

IN THE MATTER OF THE CRANSTON INQUIRY

WRITTEN CLOSING STATEMENT ON BEHALF OF THE DEPARTMENT FOR TRANSPORT

INTRODUCTION

1. This Closing Statement is provided on behalf of the Department for Transport ("the Department").
2. Over the course of its investigation, the Inquiry heard and received detailed oral and written evidence from a large number of witnesses, which the Department has carefully listened to and read. The Department wishes, in particular, to recognise the courage of Mr Issa Mohamed Omar, and all of the bereaved families, for their participation in the Inquiry. Their evidence was powerful and harrowing. They have spoken and their voices have been heard. Their experiences are, quite rightly, at the heart of the Inquiry's work, and it is their evidence which sets the context for everything the Inquiry does.
3. At the conclusion of the evidence hearings, the Department wishes to repeat its deepest sympathies to the bereaved, the survivors and to all others who have been affected by the events that took place on 24 November 2021.
4. The Department also wishes to thank the Inquiry for its extensive work over the past year, and to recognise the very real importance of this Inquiry, and the public interest in seeking to understand both what happened on 24 November 2021, and what can be learned from it. The Department has sought to co-operate fully with all requests by the Inquiry and will continue to do so as the Inquiry prepares to conclude its investigation. In that spirit, it provides,

alongside this written Closing Statement, an additional statement from Mr James Driver, responding to the matters raised in the Inquiry's letter of 1 April 2025.

5. The Department is grateful to the Inquiry for providing it with the opportunity to give this written closing statement in addition to the oral closing statement provided at the conclusion of the public hearings.
6. This statement will cover the following key topics:
 - i The Department's role and responsibilities in relation to small boats;
 - ii The Department's awareness of, and response to, the increase in small boat crossings;
 - iii The Department's relationship with, and oversight of, the Maritime Coastguard Agency ("MCA"); and
 - iv Changes to small boat arrangements since November 2021.

KEY TOPICS

(i) The Department's role and responsibilities in relation to small boats

The Maritime Security Division

7. The Inquiry has received and heard the evidence of Mr Driver, Head of the Maritime Security Division ("the Division") at the Department – a post he has held since January 2017.¹ The Division has responsibility for policy and strategy in relation to the security of UK commercial ports and British-flagged commercial shipping, including the mitigation of risks to international maritime security.
8. As Mr Driver explained, several departments and agencies across His Majesty's Government hold maritime security responsibilities. The Department, and specifically the Division, is responsible for ensuring that ports, British shipping

¹ Witness Statement of James Driver, 19 December 2024, Para. 1.

and British maritime overseas interests uphold relevant maritime security international regulations.² In discharging this responsibility, the Division has coordinated maritime security across government by running inter-departmental and inter-agency communities.³ As explained by Mr Driver in his evidence, this role, and the relationships, expertise and structures developed thereby, made the Division uniquely well-placed to work with the Home Office, Border Force and His Majesty's Coastguard ("HMCG"), amongst other stakeholders, in support of developing the cross-government response to small boat crossings.⁴

9. It is the Division which primarily engaged, at the time of interest to the Inquiry, and continues at present to engage on issues relating to small boats.⁵ Mr Driver was also a senior leader in the Maritime Directorate prior to and at the time of the incident. It is with the weight of this expertise, and experience of working at a senior level on the small boats issue from its inception, that Mr Driver gave evidence to this Inquiry.

The Structure of the Department

10. During the period of interest to the Inquiry, the Division sat within the Department's Maritime Directorate. It reported into the Director of Maritime.
11. In tandem with the Division, the MCA Sponsorship Team sat within the Department's Maritime Operations Division, a sister team to the Division. At the time of the incident, this team reported to the Deputy Director for Maritime Operations, which in turn reported to the Director of Maritime. While the Sponsorship Team and the Division had distinct remits, they have always enjoyed close and collaborative working relationships.⁶ This was, and is, particularly so as regards small boats. As Mr Driver explained in oral evidence,

² Transcript Day 14, James Driver, Page 11, Lines 17-21.

³ Witness Statement of James Driver, 19 December 2024, Para. 9.

⁴ Transcript Day 14, James Driver, Page 13, Lines 6-16.

⁵ Witness Statement of James Driver, 19 December 2024, Para. 6.

