vessels from effective communication with each other or with any shore-based officer.

2. The method of acquisition of the Rigid Raider II for the Battalion by Major McCallum was unconventional and unsatisfactory. An indication had been given to the supplier within the forces that its intended use was as a safety boat. That was not the use to which it was put during the 2007 camp. The system of gifting equipment such as boats appeared to be informal and carried out with little regard to the appropriateness of the equipment for the cadets for whom it was being requested.

NOTE Introduction

1 It may be helpful to make some introductory comments so that, on the one hand, the objectives and purpose and, on the other, the limitations of a fatal accident inquiry are understood. An essential feature of the procedure is that evidence is given in public so that the knowledge of those responsible for investigation of the death and the accident leading to the death is shared with the public and in particular with legitimately interested parties, including of course the relatives of the deceased. The inquiry therefore fulfils the important purpose of enlightening those with a legitimate interest as to the cause of the death. It also serves the purpose of ascertaining whether any reasonable steps could or should have been taken whereby the death or the accident might have been avoided, whether any defects in any system of work contributed to the death or the accident and allows the sheriff to describe any other facts relevant to the circumstances of the death.

2 The responsibility and powers of the sheriff in respect of the determination following the inquiry are set out in section 6 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 ('the Act' or 'the 1976 Act'). Section 6(1) is in the following terms: '6(1) At the conclusion of the evidence and any submissions thereon, or as soon as possible thereafter, the sheriff shall make a determination setting out the following circumstances of the death so far as they have been established to his satisfaction - (a) where and when the death and any accident resulting in the death took place; (b) the cause or causes of such death and any accident resulting in the death; (c) the reasonable precautions, if any, whereby the death and any accident resulting in the death might have been avoided; (d) the defects, if any, in any system of working which contributed to the death or any accident resulting in the death; and (e) any other facts which are relevant to the circumstances of the death.'

3 However, the limitations of the fatal accident inquiry should also be noted. A fatal accident inquiry is an exercise in fact finding, not in fault finding, and it is not the function of the court to make findings or express opinions on questions of fault or liability, or to attempt to apportion blame. This does not mean, of course, that the evidence led at an inquiry may not disclose fault. In that event, a finding implying or imputing fault is competent. However, the whole object of impartial public inquiry is to get at the truth and to see to it so far as humanly possible that any mistakes discovered, whether they arise through fault or some other reason, are not made in the future.

4 The very wide power given to a sheriff in a fatal accident inquiry must also be exercised with caution, bearing in mind the summary nature of the proceedings and the lack of formal written pleadings. It is no doubt partly at least for this reason that Section 6(3) of the Act provides that the sheriff's determination in a fatal accident inquiry may not be founded upon in any subsequent proceedings.

5 It must be stressed that the findings made can only be based upon the evidence led at the inquiry. It is the duty of the Procurator Fiscal to lead evidence at the inquiry with regard to the circumstances of the death. The other parties who are present or represented at the inquiry are also entitled to lead evidence, if they so desire.

6 This particular inquiry was held under section 1(1)(b) of the 1976 Act in that it appeared to the Lord Advocate that the death of Kaylee Susan McIntosh on 3 August 2007 had occurred in circumstances such as to give rise to serious public concern. The deceased was only fourteen years old when she lost her life. Throughout the inquiry she was mostly referred to by her first name and in this note I have taken the liberty of describing her in the same way.

7 At the inquiry representation was as follows: The Crown by Mr. David Teale, Procurator Fiscal, Stornoway and Lochmaddy; The Ministry of Defence by Mr. Andrew Webster, Advocate and Messrs Morton Fraser LLP, Solicitors, Edinburgh; Mr. George McCallum, Major in the Territorial Army, represented himself. Given that the actions of Major McCallum (as he was referred to at the inquiry and in this determination) were the subject of much scrutiny, and criticism, during the inquiry, it was unfortunate that he was not legally represented. I had been told at a preliminary hearing that legal aid was unavailable to him, but that he could not afford to fund representation from his own resources. The Ministry of Defence decided not to fund separate legal representation for Major McCallum. That was a matter for them, but it could not be said that the Ministry's and Major McCallum's interests in this inquiry were identical.

8 Evidence was led by the Procurator Fiscal from the following witnesses: Cadets * L. N. (aged 14); * Jake Watson; Cadet instructors * John Shaw, adult under officer; * Craig Duncan, sergeant; * Vicky Lorimer, sergeant; * Calum Campbell, lieutenant; * Scott Rose, company sergeant major; * Mark McKee, sergeant; * Charles Milne, lieutenant, now captain; * Fergus Gatt, captain, now major; * Douglas Rodger, sergeant; * James Stewart, sergeant; * David Adams, at the time of the accident major, now captain; * Ian Hay, training safety adviser; * Norman Donald, major, now Colonel Commandant 2nd Highlanders ACF; * David Taylor, at time of accident, Colonel Commandant, now retired; * George McCallum, Major, Cadet Executive Officer.

Coastguards employed by HM Coastguard * Joseph Johnstone, station officer at Benbecula; * Robert Currie, auxiliary coastguard; * Brian Learmont, auxiliary coastguard; * Andrew Mair, HM Coastguard watch officer, Stornoway; Civilian witness * Roderick Campbell, resident of the Uists and a fish farmer; Pathologist * James Grieve, consultant pathologist, Aberdeen; Witnesses who carried out post-accident investigations: * Paul Mara, chief power boat instructor, Royal Yachting Association; * Charles Davey, marine surveyor, Marine and Coastguard Agency; * John Adams, retired lieutenant colonel, Land Accident Investigation Team; Witness as to weather conditions on 3 August 2007 * Donald Mackay, Air Traffic Controller, Balivanich Airport, Benbecula; Police * Detective Sergeant Ian Morrison.

9 The only other party to lead evidence was the Ministry of Defence. They led the evidence of Colonel David Tobey, a senior Army officer in a supervisory role in respect of the ACF.

'Disgust' at drowned cadet death

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/8068700.stm

27 May 09



The parents of a teenage army cadet who died on a boating exercise have expressed "disgust" after the publication of a report into her death.

Kaylee McIntosh, 14, from Fyvie in Aberdeenshire, died when a boat overturned on Loch Carnan on South Uist in the Outer Hebrides in August 2007.

A sheriff said reasonable precautions could have prevented her death.

Kaylee's father Derek said: "The Army murdered our Kaylee. It is as plain and simple as that."

A headcount error meant Kaylee was trapped under the boat for 90 minutes before it was noticed she was missing.

She had been wearing the wrong type of life jacket, which resulted in her being pinned beneath the boat.

Kaylee was one of 34 cadets on the training exercise when her boat overturned.

Sheriff Alasdair MacFadyen presided over a 10-day fatal accident inquiry.

He said the inquiry had found that a number of precautions could have been taken which would have avoided the accident or prevented Kaylee's death.

Kaylee's mother Lesley said she was "angry, disappointed and disgusted" at the sheriff's findings.

"We don't think he's done Kaylee justice and that's what we were looking for," she said.

"It tells us all the things that went wrong, most of which we already knew. But we were looking for some really tough recommendations to prevent something like this happening again and they are just not there."

Her father said: "Kaylee didn't die because someone made a silly mistake. She died because of a horrific catalogue of reckless and irresponsible conduct by those in charge.

"We believe that amounts to criminal conduct and there have to be criminal prosecutions against those responsible."

