

**MCIB**

Marine Casualty Investigation Board  
*Bord Imscrúdú Taisní Muirí*



**REPORT OF THE  
INVESTIGATION INTO THE  
FATAL INCIDENT  
INVOLVING  
*'FV KERRI HEATHER'*  
EAST OF KILMICHAEL POINT,  
ARKLOW, CO. WICKLOW  
ON  
16th NOVEMBER 2016**

**REPORT NO. MCIB/268  
(No.1 OF 2018)**

The Marine Casualty Investigation Board (MCIB) examines and investigates all types of marine casualties to, or on board, Irish registered vessels worldwide and other vessels in Irish territorial waters and inland waterways.

The MCIB objective in investigating a marine casualty is to determine its circumstances and its causes with a view to making recommendations for the avoidance of similar marine casualties in the future, thereby improving the safety of life at sea.

The MCIB is a non-prosecutorial body. We do not enforce laws or carry out prosecutions. It is not the purpose of an investigation carried out by the MCIB to apportion blame or fault.

The legislative framework for the operation of the MCIB, the reporting and investigating of marine casualties and the powers of MCIB investigators is set out in The Merchant Shipping (Investigation of Marine Casualties) Act, 2000.

In carrying out its functions the MCIB complies with the provisions of the International Maritime Organisation's Casualty Investigation Code and EU Directive 2009/18/EC governing the investigation of accidents in the maritime transport sector.



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## Glossary of Abbreviations and Acronyms

LOA	-	Length Overall
BIM	-	Bord Iascaigh Mhara
PFD	-	Personal Floatation Device
MOB	-	Man Overboard
VHF	-	Very High Frequency (radio)
DSC	-	Digital Select Calling
UTC	-	Universal Coordinated Time (Greenwich Mean Time)
CG	-	Coast Guard
LB	-	Offshore Lifeboat
MRCC	-	Marine Rescue Coordination Centre
EPIRB	-	Emergency Position Indicating Radio Beacon
PLB	-	Personal Locator Beacon
HSA	-	Health & Safety Authority
DOC	-	Declaration of Compliance stating vessel complies with the Code of Practice
GPS	-	Global Positioning System

	<b>PAGE</b>
<b>1. SUMMARY</b>	<b>4</b>
<b>2. FACTUAL INFORMATION</b>	<b>5</b>
<b>3. NARRATIVE</b>	<b>8</b>
<b>4. ANALYSIS</b>	<b>11</b>
<b>5. CONCLUSIONS</b>	<b>14</b>
<b>6. SAFETY RECOMMENDATIONS</b>	<b>16</b>
<b>7. APPENDICES</b>	<b>17</b>
<b>8. NATURAL JUSTICE - CORRESPONDENCE RECEIVED</b>	<b>25</b>

## 1. SUMMARY

On the morning of the 16th November 2016, the fishing vessel '*FV Kerri Heather*' departed from Arklow with three persons on board. The purpose of the voyage was to lift and bait lines of pots. At approximately 09.00 hrs, as the second line of pots was being hauled, the Crewman at the hauler fell overboard. Despite immediate attempts to recover him, and a subsequent search by lifeboats, fishing vessels and helicopters, the person was not recovered. Searches continued until 2nd December without recovery of the person. On the 11th January 2017, a body was recovered on the South West coast of Anglesey and was subsequently identified as the missing fisher.

Note all times are local time = UTC + 1.

## 2. FACTUAL INFORMATION

### 2.1 The vessel

Name:	<i>'FV KERRI HEATHER'</i> .
Type:	Half decked wooden vessel.
Fishing No:	WD 250.
Length Overall (LOA):	11.98 metres (m).
Breadth:	4.380 m.
Depth:	2.00 m.
Height of Gunwale:	720 mm above deck at pothauler.
Year:	1971.
Construction:	Carvel - wood, pine planks on oak frames.
Engine:	Inboard diesel, Ford - 16.5Kw.