⁶ Transcript Day 14, James Driver, Page 9, Line 3.

the two teams adopted a joined-up approach on small boats issues, this being an area that intersected the teams' respective responsibilities.⁷

The Department's role

12. As outlined in Mr Driver's evidence, the Department's core role in the response to small boat crossings was in its capacity as the parent department to the MCA. This primarily manifested itself in two ways.
13. First, and most importantly, it oversaw the delivery and maintenance of an adequate and effective civil maritime and aeronautical search and rescue ("SAR") service through the MCA, an executive agency of the Department, and by extension, HMCG. It is through HMCG that the Secretary of State discharges her statutory responsibility to operate and maintain an adequate and effective civil maritime and aeronautical SAR service within the UK Search and Rescue Region ("SRR"). Through HMCG, the MCA provides a national 24-hour maritime, coastal and aeronautical SAR emergency response service that can operate throughout the UK, at sea and internationally.⁸ This ensures the UK discharges its obligations under domestic and international law, including the 1982 United Nations Convention on the Law of the Sea ("UNCLOS"), the International Convention for the Safety of Life at Sea, and the International Convention on Maritime Search and Rescue. It is the responsibility of the Secretary of State for Transport, the Department, and in turn the MCA and HMCG, to discharge these legal obligations.⁹ HMCG will always use its best endeavours to save the lives of people in the deeply vulnerable position of crossing the Channel in small boats, and to render assistance to every person in distress at sea, no matter how or why they came to be there.

⁷ Transcript Day 14, James Driver, Page 10, Lines 4-8.

⁸ INQ000955.

⁹ Transcript Day 14, James Driver, Page 6, Lines 8-10.

14. As the Inquiry has seen, the Department does not, and did not in November 2021, itself exercise any operational role in relation to small boats.¹⁰ The Department does not own any relevant assets, and it is not involved in the operational response to small boats attempting to cross the Dover Strait.¹¹ Rather, the Department, and specifically the MCA Sponsorship Team, retains responsibility for the governance framework within which the MCA operates, agreeing its strategic objectives, and overseeing and assuring its performance through a variety of formal and informal mechanisms, as is standard practice in departmental sponsorship of arm's-length bodies across government. This is embodied in the 'Framework Document for the Maritime and Coastguard Agency (MCA), November 2017'.¹² The new Framework Document is expected to be published later this year.

15. As such, throughout the period of interest to the Inquiry, the Department undertook departmental sponsorship and governance of the MCA, working closely and continuously with the MCA to assure itself that an adequate and effective SAR service was in place. These assurance mechanisms are considered in further detail in section (iii) of this statement.

16. Secondly, and as an extension of its MCA sponsorship duties, the Department worked hard to represent HMCG's equities and interests in cross-governmental discussions – and, above all, the paramount importance of safety of life at sea ("SOLAS") and SAR operations. The Inquiry has seen that, following the rapid rise in small boat crossings in 2018, work was proceeding at pace across His Majesty's Government to understand the complex causes of, and develop a response to, small boat crossings in the Dover Strait. Thus, and as noted by Mr Daniel O'Mahoney in his evidence, the Department worked across a number of stakeholders to cohere that work.¹³ While the Home Office,

¹⁰ Transcript Day 13, Matthew Leat, Page 61, Lines 19-22.

¹¹ Witness Statement of James Driver, 19 December 2024, Para. 24.

¹² INQ000955.

¹³ Transcript Day 12, Daniel O'Mahoney, Page 135, Lines 10-13.

as the government department with responsibility for border security and illegal migration, has always (save for the duration of Operation Isotrope) led on overall policy in response to small boats,¹⁴ the Department played a valuable role in contributing to that policy development, where relevant to its remit, including by advocating for the importance of SOLAS in all policy development and operations.

17. As was outlined by Mr Driver, in all cross-governmental decision-making and policy forums in which it participated, the Department was concerned to support the work being led by Home Office colleagues on border security and illegal migration while ensuring that the response to small boats did not, in any way, impinge upon the overriding objective of saving lives at sea. Illustratively, this engagement included:

- i Attending cross-government meetings with officials¹⁵ and at a ministerial level¹⁶;
- ii Providing feedback to the Home Office in the development of policy options to respond to small boats, including Operation Sommen (the ‘turnaround tactics’);¹⁷
- iii Attending regular bilateral engagements with Home Office colleagues, including on illegal migration policy where relevant to the Department’s remit;¹⁸
- iv Co-ordinating engagement between Home Office, HMCG and industry colleagues around operations in the Channel;¹⁹
- v Supporting and observing tactical trials;²⁰ and

¹⁴ Witness Statement of James Driver, 19 December 2024, Para. 48.

¹⁵ INQ001131.

¹⁶ INQ008162.

¹⁷ INQ001929; INQ002510.

¹⁸ INQ004290.

¹⁹ INQ002039.