'Deeply sorry'

Brigadier David Allfrey, commanding officer of 51 Brigade - who are responsible for the Army Reserve and Cadets - said: "The loss of any child in these circumstances is inexcusable. We are deeply sorry for the failings that contributed to Kaylee's death.

"This long inquiry process must have been unimaginably difficult for the McIntosh family, but it is very necessary to ensure everything that can be learnt, is learnt. The sheriff's determination today is a sober and comprehensive judgement, but contains no surprises.

"We will look at it in detail to see if there is any more we can do, in addition to what we have already done, to improve cadet safety."

He added: "The next stage is to determine responsibility and culpability, and it would be inappropriate for me to say anything that would compromise that legal process.

"I wish to reiterate our total commitment to the McIntosh family. I absolutely recognise they are extremely angry."

In his findings, the sheriff said Kaylee's parents had attended court throughout most of the inquiry.

Safety officer

"Their quiet dignity and concentration when hearing about the final hours of their daughter was both impressive and, to quote a witness, humbling," he said.

"I can only hope that the public exploration of the circumstances of Kaylee's death and this determination provide them with some explanation as to how their tragic loss occurred and might go some way to reduce the risk of any other parents finding themselves in such a situation in the future."

In his findings, the sheriff highlighted a number of factors which had caused the accident, including the overloading of the boat.

He said it was being operated in weather conditions which were "at or beyond its design capacity" and that the self-bailing devices were not opened until just before the vessel capsized.

Sheriff MacFadyen said a number of "reasonable precautions" could have helped avoid the accident.

These included getting an up-to-date weather forecast, a detailed risk assessment and appointing a separate safety officer.

The sheriff added that the reasonable precautions which could have avoided Kaylee's death included taking a head count of those on board the vessel when it set off and after the accident, and the issuing of appropriate life-saving equipment.

However, he said it had been "reassuring" to hear that the Army and the cadet force were not complacent about the circumstances leading to Kaylee's death and that changes in procedures had been or would be put in place.

Parents of teenage cadet accuse Army of 'murdering' daughter

<http://www.telegraph.co.uk/news/uknews/scotland/5393783/Parents-of-teenage-cadet-accuse-Army-of-murdering-daughter.html>

27 May 2009 By Auslan Cramb, Scottish Correspondent

The parents of a teenage armed forces cadet who died during a training exercise in the Highlands have accused the Army of "murdering" their daughter.



A sheriff has ruled after a fatal accident inquiry that Kaylee was the victim of a catalogue of errors Photo: PA

Fourteen-year-old Kaylee McIntosh was trapped under a capsized boat during an outing on a sea loch in the Outer Hebrides in 2007.

A sheriff has ruled after a fatal accident inquiry that she was the victim of a catalogue of errors and an "utter disregard" for basic safety precautions by the officers in charge.

A mistake in the headcount after the incident meant that it was 90 minutes before anyone noticed she was missing. She was also wearing an adult life jacket that was too big and pinned her under the vessel.

Her parents Derek and Lesley expressed their "disgust" with the mistakes made and called for criminal charges against those responsible.

Mr McIntosh, 41, said: "Kaylee didn't die because of some silly mistake. She died because of a horrific catalogue of reckless and irresponsible conduct by those in charge.

"We believe that amounts to criminal conduct and there have to be criminal prosecutions against those responsible. The Army murdered our Kaylee. It is as plain and simple as that."

Mrs McIntosh, 41, fighting back tears, added: "This was a case of dangerous and reckless behaviour time and time again, but nobody has been charged, and everyone just walks away scot-free."

They said their daughter was devoted to the Army and was planning a career in the armed forces.

Maj George McCallum, a major in the Territorial Army, was in charge of the exercise.

Two other cadets from 2nd Battalion The Highlanders Army Cadet Force and one instructor escaped from the below the Rigid Raider craft after it capsized in Loch Carnan, South Uist in August, 2007, but Kaylee was left behind.

Sheriff MacFadyen said the boat was overloaded, the weather was too severe for the exercise, nobody was properly qualified to oversee the use of lifejackets, and head counts were not carried out.

He listed steps which could have prevented the tragedy, including checking the weather forecast, the appointment of a qualified instructor and the use of a safety boat.

The Coastguard were twice given the wrong location for the accident and when they finally arrived they were told all the cadets had been rescued.

Mr MacFadyen identified a number of failings by Maj McCallum, but also criticised his superiors for not ensuring regulations were followed.

He said there was "no doubt" that if a roll call had been performed before and after the incident "Kaylee's absence would have been discovered and the death might have been avoided".

He added: "The evidence led in this inquiry discloses that Kaylee McIntosh died as a result of numerous failures by those responsible for her care."

The schoolgirl, from Fyvie, Aberdeenshire, was one of 34 cadets on three boats taking part in the exercise on the exposed sea loch. Medical experts said she died from cardiac arrest or drowning.

The sheriff added that the "manifest lack of common sense" raised serious questions about the fitness of the adult instructors in the battalion to carry out their duties.

Maj MacCallum said during the inquiry that his role would remain with him for the rest of his life, but insisted more could have been done by the Ministry of Defence.

'The Army murdered our Kaylee,' say family of cadet, 14, who drowned on boating trip

<http://www.dailymail.co.uk/news/article-1188894/The-Army-murdered-Kaylee-say-family-cadet-14-drowned-boating-trip.html>

27 May 2009 By Arthur Martin for the Daily Mail



Kaylee McIntosh drowned on a training exercise in the Outer Hebrides

A teenage Army cadet who drowned after being thrown from a power boat was not missed by her instructors for 90 minutes.

It was just one of a series of failures to blame for Kaylee McIntosh's death, a sheriff 's inquiry found yesterday.

Her parents Derek and Lesley insisted their daughter had been 'murdered' and called for prosecutions against her instructors and the Army.

Once the alarm was raised, it took a further 90 minutes for her body to be found. The schoolgirl would still be alive if senior officers had observed the proper precautions during the boating exercise, a sheriff ruled.

The 14-year-old was one of 34 cadets taking part in a training drill on three boats in the Outer Hebrides in August 2007.

The vessel she was in was carrying 12 passengers - two more than the recommended limit - along with a heavy machine gun. The craft was not designed for use in wind above

force 5, but was taken out on Loch Carnan on South Uist in gale force 8 conditions.

The judgment found that Major George McCallum, who was in charge of the exercise, had failed to check the forecast or carry out a risk assessment. The excess weight on the boat caused it to capsize and Kaylee became trapped underneath with two other cadets and Sergeant Vicky Lorimer.

The three others freed themselves and swam to safety.



Lesley and Derek McIntosh hold a picture of their daughter Kaylee at a press conference after the release of a report into her death

The Marine Accident Investigation Branch found Kaylee was wearing an adult life jacket, which has three times more buoyancy than a child's aid, and was effectively pinned up inside the overturned boat.

Sergeant Lorimer forgot to tell anyone about what had happened to Kaylee and it took more than 90 minutes for anyone to realise she was missing.

She was found around three hours after the boat capsized and flown to hospital, where doctors were unable to revive her.

Speaking after the report was made public, Mr McIntosh said: 'The army murdered our Kaylee. It is as plain and simple as that.'



© NEWSLINE SCOTLAND

Kaylee McIntosh in her cadets uniform

'Kaylee didn't die because someone made a silly mistake. She died because of a horrific catalogue of reckless and irresponsible conduct by those in charge.