### 2.2 Description of the Vessel (see Appendix 7.1 Photograph No. 1)

The hull of the vessel was of wooden carvel construction with a raked stem and transom stern. The frames were of oak and hull planking of pine. The fore part was decked with a steel wheelhouse and cabin in the forecastle. The vessel had a hydraulic pot hauler on the starboard side just outside the wheelhouse door. The hydraulic power was supplied by a pump driven from the main engine. There was a steel ramp on the starboard side from which the pots were stored and launched.

### 2.3 Crew of *'FV Kerri Heather'*

Skipper: Irish male late 20's, fisher for 12 years, skipper for four months.

Crewmember No. 1: The Casualty, Irish male late 40's, experienced fisher.

Crewmember No. 2: Polish male early 20's, 4th day fishing.

The Skipper and Crewmember No. 1 had completed Bord Iascaigh Mhara (BIM) basic training.

None of the crew had a radio operator's certificate.

## 2.4 Safety Equipment

Three Mullion Safe Link Solo Compact 150 inflatable Personal Floatation Devices (PFDs) each fitted with a Personal Locator Beacon (PLB).

Three inflatable PFDs.

Three solid buoyancy lifejackets.

A float free Emergency Position Indicating Radio Beacon (EPIRB) on wheelhouse roof.

Two life rings on wheel house roof.

Two parachute flares, four hand held red flares, two hand held orange smoke flares.

## 2.5 Other Equipment

Two ICOM M144 Very High Frequency (VHF) radios - with Digital Select Calling (DSC), both operational.

Global Positioning System (GPS) chart plotter/navigator.

Furuno Radar.

## 2.6 Licence & Survey

Polyvalent/general licence.

The vessel held a Declaration of Compliance (DOC) with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall following a survey in April 2016.

The DOC stated the number of crew was two persons.

## 2.7 Voyage Particulars

An inshore fishing (potting) voyage approximately 6 miles South East of Arklow, Co Wicklow.

## 2.8 Marine Incident Information

Type: Man overboard (MOB), Fatality - very serious.

Date: 16th November 2016.

Time: Between 09.00 hrs and 09.20 hrs UTC.

Position:	Lat 52° 44'N - Long 006° 02'W.
Weather:	SW 4-6, Fine & clear (see Appendix 7.2 Met Éireann Weather Report).
Sea State:	Southerly swell - wave height 1.4 m to 2.1 m max.
Tide Information:	High Water Dublin 00.18 hrs and 12.40 hrs range: Spring tides.  Tidal stream at 09.00 hrs set 025° drift 3 N Miles.
Sea Temperature:	11°C.
Ship Operation:	Fishing - pot hauling.
Place on board:	Fell from deck.
Human Factors:	(1) Unsafe working operations. (2) Person not wearing PFD. (3) Failure to recover casualty.
Equipment Factor:	None.
Consequences:	Fatality.

## 2.9 Shore Authority Involvement and Emergency Response

On receipt of the distress call by VHF radio with DSC at 09.20 hrs on the 16th November, Marine Rescue Coordination Centre (MRCC) Dublin took control of the situation. Arklow Lifeboat and the SAR Helicopter R117 were tasked and arrived on site by 10.00 hrs.

Searching continued with the addition of Wicklow and Rosslare Lifeboats and fishing vessels from Arklow until nightfall. Searches by Arklow Lifeboat and local fishing boats continued weather permitting until the 2nd December. For a timeline of events (see Appendix 7.3).

