

Compass Chambers



# Fatal Accident Inquiries: in the air, on land, and at sea

Barry Smith KC



# Sumburgh





# Sumburgh

- 23 August 2013
- AS332 L2 Super Puma G-WNSB
- 16 passengers & two crew
- Crashed on approach to Sumburgh Airport
- 4 deaths (passengers)



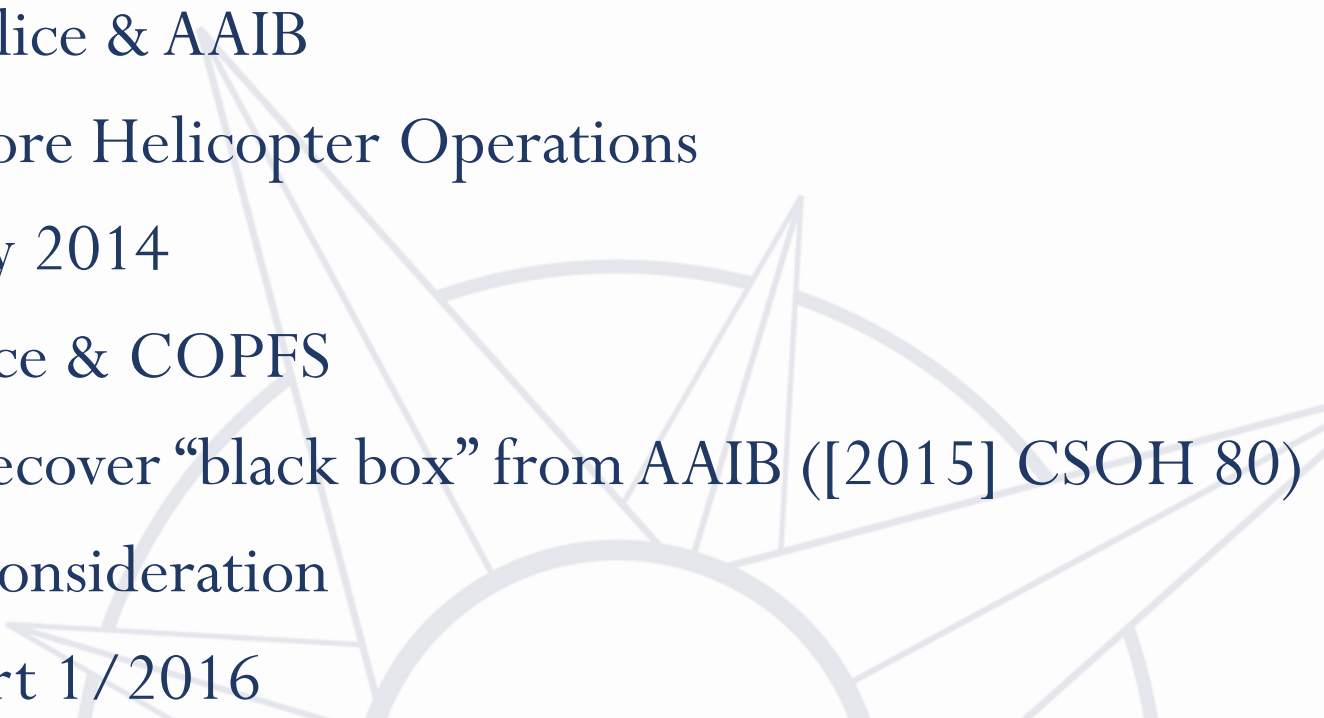


# Sumburgh





# Sumburgh

- Investigation by, *inter alia*, Police & AAIB
  - CAA Safety Review of Offshore Helicopter Operations
  - CAP1145 published February 2014
  - Lengthy investigation by Police & COPFS
  - High Court proceedings to recover “black box” from AAIB ([2015] CSOH 80)
  - Prosecution of pilots under consideration
  - February 2016 – AAIB Report 1/2016
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# Sumburgh

- October 2018 – CCI no prosecution – FAI
  - Early 2019 – VRR
  - Summer 2019 – FAI announced
  - 21 November 2019 – Notice of FAI lodged
  - COVID-19 restrictions
  - Inquiry by WebEx – August 2020
  - “Family “dismayed” that inquiry into 2013 Sumburgh helicopter crash will be via video conference” (*The Shetland Times*)
- 



# Sumburgh

- Lengthy & complex Inquiry conducted entirely remotely
- Multiple interested parties / participants
- Witnesses from across the UK and overseas
- Voluminous productions, including video and audio recordings, maps, charts & photographs
- Extensive preparation and appropriate resourcing essential