'We believe that amounts to criminal conduct and there have to be criminal prosecutions against those responsible.' They insisted the report did little to prevent such a tragedy from happening again.

The judgment laid some of the blame for the tragedy on Major McCallum.

The decision to give the girl an adult life jacket also came under fire.

Sheriff MacFadyen, who presided over a 10-day inquiry, said the failure to appoint a qualified instructor and the lack of a rescue boat on stand-by also contributed to her death.

He said: 'It was reasonable for the young people and their parents to expect that the camp organisers would have safety of the cadets at the forefront of their minds at all times.'

He paid tribute to Kaylee's parents who attended the whole inquiry in Inverness and then in Stornoway Sheriff Court.



© NEWSLINE SCOTLAND

This video image shows Kaylee's fellow Army cadets the day before her death. She died after becoming trapped under a power boat such as this

He said: 'Their quiet dignity and concentration when hearing about the final hours of their daughter was both impressive and, to quote a witness, humbling.'

Captain Allan Marsh, enforcement officer from

the Maritime and Coastguard Agency, said the fatal accident inquiry had told a story of 'confusion and error'

He said: 'Our great concern is that in an organised party of young people such as this there was no detailed risk assessment and it appears that the organisers failed to recognise that incorrect life jackets were issued to children.'

'The whole tragic circumstances surrounding Kaylee's death were compounded by the fact that the coastguard had no prior knowledge of the trip by such a large group of youngsters.'

Brigadier David Allfrey, Commander 51 (Scottish) Brigade said: 'The loss of any child in these circumstances is inexcusable.'

'We are deeply sorry for the failings that contributed to Kaylee's death.'

'This long inquiry process must have been unimaginably difficult for the McIntosh family, but it is very necessary to ensure everything that can be learnt, is learnt.'

'The Sheriff's determination today is a sober and comprehensive judgement, but contains no surprises.'



'We will look at it in detail to see if there is any more we can do, in addition to what we have already done, to improve cadets safety.'

'The next stage is to determine responsibility and culpability, and it would be inappropriate for me to say anything that would compromise that legal process.'

'I wish to reiterate our total commitment to the McIntosh family. I absolutely recognise they are extremely angry.'

Catalogue of failures led to army cadet's death

<https://www.theguardian.com/uk/2009/may/27/cadet-death-army-errors>

27 May 2009_Severin Carrell, Scotland correspondent

Parents of Kaylee MacIntosh, 14, condemn 'utter disregard' for safety procedures after boating accident



Army cadet Kaylee McIntosh, who drowned on a training exercise in the Outer Hebrides in August 2007. Photograph: PA

Senior army cadet officers have been blamed for a catalogue of failures that contributed to the death of a 14-year-old girl in a "catastrophic" boating accident. [Kaylee McIntosh](#), from Fyvie in Aberdeenshire, drowned after officers failed to follow basic safety procedures during a training exercise, a fatal accident inquiry (FAI) ruled today.

Kaylee, who was one of 34 cadets taking part in the exercise, was killed when an overloaded boat overturned on Loch Carnan on South Uist in the Outer Hebrides in August 2007. She was wearing the wrong type of life jacket, which pinned her beneath the boat. No one realised that she was missing because a head count had not been taken before the exercise.

Her body was discovered almost three hours after the accident.

The inquiry heard that Kaylee may have died after suffering a "reflex cardiac arrest", also known as "dry drowning", in which a heart attack is triggered by hypothermia and breathing under water.

Sheriff Alasdair MacFadyen, who oversaw the inquiry, said today that Major George McCallum, the cadet executive officer, and Colonel David Adams, the overall commander, had failed to adhere to safety procedures from the start of the exercise until the time that Kaylee's body was recovered.

"The responsibility on the organisers and instructors of a camp such as this is a heavy one, but no heavier than that of a responsible parent in whose shoes they

stand for the duration of the camp," he concluded. "It was reasonable for the young people and their parents to expect that the camp organisers would have safety of the cadets at the forefront of their minds at all times. The evidence disclosed that that expectation was not met."

MacFadyen said the officers had failed to check the weather forecast, which predicted gales, had put too many people on board Kaylee's boat and had fixed a heavy machine gun at the boat's prow. They had also failed to lower the vessel's self-bailing devices and had issued adult-sized life jackets to teenage cadets.

In addition, the officers did not equip the boats with radios or carry out an accurate head count of everyone involved in the exercise

In its evidence, the Ministry of Defence confirmed that detailed safety procedures were not followed. It admitted that, had they been adhered to, Kaylee's death "might" have been prevented.

The MoD has since overhauled the regulations for waterborne exercises by introducing more stringent safety checks and training.

Kaylee's parents, Derek and Lesley McIntosh, said the evidence had proven that their daughter died "as a result of numerous failures by those responsible for her care". They added: "The evidence discloses an utter disregard for basic precautions necessary to prevent an accident of the type that occurred."

In his submission to the FAI, MacCallum said: "I am very conscious of the devastating impact that the dreadful tragedy that occurred on 3 August 2007 has had on Kaylee McIntosh's parents, wider family and friends. This accident has also had a huge impact on my family and myself. Barely a day has passed since the accident that I have not gone over the events in my mind and considered how I might have done things differently."

Death cadet 'feared for future'

http://news.bbc.co.uk/2/mobile/uk_news/scotland/north_east/8072314.stm

28 May 09

The army cadet who drowned on a boating exercise feared her future dreams of having a family would never come true, her parents have revealed.

Kaylee McIntosh, 14, from Fyvie in Aberdeenshire, died when a boat overturned on Loch Carnan on South Uist in the Outer Hebrides in August 2007.

A sheriff said on Wednesday precautions could have prevented her death. Kaylee's parents said she had written her thoughts in a school exercise which they had found.



They had expressed "disgust" after the publication of the report into her death after a fatal accident inquiry.

A headcount error meant Kaylee was trapped under the boat for 90 minutes before it was noticed she was missing.

She had been wearing the wrong type of life jacket, which resulted in her being pinned beneath the boat.

Her parents claimed the Army "murdered" Kaylee and have called for criminal charges to be brought against all of those involved.

Kaylee's mother Lesley has now revealed she came across a school exercise in which Kaylee was asked to write down thoughts about her life and her hopes for the future.

'A premonition'

Mrs McIntosh said: "It is full of her dreams of getting into the Army and settling down and having kids.

"But one line simply says: 'I think my dreams about family won't come true'.
"I can't think why she would write something like that unless she had some sort of premonition about the future.

"She was a really happy, bubbly carefree girl, and always full of life. It's just not like her to have negative thoughts".

Kaylee's father Derek said: "It's really heartbreaking reading Kaylee's dreams for the future.

"She had all her dreams and all her life ahead of her and the Army robbed her of that by failing in their basic responsibility to take care of our precious daughter."

Sheriff Alasdair MacFadyen presided over a 10-day fatal accident inquiry. He said the inquiry had found that a number of precautions could have been taken which would have avoided the accident or prevented Kaylee's death.

Brigadier David Allfrey, commanding officer of 51 Brigade - who are responsible for the Army Reserve and Cadets - said: "We are deeply sorry for the failings that contributed to Kaylee's death."