## 3. NARRATIVE

- 3.1 On the 28th April 2016, the 'FV Kerri Heather' was issued with a DOC with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall. This declaration stated the number of crew as two, however, the owner stated he had declared Skipper and two crew, because he believed two crew to mean in addition to the Skipper. He was of the opinion that there was sufficient safety equipment for three persons when surveyed. The space for the radio operators certificate number was left blank.
- 3.2 In July 2016, the owner of the 'FV Kerri Heather' appointed a new skipper of the vessel on a share fisher basis. The Skipper had been a crewmember on various vessels for about twelve years and this was his first employment as skipper. A total of three persons were required to work the vessel for the type of fishing being carried out and the Skipper was responsible for finding the two additional crewmembers. The Skipper had a BIM Safety Course certificate but did not have a radio operator's certificate, or any formal training in navigation.
- 3.3 At the time of the incident the vessel was not compliant with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall as (1) it was valid for only two crewmembers, (2) the Skipper did not have the required radio operators certificate and (3) one crewmember did not have the required safety training. In addition, there was no "Fishing Vessel Safety Statement" on board.
- 3.4 The Skipper stated that the vessel required three persons on board to carry out the type of fishing it was engaged in and that he would not proceed to sea without two crewmembers in addition to himself. There were two crewmembers who sailed on the vessel on a regular basis. When they were not available substitute crew were found. On investigation, it was ascertained that neither of the two regular crewmembers had completed the required safety training.
- 3.5 On the 16th November 2016 at 07.45 hrs the fishing vessel 'FV Kerri Heather' proceeded to sea on a voyage to haul and bait pots. The crew of the vessel consisted of the Skipper, and two other crewmembers. None of the crew were wearing PFDs. No vessel familiarisation or safety discussion was held before departure.
- 3.6 Crewmember No. 1 had not sailed on this vessel prior to this voyage, but was an experienced fisher and was replacing one of the usual crew for the day. He had recently completed the BIM safety training course and was employed on another vessel based in Arklow Harbour on a regular basis. Crewmember No. 2 had just started fishing and this was his fourth day out on the vessel. He had not completed any safety training.
- 3.7 The weather forecast was for max force 7 with a small craft warning in place. The Skipper considered that the sea would not be too rough to haul pots as the wind

direction was from the South West and to veer Westerly. As they would be working relatively close to the shore and be in the lee of the land, they would be relatively sheltered.

- 3.8 The vessel proceeded South East of Arklow and at about 08.30 hrs started to haul the first line of pots. There were 30 pots to each line with an anchor and a marker buoy at each end of the line. The anchors and pots had short lengths of line which were attached to the main line with knots. The anchor and pots were hauled on board and placed on the ramp on starboard side of the vessel (see Appendix 7.1 Photograph No. 2). When the catch was removed and the pots were baited the pots were shot astern off the ramp. The first line was hauled, baited and shot by 09.00 hrs and they commenced to haul the second line. The Skipper was in the wheelhouse manoeuvring the boat, the experienced fisher, Crewmember No. 1, was hauling the pots on the pothauler just outside the wheelhouse door (see Appendix 7.1 Photograph No. 3). The height of the bulwark at this point was 720 mm, which is approximately mid-way between a person's knee and hip. Crewmember No. 2 was on aft deck preparing the bait.
- 3.9 The anchor for the second line of pots had been hauled out of the water and was placed on the ramp beside the hauler. At this point, Crewmember No. 1 on the pothauler fell overboard. The Skipper and Crewmember No. 2 both stated that the first anchor to the line of pots had been hauled on board and was placed on the forward end of the ramp. The Skipper was just coming out of the wheelhouse to take over the hauling when he heard a "whack" and Crewmember No. 2 shout "he has gone overboard". Crewmember No. 2, who was standing about five meters away, stated he saw Crewmember No. 1 and the anchor go overboard at the same time. The rope, hauling the pots, had also come off the pothauler as the vessel was reported to have drifted with the wind and tide, and was not secured to the line of pots. The exact order of events is not clear. Either the line came off the pothauler and then the anchor pulled the man overboard, or the man fell overboard and having let go the line, it came off the hauler and the anchor was pulled overboard behind him.
- 3.10 The Skipper threw a lifejacket but the Casualty in the water did not reach for it. The Casualty was not responding to calls from the Skipper or attempting to swim. The Skipper threw the line with the small grapple used to pick up the buoys for the pots, it landed beside the Casualty but he did not reach for it. The Skipper then grabbed a lifejacket and jumped into the water and swam to the Casualty and caught hold of his oilskin jacket. He was trying to don his own lifejacket at the same time and he lost his grip on the Casualty who slipped away and sank into the water. There was no response from the Casualty during this time.