²⁰ INQ004968.

vi On occasion, playing a role in incident reporting and cross-government communications, including parliamentary and media handling.²¹

18. The evidence heard by this Inquiry confirmed that this role was performed successfully. As Mr O'Mahoney put it, the Department and the Home Office *"had, and continue to have, a very close productive working relationship"*.²² Through the Department's advocacy on behalf of HMCG and representation of its interests and equities, the UK's international law obligations relating to SOLAS were well-understood, with key government stakeholders *"concerned to ensure compliance with all of those conventions"*.²³ Commander Kevin Toy emphasised that *"the priority is search and rescue."*²⁴ Mr Stephen Whitton OBE said that *"SOLAS is always going to be the top priority within any law enforcement and border security operation"*.²⁵ Overall, the witnesses from across government who gave evidence to this Inquiry recognised the paramount importance of saving the lives of vulnerable people at sea, as well as the weight of their responsibilities.

(ii) The Department's awareness of and response to the increase in small boat crossings

19. As the Inquiry has heard, from autumn 2018 onwards, the number of people arriving by small boats across the English Channel started to rise very substantially. In 2021, the rising numbers accelerated significantly.²⁶ As Mr Simon Ling described, *"September, October, November '21 was quite a defining moment for the southeast Channel and the RNLI"* because there was an *"unprecedented increase in rescue demand"* in those three months.²⁷

20. Even against that backdrop of rapidly rising numbers, November 2021 was entirely unprecedented for the season, with a record number of 6,971 people

²¹ INQ004761.

²² Transcript Day 12, Daniel O'Mahoney, Page 137, Lines 8-10.

²³ Transcript Day 12, Daniel O'Mahoney, Page 137, Lines 10-13.

²⁴ Transcript Day 5, Kevin Toy, Page 66, Line 21.

²⁵ Transcript Day 12, Steven Whitton, Page 21, Lines 6-7.

²⁶ See the table at Para. 79 of the Witness Statement of Daniel O'Mahoney, dated 12 November 2024.

²⁷ Transcript Day 10, Simon Ling, Page 48, Lines 2-5.

crossing.²⁸ As Counsel to the Inquiry recognised in his questioning of Mr Matthew Leat, November 2021 was a *“very, very heavy month indeed”*.²⁹ Mr O’Mahoney described *“how unusual the level of boats and migrants arriving was in November 2021”*, and observed *“it has still, to date, not been matched despite the overall numbers in a year being much higher”* because *“there has never been a month where 209 boats have crossed the Channel”*.³⁰

21. As Mr Leat explained, although the Home Office had been able to predict crossing numbers with *“very good accuracy, within a few percent...November very much bucked that trend and the increase was huge”*.³¹ Mr O’Mahoney, who in his role as Clandestine Channel Threat Commander led on modelling projections of small boat crossings for the Government, explained that the increase was neither foreseen nor foreseeable.³² It is now believed that a new batch of boats and engines entered the supply chain at that time, causing a step change in the logistical ability of the facilitators, which allowed a much greater number of crossings to be mounted in a short period of time.³³

22. This rapid and significant increase presented a unique challenge for Government. The Department and the MCA regularly discussed the adequacy of HMCG’s response capability in light of the increasing numbers, particularly from summer 2021 onwards, when the projections predicted a steep increase in 2022. The risk of HMCG becoming overwhelmed due to the levels of crossings was then formally added to the MCA’s Corporate Risk Register in November 2021.³⁴ As Mr Driver explained in his evidence, this new entry to the risk register came about because of the pressures experienced in 2021 and the high numbers of crossings predicted for 2022, as well as the fact that it was

²⁸ Witness Statement of Daniel O’Mahoney, dated 12 November 2024, Para. 79.

²⁹ Transcript Day 13, Matthew Leat, Page 7, Line 5.

³⁰ Transcript Day 12, Daniel O’Mahoney, Page 187, Lines 2-6.

³¹ Transcript Day 13, Matthew Leat, Page 7, Lines 7-12.

³² Transcript Day 12, Daniel O’Mahoney, Page 187, Lines 7-8.

³³ Witness Statement of Daniel O’Mahoney, 12 November 2024, Para. 78.

³⁴ INQ000167.

recognised that the response capability needed to improve ahead of the predicted increase.³⁵³⁶

23. On 12 November 2021, Mr Driver wrote to the MCA to confirm that his understanding was that, although SAR resourcing would *“be a problem if [capacity] is maintained at such a high level...[capability] was okay for the immediate outlook”*.³⁷ He asked the MCA to correct him if that position was wrong. The MCA responded shortly thereafter and did not correct Mr Driver’s understanding.

24. In November 2021, and prior to this incident, the Department’s understanding was that although the high numbers of crossings were placing a considerable strain on the response capability, and difficulties might arise if the high levels of crossings were to continue in the longer term, HMCG was at that time able to meet its SAR responsibilities. As Mr Driver explained in his oral evidence, this understanding was based not only on the email exchange on 12 November 2021 set out above, but also on the frequent communication the Department had at all levels with the MCA and the assurances it had received over the preceding months. Mr Driver explained that his team *“worked very closely with [the MCA] ... but with many others as well. So on a day-to-day basis, the team were speaking and communicating and notably by this point, November ’21, we had established weekly huddles between those two teams attended by Claire [Hughes] and me, so attended by senior civil servants with relevance in this area, to ensure that we both had a good level of understanding as to the pressures and concerns in relation to all small boats issues”*.³⁸ The Department’s understanding of the position at the MCA and HMCG in November 2021 was consistent with Mr Leat’s evidence to the Inquiry that HMCG was *“continuing to run although being stretched”*.³⁹

³⁵ Transcript Day 14, James Driver, Page 46, Lines 10-22.