# Cameron House







# Cameron House

- 18 December 2017
- Fire alarm at 06:41 – evacuation
- Confirmation of two guests unaccounted for at 08:09
- First casualty located and removed at 08:36
- Second casualty located and removed at 08:57
- Two deaths





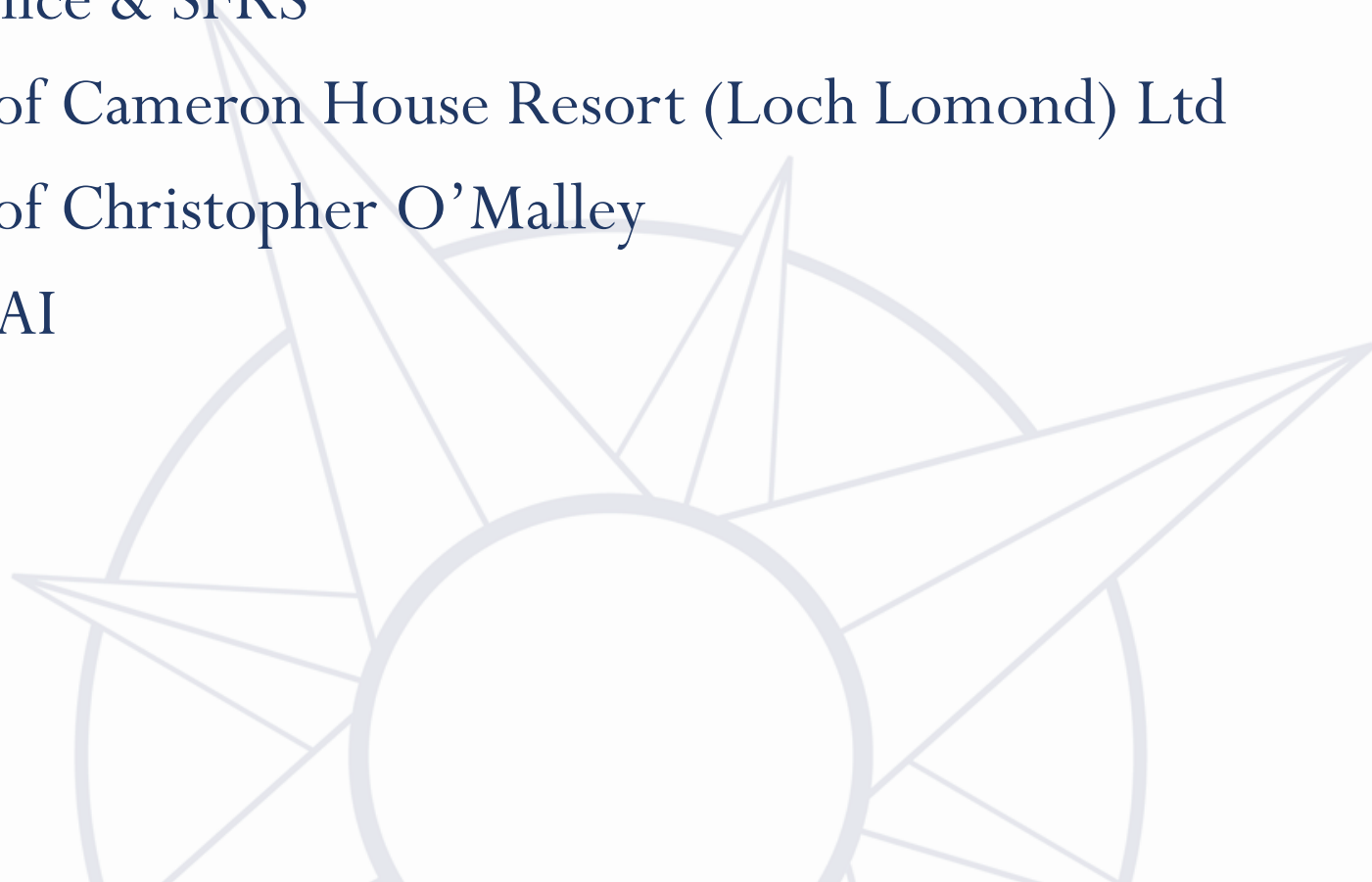
# Cameron House





# Cameron House

- Investigation by, *inter alia*, Police & SFRS
- January 2021 – Prosecution of Cameron House Resort (Loch Lomond) Ltd
- January 2021 – Prosecution of Christopher O’Malley
- CCI – no public interest in FAI
- VRR – decision overturned
- August 2022 – FAI





# Cameron House

- Issues for Inquiry in light of prosecutions?
- Evacuation / roll call
- Historic buildings
- Immunity for individuals?
- Participation or involvement of next of kin...