- 3.11 The Casualty and Skipper had drifted away from the vessel. The Skipper shouted to Crewmember No. 2 to operate the engines and bring the vessel over to him. He then managed to grab a rope on the stern and haul himself back on board. Once on board he pressed the distress button on the VHF, this was timed on receipt at 09.20 hrs.
- 3.12 On receipt of the distress message the MRCC Dublin took charge and tasked the Arklow Lifeboat and the SAR Helicopter.
- 3.13 The Arklow Lifeboat arrived at the '*FV Kerri Heather*' at 09.46 hrs and found the Skipper on deck dressed in jeans and t-shirt and in the first stages of hypothermia. The lifeboat crew suggested that the Skipper be transported back to Arklow on board the lifeboat and that the lifeboat crew would take the '*FV Kerri Heather*' back to port. The Skipper refused this offer and the lifeboat crew supplied a coat and a blanket for the Skipper. Subsequently the '*FV Kerri Heather*' was directed back to Arklow by the MRCC Dublin and the Skipper was treated for hypothermia by an ambulance crew on arrival.
- 3.14 The SAR helicopter arrived at 10.00 hrs and commenced searching to North East of the position of the '*FV Kerri Heather*'. The Arklow Lifeboat also commenced searching and was joined by Wicklow and Rosslare Lifeboats along with other vessels from Arklow. The search continued until sunset on the 16th November.
- 3.15 Further searches were carried out from the 17th November to the 2nd December, during which time the search area was expanded (see Appendix 7.4 Chartlet 1 for initial search area). The searches were intermittent due to weather conditions. The casualty was not recovered during this time.
- 3.16 On the 11th January 2017, a body was found on the South West coast of Anglesey in North Wales. The body was subsequently identified as the missing fisher. The post mortem report concluded death was due to drowning.

## 4. ANALYSIS

### Man overboard

- 4.1 The regulation height of the bulwarks or guard rails is 1,000 mm above the deck, however, the height may be reduced “where there would be unreasonable interference with the efficient operation of the vessel”. The bulwark height at the pot hauler is 720 mm, which is approximately mid-way between a person’s knee and hip thus increasing the risk of falling overboard to the person operating the pot hauler. A sudden motion of the vessel could unbalance the operator and pitch him over the side.
- 4.2 The vessel was hauling pots in a 3-knot tide and the strong westerly wind, which would put an increased strain on the hauler. The anchor was placed on the ramp behind the operator and not secured. Loss of tension of the line on the pot hauler would cause the pot line to slip and pull the anchor back overboard, hitting the man on the hauler as it went. Loss of control could be due to one of the lines to a pot, with its knot passing over the pot hauler or due to the line slipping off the pothauler as the vessel sheered (i.e. swinging from side to side from the direct course), or a combination of both.
- 4.3 There were three Mullion Safe Link Solo Compact 150 inflatable PFDs each fitted with a PLB on board. Neither these nor any other type of PFD were being worn at the time of the incident, with the result the casualty sank whilst the Skipper was donning a lifejacket in the water beside him.

### Attempts to recover the Casualty

- 4.4 Crewmember No. 1 who fell overboard was unresponsive to shouts from the Skipper, nor did he attempt to swim or stay afloat. He did not reach for the lifejacket that was thrown, nor attempt to catch the line thrown to him. When the Skipper entered the water, he did not attempt to catch hold of the Skipper. This indicates that he was unconscious. He possibly hit his head on the pot hauler as he went overboard or the anchor hit him when he was in the water.
- 4.5 Normal MOB drill is to manoeuvre the vessel alongside the casualty and then secure him alongside with a line or a boathook until a means of lifting on board can be rigged. Under the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall section 7.9, there should be a retrieval system for recovering persons from the water (see Appendix 7.5). It is also recommended that an immediate “MAYDAY” call be made by radio in the event of a MOB situation. On this vessel, there were two VHF radios with DSC distress buttons.

- 4.6 The MOB rescue procedure requires forethought, preparation and practice. The Skipper stated that in his twelve years serving on fishing vessels he never took part in a MOB drill, or other safety drill except for a couple of fire drills.
- 4.7 By entering the water, the Skipper put his own life at risk, particularly as the vessel was drifting because of the wind and strong tidal current. Crewmember No. 2, who was left on board, had no training or knowledge on how to operate the engines, steering and the safety equipment.