³⁶ Transcript Day 14, James Driver, Page 34-35, Lines 15-17.

³⁷ INQ001055.

³⁸ Transcript Day 14, James Driver, Page 34-35, Lines 19-7.

³⁹ Transcript Day 13, Matthew Leat, Page 35, Lines 9-13.

25. In light of the recognition that maritime assets were under pressure, and the fact that pressures were expected to increase with the high numbers of crossings forecast for 2022, in October 2021, work on Project Caesar commenced. Project Caesar involved a £35 million investment over a three-year period to enable the procurement of unmanned aerial vehicles to increase aerial surveillance and situational awareness over the Channel.⁴⁰ As Mr O'Mahoney explained, "*the game changer is surveillance*".⁴¹ Project Caesar was formally endorsed by the Department and HM Treasury in February 2022 and mobilised in March 2022. As Mr Driver noted in his oral evidence, for a project of that size and complexity, Project Caesar was agreed and mobilised in incredibly quick time.⁴² It is important to note that at no stage prior to the incident did the MCA, or HMCG, request further resourcing from the Department to carry out its SAR obligations, or otherwise indicate that it did not have adequate resourcing to fulfil its SAR obligations.

26. In a submission dated 26 November 2021, Ministers were informed that the high numbers of small boats crossing the Channel were expected to continue, and that if they did, that would place pressure on HMCG operational staff, Border Force and RNLI maritime surface assets.⁴³ It also noted that work was underway to address this challenge.

27. The challenges caused by high-crossing numbers in November 2021 also prompted a multi-agency tabletop exercise on 2 December 2021. As Mr Driver explained, it was this exercise which gave HMCG a clearer idea as to what operational capability improvements could be made.⁴⁴ It was agreed that other options needed to be considered to improve situational awareness, particularly technology that locates mobile telephones – the main method used by migrants to contact UK authorities.

⁴⁰ Witness Statement of Mr James Driver, dated 19 December 2024, Para. 137.

⁴¹ Transcript Day 12, Daniel O'Mahoney, Pages 164-165, Lines 25-1.

⁴² Transcript Day 14, James Driver, Page 44, Lines 3-10.

⁴³ INQ000006.

⁴⁴ Transcript Day 14, James Driver, Page 41, Lines 18-21; INQ004203.

28. Shortly thereafter, a further ministerial submission, dated 14 December 2021, was jointly prepared by the Department and HMCG.⁴⁵ This asked Ministers to agree to a number of proposals, including that HMCG should explore increasing maritime surface SAR assets and developing enhanced situational capabilities. This was a reference to the ongoing work of Project Caesar and other potential technological developments to enhance surveillance and SAR response.

(iii) The Department's relationship with, and oversight of, the MCA

29. As set out above, the Department's role in relation to the issue of small boats is defined through its work with the MCA and, by extension, HMCG. It is important to stress that the MCA is an operationally independent executive agency led by a senior civil servant and entrusted by the Secretary of State to ensure that, amongst its other objectives, the United Kingdom's international maritime SAR obligations are fulfilled. Although the Department provides appropriate support to, and oversight of, the MCA, it is mindful of the MCA's unrivalled operational experience and expertise.

30. The Inquiry has heard evidence regarding the suite of formal and informal mechanisms that have been implemented to provide oversight and assurance of the MCA and its response to small boats. This includes:

- i The MCA Sponsorship Board, chaired by the Agency Owner, ensures sufficient oversight of the MCA's strategic direction as well as the risks it is managing, whilst also providing a senior forum in which the MCA can raise its concerns;
- ii The monthly MCA Board meeting, attended by the MCA Non-Executive Directors and the Department's Sponsorship Team, is the highest-level decision-making corporate management group in the MCA;

⁴⁵ INQ000846.