# MV Cherry Sand








# MV Cherry Sand

- 28 January 2019
  - Cherry Sand dredging in Rosyth Dockyard non-tidal basin
  - Vessel approaching quayside
  - Self-mooring by crew
  - Relief Master jumps, slips, falls into water
  - Investigations by Police, MCA & MAIB
  - MCA & MAIB at odds
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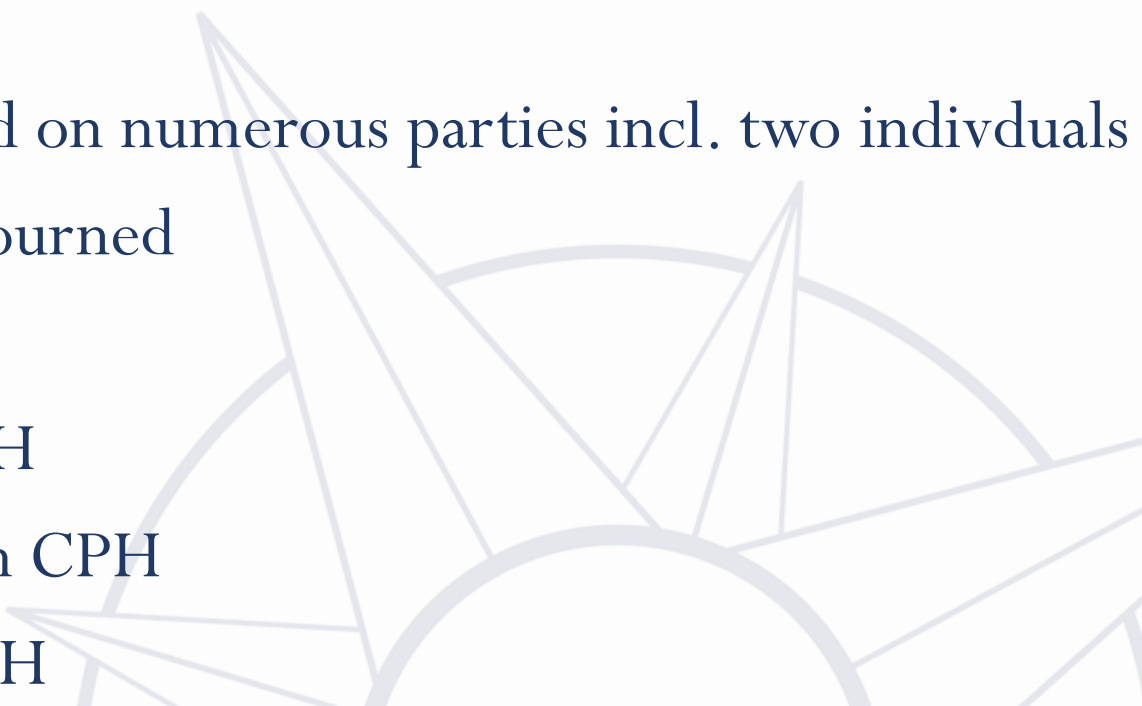


# MV Cherry Sand

- COPFS determine there should be a Fatal Accident Inquiry (no prosecutions)
  - October 2020 – First Notice lodged
  - 20 November 2020 – Preliminary Hearing
  - 15 December 2020 – CPH
  - Crown instruct expert report
  - CCI – consideration of criminal proceedings...
  - 11 January 2021 – second CPH
  - 8 March 2021 – third CPH
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# MV Cherry Sand