Parents of drowned Army cadet Kaylee McIntosh sue MoD for £525,000

<https://www.thetimes.co.uk/article/parents-of-drowned-army-cadet-kaylee-mcintosh-sue-mod-for-pound525000-jm5xc8j6b2p>

December 23 2009 Lindsay McIntosh The Times

The parents of a teenage Army cadet who drowned after becoming trapped under a boat during a training exercise are suing the Ministry of Defence for more than

£500,000. Kaylee McIntosh, 14, died after the vessel she was travelling in capsized off the coast of the Outer Hebrides two years ago.

A fatal accident inquiry report, released this year, identified a catalogue of failings that contributed to her death. Last night, prosecutors said that they were still considering criminal proceedings in light of the findings.

Kaylee's family have always said that those involved in the exercise should stand trial and, frustrated at what they see as a lack of action, have now decided to sue the MoD.

Her mother, Lesley, said: "The money means absolutely nothing to us. We are taking this action to try get the Army to sit up and take notice of us. We have had countless meetings with them, but it's like talking to a brick wall."

She said that she still had nightmares about how her daughter, from Fyvie, Aberdeenshire, must have suffered while she was pinned under the boat in Loch Carnan, South Uist.

Although the inquiry identified a number of shortcomings on the training exercise, only one staff member, George McCallum, was suspended. "The rest of them are still in the same roles or have been promoted, and they are still taking other kids like Kaylee to training camps," said Mrs McIntosh. "It's an absolute disgrace."

Kaylee's father, Derek, said that the family held all those involved responsible for her death and wanted to see criminal charges brought.

A Crown Office spokeswoman said that the department's health and safety division was still considering whether further action should be taken. "The Solicitor General has met the family and we will continue to keep them advised and informed of the status of the case and any future developments," she added.

Sheriff Alasdair MacFadyen, who chaired the inquiry, said that Kaylee's death, on August 3, 2007, could have been avoided if a number of basic precautions had been taken.

He said that if the exercise leaders had obtained a weather report they would have read that conditions were too severe for the Rigid Raider vessels used in the exercise.

Although the coastguard was called at about 10.15am, just after the boat capsized, operators were given wrong information about the boat's location and were not told that a female cadet was missing until 11.32am.

The McIntosh family's summons, which the MoD has not yet received, makes a claim for £525,000. Jayne Crawford, the couple's solicitor, said: "The sum sued for is an indication of the terrible anguish the harrowing circumstances of Kaylee's death have caused her whole family. "Their suffering continues to this day because they believe that the Army has totally failed to address their concerns by making significant changes to the system."

The legal document claims that the Rigid Raiding Craft was overloaded, and operating in winds of gale force 5-8, well beyond its design capacity.

The summons states: "The boat was under the control of cadet instructor Major George McCallum. He was not qualified to take charge of the exercise. He did not appreciate that it was necessary to lower the self-bailing devices before setting off. If the boat is operated without the self-bailing devices then it will ship water."

It claims that no training officer was appointed for the exercise and that there were no safety orders, as there should have been. No head count was taken of cadets and instructors boarding the boat and there was no risk assessment.

Kaylee "was provided with an assault troop life jacket, the buoyancy of which would be liable to trap her underneath an upturned object," the summons adds. "Such a lifejacket should only be issued to fully laden adult soldiers and not to children."

The summons also refers to the failure to recognise that Kaylee was missing and the delays in the rescue operation.

A spokesman for the Army in Scotland said that both it and the MoD were extremely sorry about the events that led to Kaylee's death and for the loss suffered by her family. He added that the organisation had noted the sheriff's findings and a report by the Marine Accident Investigation Branch and had taken steps to prevent a recurrence of the tragedy.

Kaylee's Parents Present Trophy in her Memory

<http://www.thompsons-scotland.co.uk/news/23-archived/1513-kaylees-parents-present-trophy-in-her-memory>

02 February 2010

The parents of Army cadet Kaylee McIntosh who died when a seaborne training exercise went horrifically wrong, have honoured their daughter's memory at a special ceremony at Fyvie Castle.

Derek and Lesley McIntosh presented Cadet Lance Corporal Samantha Strowger 17 with the Kaylee McIntosh Memorial Trophy for the best 2 Star Cadet in the 2 Highlanders Army Cadet Force, Kaylee's Battalion.

Kaylee's Mum Lesley McIntosh said: "Nothing will ever erase the pain of losing Kaylee, or change



our attitude to those we hold responsible for causing her death.

"But this ceremony is about remembering all Kaylee's wonderful qualities, and how much she loved being an army cadet.

"Some of the money her fellow cadets raised was used to fund a permanent memorial, a beautiful granite bench here in the grounds of Fyvie Castle. "But we also wanted something to remind everyone of the positive benefits that come from being a cadet and this trophy does that."

The specially crafted silver trophy has a "wheel nut" as a base which represents Kaylee's love of car mechanics, a passion she shared with her father Derek, and a silver thistle with a butterfly balanced on the top.

The trophy was funded by contributions from Kaylee's fellow cadets after she drowned, trapped under a assault craft which capsized at Loch Carnan, South Uist, two years ago.

Derek added: "Kaylee absolutely loved being in the Cadets, and she was so proud of being a 2 Star Lance Corporal. "It's good to know that the Battalion has found worthy winners who share Kaylee's passion and commitment."

Dave Chapman, the McIntosh's family liaison officer who has recently been appointed Commandant of 2 Highlanders ACF said:

"This is a very special day for Kaylee's family and for the Army to remember Kaylee with all her enthusiasm and commitment and to recognise the qualities of the youngsters sharing her rank.

"Samantha, from the Banff detachment is actually the second winner of the trophy but we couldn't hold a ceremony last year, because the silversmith was still working on the trophy.

"The 2008 winner, Laua Cruikshank 18, from Huntley is currently climbing Mount Kilimajaro in Kenya for 'Help for Heroes.'

"I think that speaks volumes for the sort of person that gets involved in the army cadet force."

[Jayne Crawford of Thompsons Solicitors](#) the family's lawyer said: "The issue of criminal proceedings over Kaylee's death is still under consideration by the Crown Office and we await their decision on the matter."

The guest list included: Lord Lieutenant of Aberdeenshire, Sir Angus and Lady Alison Farquharson, Brigadier David Allfrey, Commander 51st (Scottish) Brigade, Wing Commander (Retired) Martin Henderson, Deputy Chief Executive Highland Reserve Forces and Cadets Association, Dave Chapman, Commandant of 2 Highlanders ACF, and Lance Corporal Strowger, Derek and Lesley McIntosh and their close family friends Frazer and Helen Geddes.

Man to appear in court over cadet Kaylee McIntosh death

<http://www.bbc.com/news/uk-scotland-north-east-orkney-shetland-16195042>

16 December 2011 From the section [NE Scotland, Orkney & Shetland](#)

A man is due to appear in court in connection with the death of a teenage army cadet from Aberdeenshire.

Kaylee McIntosh, 14, from Fyvie, drowned after becoming trapped under a boat during a training exercise in Loch Carnan in the Outer Hebrides in 2007.

A fatal accident inquiry found a catalogue of failures had contributed to her death. Major George McCallum, 51, is due to appear at Inverness Sheriff Court next week.

Kaylee's parents welcomed the court move.

They said it was a "step closer to justice".

Army major admits Kaylee McIntosh death accident charge

<http://www.telegraph.co.uk/news/uknews/scotland/9668170/Army-major-admits-Kaylee-McIntosh-death-accident-charge.html>

Nov 09, 2012 By Simon Johnson

A British Army cadet major in charge of a training exercise in which a teenage girl died has admitted breaching health and safety laws.