- iii Since July 2021, the weekly ‘small boats huddles’, attended by members of the Department, colleagues at HMCG and Department for Transport Legal Advisers have provided a focused and regular informal oversight mechanism. Although the original purpose of these meetings was to provide additional support to HMCG, as well as co-ordinating responses to policies introduced by other government departments, the meetings had the added advantage of providing the Department with greater visibility of HMCG small boat operations, thereby ensuring that the Department was aware of emerging issues. Actions that arose from these huddles were monitored through action trackers;⁴⁶
- iv The Department retains responsibility for the framework within which the MCA operates (and of which HMCG forms part).⁴⁷ The framework confirms that key performance indicators (“KPIs”) will be used and agreed with the Department’s Ministers.⁴⁸ As Mr Driver explained in his evidence, KPIs are a system used across Government.⁴⁹ There are three KPIs specifically relating to SAR.⁵⁰ These KPIs are just one tool that the Department uses to judge the adequacy of the SAR provision of HMCG;
- v “Tailored reviews” of the MCA are also used by the Department to oversee the MCA. Whilst the most recent review did not provide a full assessment of the effectiveness and efficiency of the MCA, it was still able to provide “*valuable recommendations*”, some of which, despite the disclaimer, clearly illustrate the MCA’s effectiveness;⁵¹
- vi A further level of oversight is provided by the International Maritime Organization (“IMO”) Member State Audit Scheme, which became mandatory in January 2016. The Audit Scheme works to assess the extent to which Member States are complying with their obligations under the various IMO instruments to which they are parties. This

⁴⁶ See, for example, INQ008050 and INQ008048.

⁴⁷ INQ000955.

⁴⁸ INQ000955, Page 19, Para. 86.

⁴⁹ Transcript Day 14, James Driver, Page 17, Lines 9-17.

⁵⁰ INQ000957, Page 18.

⁵¹ It is of note that the original terms of reference, INQ008152 (Page 57), state that the intention was to assess “[T]hat the MCA is carrying out its functions effectively and efficiently.”

includes the SOLAS Convention. The *IMO Instruments Implementation (III) Code* (resolution A.1070(28)) provides the standard framework for these audits;

- vii The Marine Accident Investigation Branch (“MAIB”), an independent unit within the Department, has a statutory responsibility for undertaking investigations to determine the causes of accidents at sea. MAIB investigations, therefore, provide external inspection of, and make recommendations in relation to, SAR incidents;
- viii The Department takes additional assurance from the MCA’s commitment to continuous improvement of its SAR provision, illustrated by its thorough internal reviews, in conjunction with its willingness to commission peer reviews conducted by other subject matter experts, such as the US Coast Guard; and
- ix Additionally, line management arrangements provide a further level of assurance, and informal engagement. For example, the Department’s Director General is the line manager of the MCA Chief Executive, and holds regular one-to-one meetings and performance reviews to check whether the Chief Executive is achieving their objectives.

31. A number of the aforementioned mechanisms were the subject of questioning by Counsel to the Inquiry. Given their evident importance to the Inquiry, the Department wishes to address some of them in greater detail below, prior to dealing with a related point which the Inquiry explored with some witnesses, namely, whether there exists a need for an independent inspectorate of HMCG.

32. First, the Tailored reviews. Counsel to the Inquiry had noted that, contrary to paragraph 174 of Mr Driver’s witness statement, the last Tailored review “...*did not go as far as examining efficacy and efficiency*”⁵². The Department accepts that there is a discrepancy between paragraph 174 and the wording of the Tailored review’s amended terms of reference; the wording used in the statement

⁵² INQ008152, Page 4.

reflected the original terms of reference.⁵³ However, Mr Driver's evidence was that the review had, in substance, considered these matters. He explained *"I suppose I don't quite see the-- the exact aim of the statement within the report of: this does not look at efficiency and effectiveness, in that it was a departmental review that made improvements, suggestions as to how various different aspects of the relationship, accountability sponsorship could be improved. And to my mind, I think, that would also equal making it more effective and more efficient though."*⁵⁴

33. The Department submits that, notwithstanding the report's disclaimer, it clearly did proceed to examine, in certain respects, whether the MCA was operating efficiently. By way of illustration, the report notes the following:

- i *"MCA has gone through a substantial process of modernisation and re-organisation over the past decade. This has delivered an improved Coastguard service, including major changes to operational arrangements and a complete overhaul of search and rescue capability"*⁵⁵;
- ii *"Since the CE began his role at MCA, the review has seen evidence of substantial positive change, including in its senior management team"*⁵⁶;
and
- iii *"The review noted evidence that the CE challenged the Aviation Search and Rescue team to improve its forecasting and to adopt a risk-based approach to budgeting. This novel approach has resulted in the projected underspend for 2019/20 £800k compared to £5m in the previous year"*.⁵⁷

34. Secondly, the IMO Member State audit. Counsel to the Inquiry appeared to question the thoroughness of the IMO's audit of the MCA's SAR functions, noting that it was conducted remotely⁵⁸ and occupied only a few sessions of

⁵³ INQ008152, Page 57.

⁵⁴ Transcript, Day 14, James Driver, Page 68, Lines 4-12.

⁵⁵ INQ008152, Page 14.

⁵⁶ INQ008152, Page 26.