- 28 June 2021 – fourth CPH
  - July 2021 – Inquiry intimated on numerous parties incl. two individuals
  - 20 July 2021 – Inquiry – adjourned
  - 1 October 2021 – fifth CPH
  - 29 October 2021 – sixth CPH
  - 13 December 2021 – seventh CPH
  - 10 January 2022 – eighth CPH
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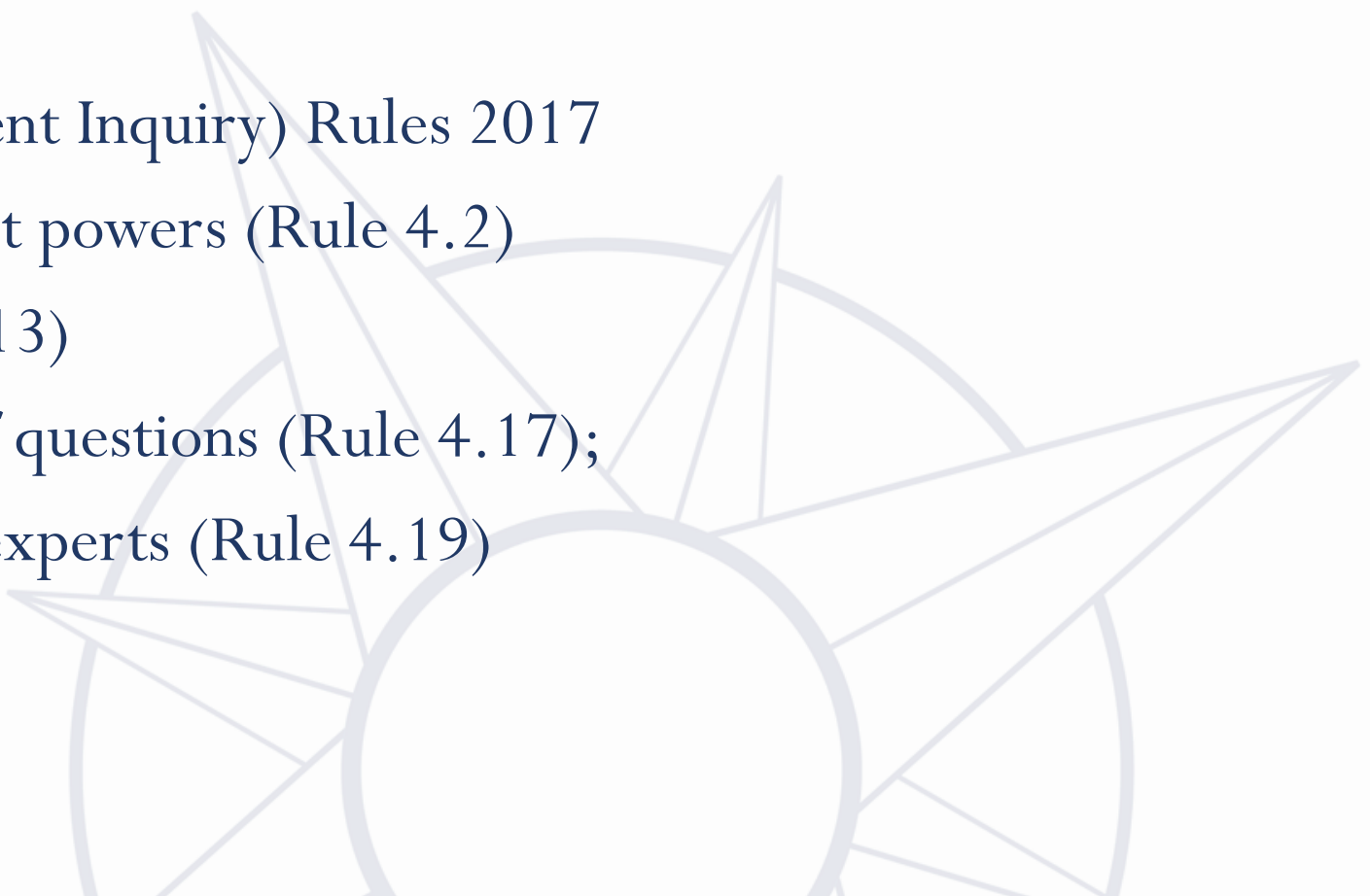


# MV Cherry Sand

- 24 & 25 January 2022 – Inquiry
  - No immunity for individuals
  - Evidence of eleven witnesses, including experts; CCTV footage; and documentary productions & reports
  - 27 January 2022 – Submissions
  - 9 March 2022 – Determination issued
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# MV Cherry Sand

- Strict judicial management
  - Act of Sederunt (Fatal Accident Inquiry) Rules 2017
  - The information management powers (Rule 4.2)
  - Witness statements (Rule 4.13)
  - [Expert witnesses] Minute of questions (Rule 4.17);
  - Concurrent presentation of experts (Rule 4.19)
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# MV Cherry Sand





**Questions?**



# Compass Chambers



**Parliament House**

**Edinburgh**

**EH1 1RF**

**DX 549302, Edinburgh 36**

**LP 3, Edinburgh 10**

**[www.compasschambers.com](http://www.compasschambers.com)**

**Barry Smith KC**

**[barry.smith@compasschambers.com](mailto:barry.smith@compasschambers.com)**

**Gavin Herd**

**Practice Manager**

**Phone: 0131 260 5648**

**Fax: 0131 225 3642**

**[gavin.herd@compasschambers.com](mailto:gavin.herd@compasschambers.com)**