Major George McCallum, 52, pled guilty at Inverness Sheriff Court after a "catalogue of errors" led to the death of 14-year-old Kaylee McIntosh.

The cadet, from Fyvie in Aberdeenshire, died after becoming trapped under the hull of a capsized boat during a trip to Loch Carnan in the Outer Hebrides. Investigations found that a headcount mistake had seen Kaylee trapped for 90 minutes before anyone noticed she was missing.

The British Army apologised "unreservedly" to her family and promised they had taken action to ensure nothing similar could happen again.

But her parents said they would continue to press the Crown Office to prosecute "several others" they said are implicated in the tragedy.

In a statement, Derek and Lesley McIntosh said: "We welcome that Major McCallum has taken the only honourable route available and pleaded guilty to the charge against him arising from the significant role he played in the wholly unnecessary death of our beloved daughter Kaylee.



Kaylee McIntosh drowned in an accident in 2007 Photo: PA

"By pleading guilty Major McCallum has at least spared us the ordeal of sitting through a further legal hearing analysing the dreadful detail of Kaylee's last moments and the unforgivable catalogue of errors that led to her death."

McCallum admitted a charge under the Health and Safety at Work Act, which carries no custodial sentence. He is due to be sentenced later this month.

Brigadier Paul Harkness, Commander of 51 Scottish Brigade, said: "The Army is extremely sorry about the events that led to the tragic death of Cadet Kaylee McIntosh and for the loss suffered by her family in particular.

"We apologise unreservedly for any failures by the Ministry of Defence which contributed to her death. The Ministry of Defence has already learned lessons from this tragic incident and taken steps to prevent a recurrence."

Kaylee, from Fyvie, Aberdeenshire, was one of a number of cadets taking part in an exercise when the accident happened on Benbecula in stormy conditions in August 2007.

A total of 34 cadets had travelled from their base at Boddam, Aberdeenshire, for an exercise which involved a drill using boats to transport a heavy machine gun.

A previous fatal accident inquiry heard how seven other cadets and four adults from the 2nd Battalion of The Highlanders Army Cadet Force managed to swim free when the boat flipped over.

But Kaylee struggled to reach the surface because she was wearing the wrong size of life jacket, which was designed for an adult.

The inquiry heard the craft was taken out in force eight winds, though it was not designed for use in conditions above force five.

In his findings, Sheriff Alasdair MacFayden said that the teenager drowned because of 'numerous failures'.

McCallum pled guilty to failing to take reasonable care for the health and safety of the cadets and inadequately planning and assessing the risks involved in the exercise.

He admitted that Kaylee's unsuitable life jacket caused her to be "over-buoyant" and that she was not properly accounted for, delaying rescue attempts and resulting in her death.

Judge fines army cadet leader involved in Kaylee McIntosh death who was 'a cog in a much larger wheel'

<http://www.scotsman.com/news/judge-fines-army-cadet-leader-involved-in-kaylee-mcintosh-death-who-was-a-cog-in-a-much-larger-wheel-1-2644590>

November 19, 2012 By Alister Munro

A war veteran in charge of a “shambolic” Army Cadet training exercise in which a 14-year-old girl drowned was fined £5,000 for health and safety failures. But a sheriff said Major George McCallum was only “a cog in a much larger wheel” and called for action to be taken against others for their role in relation to the death of Kaylee McIntosh, from Fyvie, Aberdeenshire.

It was a sentiment repeated by the teenager’s parents, Lesley and Derek, outside Inverness Sheriff Court after sentencing on McCallum. The couple said: “Major McCallum is only one of a number of people who have to answer for their actions on

the day Kaylee was taken from us. “Our campaign does not stop here and we will continue to press the Crown Office to bring charges against several others implicated in the death of our daughter.”

McCallum, who served with the Parachute Regiment in the Falklands and Northern Ireland, had admitted contravening the Health and Safety at Work Act following the death of Kaylee McIntosh, from Fyvie in Aberdeenshire, in August 2007. Inverness Sheriff Court was told how the teenager had been pinned under the overturned hull of a speedboat which had capsized at Loch Carnan in South Uist for 90 minutes.



Kaylee McIntosh, who died in a training accident in the Outer Hebrides in 2007

She was wearing the wrong type of lifejacket – one designed for a soldier in full combat gear – and the over-buoyancy prevented Kaylee from swimming underwater to safety.

Sheriff: More must face justice on Kaylee McIntosh

<https://www.thesun.co.uk/archives/news/1051966/sheriff-more-must-face-justice-on-kaylee-mcintosh/>

20th November 2012 By LISA BOYLE Updated: 6th April 2016

AN angry sheriff yesterday fined a major over a tragic Army cadet’s death – then demanded more senior officers be prosecuted.

Kaylee McIntosh, 14, drowned after becoming trapped under a boat during a training exercise.

Major George McCallum, 52, in charge of the fateful trip in 2007, was yesterday fined £5,000 over her death. Sheriff William Taylor QC branded the expedition “utterly shambolic” and called for more to face justice.

He said: “Mr McCallum was just one cog in a much larger wheel. It’s my hope matters will not end here today.”

As Kaylee’s grieving family listened at Inverness Sheriff Court, the lawman added: “It’s common sense for anyone to ask what are the risks when you have the well-being of children in your care.

"There were others in a position to challenge Mr McCallum's planning but no one chose to do so. The shambles resulted in the tragic loss of a beautiful young woman and no fine will ever compensate the parents for the loss of their child."

Three cadet instructors were named in the sheriff's sentencing statement.

Kaylee, of Fyvie, Aberdeenshire, was one of 34 cadets on the trip to Loch Carnan, South Uist, in the Outer Hebrides.

During the incident, a head-count error meant nobody noticed Kaylee was missing for 90 minutes.

Her body was not found under the upturned hull for more than three hours. McCallum, of Peterhead, admitted failing to adequately plan and assess the risks to cadets.

Last night the Crown Office said there is "insufficient evidence" to prosecute anyone else.

But lawyer Glen Millar vowed to continue the family's legal fight to have others prosecuted.

Health and Safety Executive inspector Douglas Conner said: "The investigation into this tragic incident revealed a number of failings by Mr McCallum."

And a spokesman for the MoD, McCallum's employers, apologised "unreservedly," adding: "We'll review the Health and Safety Executive's report and take action."

Major fined £5000 over training exercise death of Army Cadet Kaylee McIntosh

<http://www.dailyrecord.co.uk/news/scottish-news/major-fined-5000-over-training-1445220>

19 NOV 2012

KAYLEE, 14, drowned when she was pinned under a boat during an exercise in 2007. Now her parents are demanding further prosecutions after the officer in charge was fined today.

THE parents of a teenage Army cadet who drowned on a training exercise have called for other individuals to be prosecuted as a former officer was fined £5000 for health and safety breaches.

Kaylee McIntosh, 14, died when she was pinned under a boat on Loch Carnan, South Uist, in the Outer Hebrides, in August 2007.

The schoolgirl, from Fyvie in Aberdeenshire, was one of 34 cadets taking part in the three-boat exercise.

Major George McCallum, 52, who was in charge of the boating operation, recently admitted a charge under the Health and Safety at Work Act in relation to the incident.

He was fined £5000 at Inverness Sheriff Court today, officials confirmed.