⁵⁷ INQ008152, Page 42.

⁵⁸ Transcript, Day 14, James Driver, Page 75, Lines 11-12.

the IMO's programme⁵⁹. However, it is important to note that the audit, which was conducted over 8 days in October 2021 (one of which was dedicated to SAR), was undertaken by a four-person team drawn from the United States of America, Thailand and the IMO Secretariat. The audit benefited from the involvement of 72 officials,⁶⁰ drawn from a number of government departments and agencies.⁶¹ Although the audit was conducted remotely, at the request of the IMO, it was undertaken *"using fully the principles established under the Framework and Procedures for the IMO Member State Audit Scheme (Framework and Procedures) and the III Code"*. Furthermore, the panel relied on a *"series of virtual visits, interviews, examination of written records and databases... which would determine the extent to which the maritime administration achieved the objectives"*.⁶² As noted at [6.4]:

*"The programme followed a process which sought initially to determine the strategy for the implementation of the applicable IMO instruments, the review processes in place and the arrangements for continual improvement. Following this, an examination of the national legislation in place and which provides the instruments with force of law was undertaken. The processes by which the State develops and makes known its interpretations, policies and instructions regarding these instruments, as well as the practical implementation of these arrangements were also reviewed."*⁶³

35. There is no suggestion in its report that the IMO was disadvantaged by being unable to conduct the audit in person. On the contrary, in relation to SAR, the IMO was able to conclude, at [9.44]-[9.45]:⁶⁴

⁵⁹Transcript, Day 14, James Driver, Page 80, Lines 9-25 and Page 81, Lines 1-9.

⁶⁰ INQ008173, Page 5, Para. 4.

⁶¹ INQ008173, Page 3, Para. 1.8.

⁶² INQ008173, Page 6, Para. 6.3.

⁶³ INQ008173, Page 7, Para. 6.4.

⁶⁴ INQ008173, Page 22, Paras. 9.44-9.45.

“9.44 HMCG conducted regular operational standards performance reviews, with an annual programme for all aspects of HMCG, by an independent standards team. Operational delivery outcomes and findings were monitored for corrective actions to be completed within an agreed time frame. Furthermore, HMCG had external audit reviews by the UK Government Internal Audit Agency (GIAA) and peer reviewing with Crown Dependencies (CD). Additionally, HMCG provided statistical data on incidents so that trend analysis could be conducted to identify problem areas.

9.45 Training and exercises conducted by HMCG for SAR and counter pollution incidents were subjected to operational learning reviews by separate teams or independent entities. Key learning points and improvements identified were incorporated into future delivery and updates to any policies, operational detail, or standard operating procedures.”

36. Having been made mandatory since January 2016, the IMO Member State Audit Scheme is ideally placed to assess the extent to which the United Kingdom complies with its obligations under the various IMO instruments to which it is a party.

37. Thirdly, the efficacy of the investigations conducted by the MAIB, as well as the peer reviews undertaken by subject matter experts, such as the US Coast Guard. Although Counsel to the Inquiry was correct to note that the former are reactive,⁶⁵ and whilst peer reviews are not mandated⁶⁶, it is imperative that their worth in driving improvements is not underestimated. In his opening statement to the Inquiry, Counsel to the Inquiry recognised that:

“The picture that emerges from the outcome of these investigations and reviews, as well as from the responses provided to the recommendations that have already

⁶⁵ Transcript, Day 14, James Driver, Page 82, Line 9.

⁶⁶ Transcript, Day 14, James Driver, Page 81, Lines 10-12 - Counsel to the Inquiry noted that the only external mandated auditing was conducted by the IMO.

been made, is that a significant number of actions have already been taken by the agencies involved with a view to preventing or reducing the risk of an incident similar to the sinking of small boat Charlie from occurring, and it is right and important to acknowledge the progress that has already been made before we look forward.”⁶⁷

38. Finally, on the issue of oversight, during their opening statement, Counsel to the Inquiry raised the issue as to whether there exists a need for oversight by an independent Inspectorate.⁶⁸ In answering the question on behalf of the MCA, Mr Leat, whilst accepting that “*anything for the public interest is for [the] good*”,⁶⁹ stated that “[i]t's probably not an area I can comment on in terms of that would need to be looked at, at a senior level.”⁷⁰

39. Mr Leat stated that there currently exists a mechanism for oversight, noting “*I think I have outlined a number of ways that there's already independent review and the fact that Department for Transport, we maintain operational independence from DfT and the MCA sponsorship board does have oversight.*”⁷¹ Additionally, Mr Leat queried whether there existed a sufficient number of independent SAR experts who could provide the level of operational expertise needed to act as the Inspectorate, stating “*I think within coastguarding, as I have said, there is a very, very small people that group of people that have the requisite knowledge and skills to be able to provide it and provide it in a way that would add value.*”⁷²

40. Mr Driver's views on the issue were not sought. The Department will of course consider any recommendations made by the Inquiry concerning how best to ensure that the MCA is provided with constructive and challenging oversight

⁶⁷ Transcript, Day 1, Opening Statement, Page 82, Lines 3-12.