### Safety management on board

- 4.8 The Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall recommends in Section 8.9.7 that vessels of less than 12 m in length should follow the requirements for Musters and Drills in section 8.9 (see Appendix 7.5). The '*FV Kerri Heather*' kept a log book for the record of catches and there was no record of musters or drills carried out on the vessel.
- 4.9 The requirement for skippers and crews of fishing boats less than 15 m LOA is to undergo a three day Basic Safety Course with a refresher course every five years. This course covers personal survival in the water, elementary first aid and basic firefighting. In the interim, regular safety drills should be performed to maintain proficiency and preparation for emergencies.
- 4.10 As a place of work there are requirements that operations on the vessel are carried out in a safe manner. The Health & Safety Authority (HSA) publishes a pro forma "Fishing Vessel Safety Statement" and an information book "Managing Health & Safety in Fishing". There appeared to be a lack of awareness of the existence and content of these documents.
- 4.11 There were no risk assessments undertaken for the fishing operations being carried out. The vessel put to sea to haul pots at the maximum tidal stream and in poor weather.
- 4.12 The Skipper of the '*FV Kerri Heather*' had learnt his trade by experience in a sector of the industry which has been identified as having a poor safety culture. The basic safety training he obtained was not adequate for responsibilities of a skipper of a fishing vessel which requires the ability to assess the safety risks for all operations on the vessel.

### Declaration of Compliance

- 4.13 The Owner of the vessel is responsible for ensuring the vessel complies with the regulations during the four year validity of the "Declaration of Compliance" and that all the appropriate sections are completed correctly.

## The SAR response and subsequent search

- 4.14 The Arklow Lifeboat and the SAR Helicopter R117 were tasked immediately on receipt of the VHF DSC distress call. They began a systematic search down tide within 25 minutes of tasking. Wicklow and Rosslare Lifeboats joined the search within two hours of the distress call. Other vessels from Arklow also joined the search. The chartlet in Appendix 7.4 shows the limits of the search area. Given the weather conditions and tides the search pattern was very thorough and had the Casualty been wearing a PFD then a recovery would have been more likely.

## 5. CONCLUSIONS

- 5.1 The Casualty in the water was most likely concussed or unconscious, after he fell overboard, as he did not attempt to swim or stay afloat. He did not respond to the actions of the Skipper nor attempt to grab on to the Skipper when they were in the water together.
- 5.2 The lack of preparation, procedure or drills for a MOB situation resulted in a delay of 20 minutes before the alarm was raised.
- 5.3 The response of the Skipper to the emergency was not in accordance with good practice and could have resulted in the loss of his life.
- 5.4 The Skipper's experience and training was not adequate for a skipper of a fishing vessel with crew.
- 5.5 Prior to sailing there was no vessel familiarisation or safety briefing for the new crewmembers. The main consequence of this failure was a 20 minute delay in raising the alarm.
- 5.6 The crew were not wearing PFDs. Under SI No. 586/2001 it is a requirement to wear a PFD by all persons on the exposed deck of a fishing boat. This vessel had six inflatable PFDs, three were fitted with PLBs. Had the casualty been wearing a PFD he would have remained afloat, even if unconscious.
- 5.7 The vessel was not compliant with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall as outlined in 3.3 above.
- 5.8 Under the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall section 8.7 (see Appendix 7.5) it is the owner's responsibility to ensure skipper and crew are qualified and competent to manage the vessel. In this case the Skipper did not have the required radio certificate and crewmembers without BIM safety certificates were being employed.
- 5.9 In the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall there are certain requirements for fishing vessels that are only recommendations for vessels under 12 m. One such recommendation for vessels less than 12 m is for emergency drills. Had this been a requirement for the 'FV Kerri Heather' and such drills been carried out the crew would have been better prepared for the emergency on the 16th November. In any event whether this is a requirement or not, good practice would ensure that these drills are carried out.

5.10 Of the top ten factors contributing to loss of life at sea in Ireland identified by the Department of Transport Tourism and Sport Maritime Safety Strategy the following four are present in this incident.