Following the hearing, the cadet's parents called for criminal proceedings to be brought against other people in the wake of the incident.

Derek and Lesley McIntosh said: "We would like to say that today, like the many other steps there have been on our road to justice, is about one person: our daughter Kaylee.

"We will never forget her, her warm smile, infectious laughter and the love she gave us. We think of her every minute of every day.

"No parent should have to endure what we have - the taking away of one so young and so dear for the very worst of reasons: that those she thought were there to provide for her safety, to look after her, to see her back to the warmth, love and safety of her home, could not be bothered taking numerous basic, yet fundamental, precautions, any one of which, if taken, might have seen Kaylee still with us today."

They thanked Sheriff William Taylor for "making us feel he is as outraged as us regarding what happened to Kaylee".

"We can now but hope that the Crown Office, who have taken five and a half years to bring Major McCallum to justice, give anxious consideration to the Sheriff's words, our views, those of our counsel, our solicitors Thompsons and ensure that outstanding criminal proceedings are now swiftly advanced against others culpable in respect of Kaylee's death," they said.

During the incident, a rescue effort was launched but an error in the head-count by organisers meant Kaylee was not found under the upturned hull until over three hours after the initial mayday call was made.

A Fatal Accident Inquiry was held in 2008, led by Sheriff Alasdair MacFadyen. He later outlined steps which could have prevented the teenager's death.

The charge admitted by Major McCallum, from Peterhead in Aberdeenshire, set out his failure to adequately plan and assess the risks involved in the safe transportation of cadets by boat and his failure to safely carry out the transportation.

Glen Millar, a partner at Thompsons Solicitors, which is acting on behalf of Mr and Mrs McIntosh, said: "Whilst the McIntosh family welcome conclusion of the case against Major McCallum today, they regard the matter of prosecutions arising from Kaylee's death as far from complete.

"Major McCallum was but one of a number of individuals implicated in the Fatal Accident Inquiry findings and in the report of the Marine Accident Investigation Branch.

"I am now instructed to write to the Lord Advocate enquiring as to what progress, if any, there has been towards prosecution of other culpable parties in this most tragic of cases."

Responding to the sentencing hearing, a Ministry of Defence spokesman said: "The Army and the Ministry of Defence are extremely sorry about the events which led to the tragic death of Cadet Kaylee McIntosh and for the loss suffered by her family in particular. Once again we apologise unreservedly for any failures by the Ministry of Defence which contributed to her death.

"The Ministry of Defence has already learned lessons from this tragic incident and taken steps to prevent a recurrence.

"When it becomes available, we will review the Health and Safety Executive's report and take action to address any additional areas of concern."

Mother of tragic army cadet Kaylee McIntosh attacks 'infuriating' FAI system

<http://www.dailyrecord.co.uk/news/scottish-news/mother-of-tragic-army-cadet-kaylee-1496653>

19 DEC 2012

KAYLEE'S mum Lesley is backing moves for a sweeping change of the fatal accident inquiry system after finding that nothing has been done to enforce the sheriff's recommendations.



The parents of a young Army cadet who drowned during a training exercise

THE mother of a teenage army cadet who drowned in a training accident wept yesterday as she attacked the way bereaved families are treated in death probes.

Kaylee McIntosh, 14, died when she was pinned under a boat on Loch Carnan, South Uist, in the Outer Hebrides, in August 2007.

The schoolgirl, from Fyvie in Aberdeenshire, was one of 34 cadets who took part in the three-boat exercise.

Now, her heartbroken mum Lesley is backing a move by MSPs for sweeping changes to the fatal accident inquiry system.

She was left "infuriated" by the FAI carried out into Kaylee's death and is also angry that recommendations made by Sheriff Alasdair MacFadyen following the FAI have not been acted upon.

Lesley said: "We felt alienated from the system throughout the whole process. "It was so infuriating and it is gobsmacking that nothing has been done to enforce recommendations made at the FAI.

"The system must be brought into the 21st century."

Lesley says her family have still not found closure – despite the man in charge of the boating operation, Major George McCallum, being fined £5000 last month.

McCallum, 52, recently admitted a charge under the Health and Safety at Work Act in relation to the tragedy.

Lesley added: "Going through the FAI was daunting. To have lost your daughter and then to have to go through that was really hard.

"We didn't learn anything new at the FAI. It wasn't in-depth and we weren't told what was going on."

One of Scotland's most senior judges, Lord Cullen, recommended changes to the system after a Government-commissioned review three years ago.

He said FAIs should not be held in court buildings and that sheriffs and lawyers involved shouldn't wear wigs and gowns. Lord Cullen also suggested FAIs should be held when Scots residents die abroad.

He said a central FAI team should be set up, led by an advocate depute or a trained senior prosecutor.

Many of Lord Cullen's proposals have not been carried out.

Labour MSP Patricia Ferguson is bidding to win support for a raft of improvements. Her proposed legislation will go further than Lord Cullen's recommendations, focusing on learning lessons for the future and allowing families to a greater role in the FAI process.

Justice Secretary Kenny MacAskill has said he will introduce the rest of the recommendations by the end of the current parliament.

A Scottish Government spokesman added: "We will consider the content and detail of Patricia Ferguson's proposals when they emerge after consultation."

Legal blow for family of army cadet drowned on exercise

<http://www.express.co.uk/news/uk/359318/Legal-blow-for-family-of-army-cadet-drowned-on-exercise>

Nov 20, 2012 By DAVID SCOTT

THE parents of a young Army cadet who drowned during a training exercise were dealt another blow last night as it emerged no one else would be prosecuted over her death.

A sheriff yesterday called for action to be taken against others as he fined the man responsible for the expedition £5,000 for his role in the death of Kaylee McIntosh. Sheriff William Taylor said Major George McCallum was only "a cog in a much larger wheel" but the Crown Office insisted there was "insufficient evidence" for further proceedings.

McCallum, 52, earlier pleaded guilty to breaching health and safety laws at Inverness Sheriff Court after a "catalogue of errors" led to the 14-year-old's death. Kaylee, from Fyvie in Aberdeenshire, died after becoming trapped under the hull of a capsized boat during a trip to Loch Carnan in the Outer Hebrides.


A head count error meant Kaylee was trapped for 90 minutes before anyone noticed she was missing.

In addition, she had been wearing the wrong type of life jacket, which resulted in her being pinned beneath the boat.

Kaylee was one of 34 cadets on the exercise when the boat overturned, in August 2007.

Sentencing McCallum, Sheriff Taylor described the scene of the tragedy as an "overall shambles, which resulted in the death of a beautiful young woman". And he added that he hoped the sentencing would not be the end of the matter.

Mr McCallum was just one cog in a much larger wheel and activities involved others as well as him. It is my hope matters will not end here today
Sheriff Taylor



The sheriff said: "Mr McCallum was just one cog in a much larger wheel and activities involved others as well as him. It is my hope matters will not end here today."

A previous fatal accident inquiry heard that the craft was not designed for use in winds above Force 5, but was taken out on the loch in Force 8 – gale force – conditions.

The Army has already apologised to Kaylee's parents, Lesley and Derek, while the Health and Safety Executive plans to censure the Ministry of Defence.

But despite Sheriff Taylor's plea the Crown Office said there were no plans for any further proceedings over Kaylee's "tragic and avoidable" death. A spokesman said: "Crown Counsel have concluded that on the available evidence there is insufficient evidence to prosecute any others involved in the death."