⁶⁸ Transcript, Day 1, Opening Statement, Page 92, Lines 3-7 - “*Finally , the question of independent oversight. The Coastguard is an emergency service but, unlike other emergency services, it is not subject to inspectorate oversight. The Inquiry will explore with witnesses whether such independent oversight is required.*”

⁶⁹ Transcript, Day 13, Matthew Leat, Page 62, Line 19.

⁷⁰ Transcript, Day 13, Matthew Leat, Page 62, Lines 6-7.

⁷¹ Transcript, Day 13, Matthew Leat, Page 61, Lines 19-22.

⁷² Transcript, Day 13, Matthew Leat, Page 62, Lines 14-17.

in support of their vital work. At this stage, however, the Department submits that the current mechanisms by which it has oversight of the MCA are effective and that there is no need to set up an Inspectorate for the following four reasons:

- i First, in contrast to, for example, the Police and Fire services, which operate as, respectively, 43 and 44 individual organisations, the MCA is a centralised and co-ordinated single organisation;
- ii Secondly, the Department echoes the views of Mr Leat, in that there is a relatively small pool of SAR experts who are sufficiently independent of the MCA to enable the Inspectorate truly to add value;
- iii Thirdly, independent oversight already exists by means of the IMO's Member State Audit Scheme; and
- iv Fourthly, none of the Coastguards across the world are currently subject to oversight by an Inspectorate.

41. In summary, therefore, the mechanisms already in place (listed at [30] above) adequately provide a suite of measures designed to both support and challenge the MCA as well as assure the Department that the MCA is operating optimally.

42. In terms of support provided to the MCA by the Department, this includes:

- a. First, ensuring that the MCA's role and obligations are fully understood by other government departments;
- b. Secondly, supporting the escalation of concerns to ministers; and
- c. Thirdly, supporting the procurement of additional SAR assets.

43. In relation to the first, the Department ensured that policies that had been proposed by other government departments did not impact on the UK's obligations to safeguard lives at sea. Following the announcement of both Operation Sommen and Operation Isotrope, the Department ensured that

HMCG responsibilities for SAR were both understood by the Ministry of Defence (“MoD”) and reflected in the terms of the operations. The steps that the Department took in this regard are considered in further detail in paragraphs [16]-[18] above.

44. The Inquiry has explored whether the development of Operation Sommen (often referred to as the ‘turnaround tactics’) caused strain on relationships across Government or otherwise impacted the Government’s awareness and response to the rising numbers of small boats. As Mr O’Mahoney explained, there was a “*very constructive relationship*” between the Home Office and HMCG which allowed for plans made for Operation Sommen to be developed “*in a way that did not have an adverse impact on safety of life at sea*”.⁷³ The Department also contributed to the Home Office’s work in relation to Operation Sommen by ensuring that there was no impact on the UK’s obligations to safeguard lives at sea. As part of this work, the Department liaised with SAR experts within HMCG and UNCLOS leads in the Foreign Commonwealth & Development Office as required.⁷⁴ In his evidence, Mr O’Mahoney went on to explain that, in his view, the work in relation to Operation Sommen did not distract from the need to plan to meet the increased demand for SAR in the Channel.⁷⁵ This accords with the Department’s experience. As explained above, irrespective of the separate Operation Sommen workstream, discussions about the adequacy of HMCG’s response capability between the Department and the MCA were taking place regularly, particularly from summer 2021 onwards, and from October 2021, work began on Project Caesar.

45. Secondly, following the record number of crossings on 11 November 2021, and the projections for numbers in 2022, the Department co-authored the submissions to its Ministers, dated 26 November and 14 December, referred to at paragraphs [26] – [27] above.

⁷³ Day 12, Daniel O’Mahoney, Page 222-223, Lines 10-1.

⁷⁴ Witness Statement of James Driver, dated 19 December 2024, Para. 47.

⁷⁵ Day 12, Daniel O’Mahoney, Page 224, Lines 3-7.

46. Thirdly, and allied to the last point, the Department supported the MCA in its procurement of various SAR assets; most notably Project Caesar, discussed primarily at paragraph [25] above. The Department supported the funding by MCA of a modification to the contract with Bristow helicopters, thereby increasing their coverage to meet the rise in demand. Furthermore, where concerns were raised (but did not materialise) as to the possibility of Border Force withdrawing its assets from SAR operations, the Department assisted with the Strategic Outline Business Case for the purpose of “*seeking approval in principle to develop a requirement and commercial framework to procure surface rescue assets in the English Channel.*”⁷⁶

(iv) Changes to Small Boat arrangements since November 2021

47. In addition to Project Caesar and modification of the MCA’s contract with Bristow helicopters, as discussed above, there have been further significant changes and improvements to the arrangements in relation to small boats since November 2021.