- The need for an enhanced maritime safety culture.
- Lack of crew training.
- Non-wearing of PFD (lifejacket/buoyancy aid).
- Inadequate enforcement of regulations.

The Maritime Safety Strategy proposes actions to address the risks. Those relevant to this incident are:

- Action 11 - develop a user-friendly logbook for fishing vessels less than 15 m in length.
- Action 14 - Explore the introduction of Certificates of Competency (Deck and Engine) and Certificates of Proficiency for the crews of all fishing vessels, in consultation with the relevant stakeholders.
- Action 28 - Examine the possibility of extending Fixed Payment Notices to more offences.
- Action 29 - Develop an enhanced flag state inspection regime on fishing vessels.
- Action 30 - Publicise prosecutions of maritime safety related offences.

## 6. SAFETY RECOMMENDATIONS

6.1 That the Minister for Transport, Tourism and Sport should:

- Issue a Marine Notice to draw attention to the necessity of regularly holding drills
- Consider making the holding of drills mandatory for fishing vessels <12 m
- Consider the introduction of a skipper's qualification for small fishing vessels as part of action 14 of the Maritime Safety Strategy.

6.2 That owners of fishing vessels must ensure that crewmembers:

- Hold the required qualifications
- Wear PFDs in compliance with SI 586 of 2001
- Operate and maintain their vessels in accordance with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall.

## 7. APPENDICES

	PAGE
7.1 Photographs	18
7.2 Met Éireann Weather Report	20
7.3 Timeline of events	21
7.4 Chartlet of the fishing and search area	22
7.5 Extracts from “The Code of Practice - Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall”	23

### Appendix 7.1 Photographs.



Photograph No. 1: The 'FV KERRI HEATHER'.



Photograph No. 2: The 'FV KERRI HEATHER' viewed from astern, note pot hauler and ramp on starboard side.

Appendix 7.1 Photographs.



Photograph No. 3: Position of person at pot hauler when hauling pots. The anchor was reported to be on the ramp in foreground of the photograph. When falling forwards a person could hit their head on the hauler.

## Appendix 7.2 Met Éireann Weather Report.



**MET ÉIREANN**  
*The Irish Meteorological Service*

24-November-2016

**Our Ref.** WS3018/2\_16487  
**Your Ref.** MCIB/12/268

**Re:** Estimate of weather conditions East of Kilmichael Point, Arklow, Co Wicklow at position 52° 44.00 N 006° 02.00 W from 00:00 hours to 06:00 hours and from 06:00 to 12:00 hours, on the 16<sup>th</sup> November 2016

*General Meteorological Situation: A fresh to strong southwest airflow covered Ireland during the early hours of the period. A cold front traversed the particular area southeastwards at approximately 09:00 hours followed by a fresh west flow.*

**Forecast 00:00 hours to 06:00 hours**

**Wind:** From 240 degrees - mean speed 17 to 22 knots (Beaufort force 5 to 6), with occasional gusts 28 knots (Force 7).

**Weather:** Fair

**Temperatures:** Air temperature 7 to 8 degrees Celsius; Sea temperature 11 degrees.

**Visibility:** Good (Greater than 10 km).

**Sea States** Sea Significant Wave Height 0.8 meters/4 seconds combined with 1.0 meter Swell. Total SWH South 1.3 meters/5 seconds. Max wave height 2.0 meters.

**Forecast 06:00 hours to 12:00 hours**

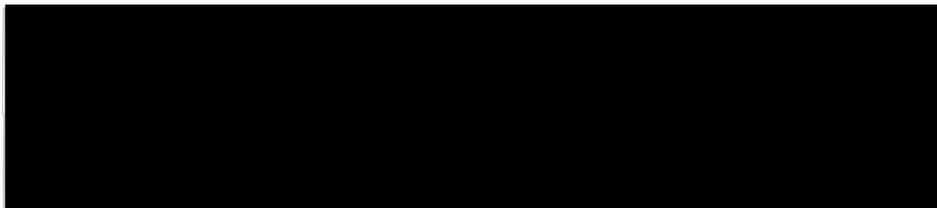
**Wind:** From 240 degrees veered 270 at approximately 08:30 hours -- mean speed