Mr and Mrs McIntosh, who had earlier called for more prosecutions, last night declined to comment on the decision.

But Glen Millar, the family's lawyer, said: "Setting aside that it is regrettable in the extreme that it has taken over five years to reach that view, Crown Counsel is in a minority of one when it comes to assessment of the evidence.

"My instructions remain to write to the Lord Advocate and no doubt he will provide a fuller explanation of the position after which all options open to the family will be considered."

Teenager drowned during "shambolic" army boat trip

<https://shponline.ubmemea.webfactional.com/teenager-drowned-during-shambolic-army-boat-trip/>

November 21, 2012

A man has pleaded guilty to safety breaches after a teenager drowned when the boat she was travelling in capsized during an Army cadet camp.

Inverness Sheriff Court heard Kaylee McIntosh, 14, was one of a number of cadets being transported by boat between Loch Carnan and Lock Skipport, on 3 August 2007.

George McCallum was in charge of the boating operation and was coxman of the vessel in which Kaylee was traveling. There were eight cadets and four adults on board, but only ten seats.

McCallum had also fitted a machine gun to the bow. Although, the addition of the firearm didn't overload the boat, it did make the craft lower at the front.

McCallum had placed the engine off-centre inside the boat, so the boat leant towards the port side. He also failed to activate the craft's bailing device, which would have released water that was collected inside the boat.

The weather created choppy conditions, and due to the boat tilting on the bow and port sides, water started to splash inside. McCallum instructed passengers to move over to the stern side to compensate against the excess water, but when they moved the boat capsized.

No head-count or note of names were taken before the boats departed, nor was there a formal record on or offshore of who was on the water. Kaylee was trapped underneath the upturned hull and she was unable to free herself as the adult lifejacket she was wearing pinned her under the boat when she inflated it.

Sergeant Vicky Lorimer, an instructor, escaped from under the boat and promised Kaylee she would come back for her. But, in her panic, she forgot to immediately inform anyone that Kaylee was trapped.

When a headcount of survivors was carried out, no one noticed Kaylee was missing and the coastguard was advised that all the cadets had been rescued. She was subsequently recovered from under the upturned hull more than three hours after the initial distress call was made. She was airlifted to hospital, where she was pronounced dead.

HSE inspector Douglas Conner told SHP that McCallum had failed to adequately plan and identify the risks involved, and no written risk assessment had been created. He said: "The transportation of cadets by craft required adequate planning and assessment of the risks involved, and the accused failed in his duties to carry out both of these crucial elements to ensure that Kaylee and other cadets involved in the activity were safe."

"Those failings resulted in the entirely avoidable loss of the life of a young girl." McCallum appeared in court on 19 November and pleaded guilty to breaching s7(a) of the HSWA 1974. He was fined £5000 but no costs were awarded as the case was heard in Scotland.

In mitigation, McCallum expressed his remorse for the incident and said he had fully cooperated with the investigation and entered an early guilty plea. The Daily Record reported that Sheriff William Taylor made it clear he felt McCallum shouldn't be the lone scapegoat.

The Sheriff launched a scathing attack on the organisation of the expedition, which he slammed as "shambolic". In delivering his sentence, he said: "McCallum was just one cog in a much larger wheel and the activities involved others, as well as him. It is my hope matters will not end here today."

The HSE has also initiated Crown Censure proceedings against the Ministry of Defence in relation to the incident.

MoD censured over cadet Kaylee McIntosh's death

<http://www.bbc.com/news/uk-scotland-north-east-orkney-shetland-21201543>
25 January 2013 From the section [NE Scotland, Orkney & Shetland](#)

The Ministry of Defence has been censured over safety failings that led to the death of a 14-year-old girl during an army cadet exercise.

Kaylee McIntosh, 14, from Fyvie, Aberdeenshire, drowned after becoming trapped under a boat during a training exercise in Loch Carnan in the Outer Hebrides in 2007.

No-one had initially realised that Kaylee was missing.

The Health and Safety Executive said there were organisational failings.

HSE's director for Scotland and Northern England, David Snowball, said: "The various investigations into the circumstances surrounding this tragic incident revealed a number of organisational failings by the MOD.

"HSE's investigation has confirmed that primary failings during the activity amplified a number of significant underlying organisational failures.

"In particular, there was evidence of poor planning, leadership and execution of the exercise, coupled with inadequate oversight, procurement, monitoring and training arrangements. These all contributed to the events that took place.

"A Crown Censure is the maximum enforcement action that HSE can take and it serves to illustrate how seriously we take the failings that led to the death of Kaylee McIntosh."

Prevented death

In a statement, General Sir Nick Parker officially accepted the Crown Censure, acknowledging health and safety failures.

"Today, I have accepted a Crown Censure on behalf of the army in relation to the death of Cadet Kaylee McIntosh, while on cadet camp at Loch Carnan in August 2007," he said.



"We recognise the failings by the Army and, once again, we apologise unreservedly for how they contributed to Kaylee's death.

"The Army will continue to support the McIntosh family for as long as they need it."

Kaylee was one of 34 cadets on the training exercise when her boat overturned. A fatal accident inquiry into the incident heard evidence over 10 days.

Sheriff Alasdair MacFadyen published his findings in 2009, saying that a number of precautions could have been taken that would have avoided the accident or prevented Kaylee's death.

In November, the man responsible for the expedition was fined £5,000. Major George McCallum, 52, admitted health and safety charges at Inverness Sheriff Court.

Families Against Corporate Killers

www.parliament.scot/S4.../Inquiries/FA33._Families_Against_Corporate_Killers.pdf

Apr 30, 2015 - and why of their loved one's death, and they want to know that lessons are ... Fourteen-year-old army cadet **Kaylee McIntosh died** in a drowning incident.

Justice Committee

Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill Written submission from Families Against Corporate Killers

1. Families Against Corporate Killers (FACK) is an ever-growing group of families, united by the bond of having lost loved ones in work-related incidents. These families have formed a national campaigning network which aims to stop workers and others being killed in preventable incidents and which will direct bereaved families to sources of legal help and emotional support, as well as advocacy and support through investigation and prosecution processes.
2. Families bereaved as a result of unsafe and unhealthy workplaces are angry and frustrated. They feel they have been robbed twice: once of their loved ones in incidents that should have been prevented if employers had simply obeyed the law on workplace health and safety; and secondly of their right to justice.
3. In respect of fatal accident inquiries, there are a number of current failures in the processes which we would like to see remedied, because families who have lost loved ones in work-related incidents want to know as quickly as possible the how and why of their loved one's death, and they want to know that lessons are going to be learned to stop others losing their lives or their loved ones in incidents that could and should be prevented.
4. Not all of the families referred to in this evidence have made contact with FACK, but we understand and share their frustrations and concerns and therefore use them for illustrative purposes.

Time limits and timing of FAIs

5. Time limits within which an FAI should be convened must be introduced in order to put an end to the years families are currently having to endure waiting for answers. We also believe the practice of holding off on having an FAI until after the criminal proceedings have been concluded needs to be reviewed. Inquests most commonly take place in England and Wales before the criminal proceedings. We would rather an FAI was commenced within months of a death and adjourned to allow the criminal proceedings to take place should that be deemed necessary, than for an FAI to either not take place, or to take place many years after the death. Fourteen-year-old army cadet Kaylee McIntosh died in a drowning incident on 3 August 2007.

Within around 6 months of her death, the Marine Accident Investigation Branch had issued an interim report. Such reports state at their outset: "This report is not written with litigation in mind and, pursuant to Regulation 13(9) of the Merchant Shipping (Accident Reporting and Investigation) Regulations 2005, shall be inadmissible in any judicial proceedings whose purpose, or one of whose purposes is to attribute or apportion liability or blame."¹

¹ <https://assets.digital.cabinet-office.gov.uk/media/547c701eed915d4c1000006f/RigidRaidReport.pdf>

Were such reports to be issued by the HSE, these could be considered alongside witness testimony at an FAI convened in early course.

6. The death of firefighter Ewan Williamson has been a focus for the media in recent months following the guilty plea by the Fire Service. This comes nearly 6 years after Ewan's death. The press release issued by COPFS² after the conclusion of the criminal proceedings stated "Crown Counsel will consider whether or not it is in the public interest to hold a Fatal Accident Inquiry" into his death.

7. So, families are being asked for their views after the conclusion of criminal proceedings which, as Ewan's case illustrates, can be very many years on from the death. It is not difficult to understand why their views may be rather different after such a length of time, than they would have been just months after the death. A family will very often end up exhausted by the process. Because all too often families are left to engage in a battle with the justice system, a system which **should** be there to serve them. And just when they are getting to the end of the criminal processes, energies drained, they are being asked to put themselves through more pain to get answers they should have had years ago, and to what end, because any recommendations that could be made are not enforceable, not meaningful. So, little wonder many decide it is not for them.

8. It is the rule, not the exception, for families to have to wait lengthy periods for answers. We would therefore take issue with the assertion in the policy memorandum accompanying the Bill that Lord Cullen's recommendation in this regard - that FAI's should be held as promptly as possible after the death - has been implemented. The widows of the three men who died on the Flying Phantom had to wait nearly 7 years for the conclusion of criminal proceedings and for the decision to be taken not to proceed with an FAI³. The families of those the 16 men who lost their lives in the Super Puma helicopter had to wait nearly 5 years before an FAI was held into their deaths⁴.

9. It is utterly unacceptable that families are having to wait so long for answers as to why their loved ones died. The stress of getting through each day without a husband, son, parent, sibling etc by your side is hard enough. Doing that while not knowing how or why they died makes it all the more unbearable.

10. That is not to say that some healing does not take place during the wait for answers. It can. But then any wounds which have begun to heal are ripped open again by finding out new information so long after the event. So, for example, an FAI was held into the death of Dr Graham Meldrum at Allied Bakeries on 12 July 2005⁵, a death caused by his head being impaled on the faulty tail-lift of a truck. His partner, friends and family, more than 3 years after his death, had to listen as lawyers argued about which way the blood had been running

down his head. They also found out that at least 4 reports had been made in the course of 2 years leading

² <http://www.copfs.gov.uk/media-site/media-releases/1017-crown-office-considering-fatal-accident-inquiry-into-the-death-of-ewan-williamson>

³ <http://www.copfs.gov.uk/media-site/media-releases/874-hma-v-clydeport-operations-limited-and-svitzer-marine-limited-fatal-accident-inquiry-decision>

⁴ <http://www.scotland-judiciary.org.uk/10/1244/Fatal-Accident-Inquiry---Super-Puma-Helicopter-Crash>

⁵ <https://www.scotcourts.gov.uk/opinions/meldrum.html>

up to Graham's death about faulty tail lifts on the company's lorries. Opportunities to perhaps have prevented Graham's death, being disclosed 3 and a half years after his death, and acting like body blows.

Witness testimony

11. There is also a very real issue with the quality of witness testimony so long after the event. The families of the 9 people who died in the ICL Stockline explosion

– which occurred on 11 May 2004 - waited more than 4 years for a public inquiry into their loved ones' deaths to begin, and a further year for the final inquiry report to be published⁶. In the lead up to the inquiry, some expressed the opinion that one key problem they could foresee was the fact that survivors didn't want to be involved. Many were back at work and didn't want to talk.

12. In other circumstances families have spoken of witnesses saying one thing in the immediate aftermath of the incident which led to the death, then, years on during FAI, inquest or court proceedings, their recollection has either changed, or is so hazy as to be worth very little. This might be because they truly don't remember because of the passage of time. It may also be because they have been promoted within the same company and don't want to be seen rocking the boat. Or it may be that they were dismissed after the incident in question and having subsequently found it difficult to find work, they don't want to be seen raising their head above the parapet again.

13. Often, where a "mandatory" FAI does not take place, it is because it is said that the full facts and circumstances have been explored in criminal proceedings. Yet, in those criminal proceedings, there has often been no trial as the employer has pled guilty. We therefore question how the full facts and circumstances can have been explored when witnesses have not been heard from.

Learning lessons and making enforceable recommendations

14. The policy memorandum issued alongside the Bill states that “of the 50-60 inquiries held every year, very few ever come to the attention of the Government, Parliament or the media.” This in itself is surely indicative of the fact that lessons are not being learned from the current system.

15. Expediency is again an issue in ensuring lessons are learned. Brian French, a father of five, and Colin Ferguson were killed when their Land Rover was crushed by a 100 tonne truck at Pennyvenie opencast mine on 26 February 2007⁷. Other than a standard letter received a month later, Brian and Colin’s families received no information from the procurator fiscal until more than 15 months after the deaths of their loved ones. This came only after they wrote to the then Lord Advocate to tell her they had been very patient, and they thought some might say too patient because in the months they waited for news about a prosecution, Jim Griffin (a father of three) was crushed between 2 dumper trucks at Pennyvenie. The FAI into the deaths of Brian and Colin didn’t take place until more than 4 years after their deaths.

⁶ http://www.theinquiry.org/documents/documents/HC838ICL_Inquiry_Report.pdf

⁷ <https://www.scotcourts.gov.uk/opinions/2011FAI32.html>

It is painful to suggest, but perhaps if it had been held sooner, Jim’s death could have been avoided.

16. Two years after the death of Michael Adamson in an electrical incident, his sister read about Barry Martin, electrocuted at work in 2003⁸. Barry’s employer had failed to ensure power switches were safely isolated to prevent their inadvertent reconnection. The judge described the 4 years it took to get that case to court as a “matter of regret”. Michael’s sister puts it more strongly than that, because her brother died because of that exact same failure⁹, as did 6 other electricians between 2004 and 2006. Barry Martin’s death did not take place in Scotland. But if it had, and if an FAI had taken place swiftly, with binding recommendations made to electrical contractors, Michael’s death (and others) may very well have been avoided. The public interest would therefore be served by ensuring binding recommendations can be made (preferably by specialist sheriffs).

Fatal incident inquiries

17. Far too often a work-related death is described as an “accident waiting to happen”. We dispute whether an accident waiting to happen can truly be described as an accident. We would therefore advocate a change of focus away

from "accident" to "incident".

Conclusion

18. A family who loses a loved one in a work-related incident needs to know that the death has not been for nothing. There is a fundamental need to know that some good is going to come from the death. We would urge you to put that at the heart of your deliberations on the Bill.

Families Against Corporate Killers
30 April 2015

⁸ <http://news.bbc.co.uk/1/hi/england/essex/6647121.stm>

⁹⁹ <http://www.hse.gov.uk/press%5C2008/scot05008.htm>