**Weather:** 19 to 23 knots (Force 5 to 6) occasional gusts Force 7.

**Temperatures:** Air temperature 7 to 8 degrees; Sea temperature 11 degrees.

**Visibility:** May have reduced moderate (7 to 10 km) 08:00 to 09:30 hours, but mostly good (Greater than 10 km)

**Sea States** Sea + Swell Significant Wave Height 1.4 meters/5 seconds from south. Max wave 2.1 meters.



Appendix 7.3 Timeline of events from SITREPS.

**16th November 2016**

07.45 hrs	Vessel departs Arklow harbour
08.15 hrs	Commenced haul first line of pots
08.45 hrs	Shot first line of pots
09.00 hrs	Commenced haul second line of pots
09.03 hrs	Man at pot hauler overboard
09.03 hrs	Lifjacket thrown to casualty in water.
09.03 hrs -	
09.20 hrs	Attempting to recover MOB
09.20 hrs	Raised alarm on VHF DSC
09.20 hrs	R117 tasked from exercise
09.22 hrs	Arklow Lifeboat tasked
09.46 hrs	Arklow LB on scene
09.47 hrs	R117 on scene searching
09.58 hrs	Rosslare LB tasked
10.09 hrs	R117 locates LJ that was thrown to casualty, no person in water
10.24 hrs	Wicklow LB tasked
10.30 hrs	Naval divers advised
10.40 hrs	R116 proceeding to scene
10.52 hrs	R116 on scene/ R117 off scene
11.12 hrs	'FV Kerri Heather' advised to return to Arklow for skipper to be checked out
11.31 hrs	Request ambulance from NACC to meet skipper of 'FV Kerri Heather' at Arklow
11.54 hrs	NACC confirms ambulance on scene with skipper of 'FV Kerri Heather'
12.00 hrs	Arklow, Wicklow & Rosslare lb along with R116 and 'FV Shauna Leon' continuing search.
14.50 hrs	'MV Windcat 2' completes search NTR and returning to Arklow.
16.31 hrs	Arklow LB completes search NTR. RTB.

**17th November to 2nd December**

Searching by Arklow LB and fishing vessels as weather permitted.



**Appendix 7.5** Extracts from “The Code of Practice - Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall”.

**7.9 Means for Recovering Persons from the Water**

- 7.9.1 To aid the recovery of a person from the water a retrieval system must be provided or a system specifically adapted to the vessel which can accomplish the same function, e.g. an overside boarding ladder or scrambling net extending from the weather deck to at least 1000 mm below the operational waterline.
- 7.9.2 While it is desirable to lift a person from the water in a horizontal position, this is considered secondary to the speed of retrieval so that the person does not become hypothermic.
- 7.9.3 Each vessel must carry a buoyant rescue quoit, fitted with 18 metres of buoyant heaving line.

**8.7 Responsibility of the Owner for Safe Manning of Vessel**

It is the owner’s responsibility to ensure that the skipper has, in addition to the certification already detailed, recent and relevant experience of the type and size of vessel, the machinery onboard, and the type of operation undertaken. The owner must also ensure that there are sufficient qualified crew onboard, having regard to the type and duration of the voyage undertaken.

**8.9 Musters and Drills**

- 8.9.1 The master and crew shall comply with SI 48 of 1993 Merchant Shipping (Musters) (Fishing Vessels) Regulations 1993 (S.I. No. 48 of 1993).
- 8.9.2 The master of a fishing vessel not less than 12 metres in length shall ensure that the crew are instructed, trained and drilled in the use of the life-saving and fire-fighting equipment on the vessel and that each member of the crew is aware of the location on the vessel of such equipment.
- 8.9.3 This instruction and training aforesaid shall be given, before the vessel commences a voyage with a new crew or new member of the crew and, thereafter, at monthly intervals.
- 8.9.4 Life-saving and fire-fighting equipment on a fishing vessel of 12 metres or more in length shall be inspected by the skipper at intervals of not more than one month.

### Appendix 7.5 Extracts from “The Code of Practice - Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15 m Length overall”.

- 8.9.5 Where necessary, the master of a fishing vessel shall arrange for maintenance or repairs to the life-saving and fire-fighting equipment on board to be carried out as soon as may be required after an inspection.
- 8.9.6 These drills and inspections must be recorded on board the vessel. Use of the Fishing Vessel Log Book as published by the DTTAS will fulfil compliance with this requirement.
- 8.9.7 Vessels of less than 12 metres in length are recommended to follow the above requirements.

## NATURAL JUSTICE - CORRESPONDENCE RECEIVED

Section 36 of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000 requires that:

- “36 (1) Before publishing a report, the Board shall send a draft of the report or sections of the draft report to any person who, in its opinion, is likely to be adversely affected by the publishing of the report or sections or, if that person be deceased, then such person as appears to the Board best to represent that person’s interest.
- (2) A person to whom the Board sends a draft in accordance with subsection (1) may, within a period of 28 days commencing on the date on which the draft is sent to the person, or such further period not exceeding 28 days, as the Board in its absolute discretion thinks fit, submit to the Board in writing his or her observations on the draft.
- (3) A person to whom a draft has been sent in accordance with subsection (1) may apply to the Board for an extension, in accordance with subsection (2), of the period in which to submit his or her observations on the draft.
- (4) Observations submitted to the Board in accordance with subsection (2) shall be included in an appendix to the published report, unless the person submitting the observations requests in writing that the observations be not published.
- (5) Where observations are submitted to the Board in accordance with subsection (2), the Board may, at its discretion -
- (a) alter the draft before publication or decide not to do so, or
  - (b) include in the published report such comments on the observations as it thinks fit.”

The Board reviews and considers all observations received whether published or not published in the final report. When the Board considers an observation requires amendments to the report that is stated beside the relevant observation. When the Board is satisfied that the report has adequately addressed the issue in the observation, then the observation is ‘Noted’ without comment or amendment. The Board may make further amendments or observations in light of the responses from the Natural Justice process.

‘Noted’ does not mean that the Board either agrees or disagrees with the observation.

## 8. NATURAL JUSTICE - CORRESPONDENCE RECEIVED

PAGE

8.1 Correspondence from RNLI and MCIB response 27

Note: The names and contact details of the individual respondents have been obscured for privacy reasons.

Correspondence 8.1 RNLI and MCIB response.



Correspondence 8.1 RNLI and MCIB response.



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www.rnli.org.uk

**Re: report of the fatal incident of FV Kerri Heather  
November 2016**

Following review of the above report by Arklow Lifeboat crew members who were involved in the incident we would like to make the following observations.

3.13 Arklow Lifeboat on scene at 0940 report states 0946

3.15 Chartlet 1 refers to the early search area it was subsequently enlarged to cover more area as projected by the coastguard.

4.14 The 40 minute interval that is mentioned is a little vague does this mean from the start of the incident or from arrival on scene. Appendix 7.6 shows AIS track of rescue helicopter

Appendix 7.3 Timeline  
0946 should read 0940

1005 R116 should be R117? Also the M.V Windcat should read as MFV Shauna Leon.

1027 R116 should be R117?

1309 Wicklow Lifeboat : should read continued in search area until 1620 then returned to station refuelled and ready for service at 1740

1336 Rosslare Hbr Lifeboat: should read continued in search area until 1500hra and then maintained search in a southerly direction to Cahore Point and from here proceeded at full speed to Rosslare Harbour arriving at 1730.

**MCIB RESPONSE:** Times quoted in the report were taken from IRCG SITREP.

**MCIB RESPONSE:** The MCIB notes this and has amended 3.15.

**MCIB RESPONSE:** Times were taken from IRCG SITREP. The report has been amended to clarify this.

**MCIB RESPONSE:** The times used in the timeline are from the SITREP of the incident. For consistency times will not be amended.

**MCIB RESPONSE:** The MCIB notes this and has amended the timeline at Appendix 7.3.



**The RNLI is the charity that saves lives at sea**  
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