Operation Isotrope

48. Operation Isotrope was a directive from the Prime Minister to the MoD to assume primacy over all aspects of the Government’s operational response to illegal migration by small boats. It commenced on 14 April 2022 and was operational until 31 January 2023. During this period, the MoD assumed overall command of the surface assets involved in countering small boat illegal migration on a day-to-day basis and had operational control over assets and personnel once they were assigned to the operation.⁷⁷ The MoD further supported the response through the provision of additional maritime assets, aviation assets and service personnel.⁷⁸ These arrangements were codified in

⁷⁶ INQ004304.

⁷⁷ Witness Statement of Ms Jennifer Armstrong, dated 25 October 2024, Para. 7.6.

⁷⁸ INQ009649.

the joint Memorandum of Understanding between MoD, the Department and the Home Office.⁷⁹

49. The practical effect of this change was explained by Mr O'Mahoney in the following terms:

"The Home Office command structure, essentially, slotted in under the military command structure. In a large part, the operation continued to be delivered as it had been before, but the military provided some resource on the ground, at the Western Jet Foil and thickened our headquarters' functions and command and control functions, which is a role that they are extremely good at.

But in a large part...the operation itself continued to be delivered in a very similar way with very similar people and similar assets to how it had been before. There were some additional assets, but they didn't conduct migrant rescue".⁸⁰

50. This was echoed by Ms Jennifer Armstrong, whose witness statement noted that Operation Isotrope *"did not lead to any change in the practical division of labour relating to enforcement or SAR arrangements."*⁸¹

51. Thus, the evidence before the Inquiry was that, while Operation Isotrope worked within the existing and well-established structures, it did not disrupt them. Rather, Operation Isotrope resulted in MoD bringing its expertise and resources to bear on the response to small boat migration. At the same time, HMCG retained primacy for SAR and SOLAS activity throughout this period.⁸²

⁷⁹ INQ008944.

⁸⁰ Transcript Day 12, Daniel O'Mahoney, Pages 206-207, Lines 20-7.

⁸¹ Witness Statement of Ms Jennifer Armstrong, dated 25 October 2024, Para. 7.7.

⁸² Transcript Day 13, Matthew Leat, Page 42, Lines 16-19.

52. Several witnesses gave evidence to the Inquiry which spoke to the improvements that mark the legacy of Operation Isotrope. Broadly speaking, there were three main areas of improvement.

53. Firstly, Operation Isotrope resulted in a significant uplift in surface assets in the form of the provision of five Crew Transfer Vessels (“CTVs”) and a further three Fast Reconnaissance Vessels. As highlighted above, work was already underway to support the SAR effort through the provision of additional maritime surface assets prior to the Prime Minister’s Directive. As outlined in Mr Driver’s evidence, Ministers were asked in a submission of 14 December 2021 to agree that HMCG should explore increasing additional maritime surface SAR assets. That need was identified as a result of Home Office predictions that small boat crossing numbers would rise further in 2022. It was under the auspices of Operation Isotrope that the increase in maritime surface assets was delivered – a result of concerted and proactive engagement between the Department, the MCA, the MoD and the Home Office to deliver improvements in SAR capabilities.

54. Secondly, Operation Isotrope provided significant assistance to landside operations by increasing the number of small boats personnel. This was outlined by Mr O’Mahoney in his oral evidence. Operation Isotrope brought in *“a standing resource available to the small boats operational command”*⁸³ that introduced a significant uplift in infrastructure and capabilities to respond to small boat crossings. This included an increase in personnel at the Western Jet Foil, which Mr O’Mahoney noted was *“certainly very helpful”*.⁸⁴

55. The provision of additional personnel at this point in time was crucial. As outlined in the witness statement of Ms Jennifer Armstrong, the result was *“tangible improvements”* that *“took place against a particularly challenging*

⁸³ Transcript Day 12, Daniel O’Mahoney, Page 213, Lines 20-21.

⁸⁴ Transcript Day 12, Daniel O’Mahoney, Page 210, Lines 1-2.

backdrop".⁸⁵ Mr O'Mahoney noted in his evidence that it was "*very welcome to have additional people in our command structures*". He further stated that the additional capability "*was very welcome and very helpful*",⁸⁶ and gave Home Office officials the "*headspace to do the planning that we needed to do for that year and to bring a bit of stability to the command structures.*"⁸⁷

56. Thirdly, Operation Isotrope strengthened the inter-agency cooperation arrangements in the Channel, such as the Joint Control Room. Those arrangements remain in place today. During Operation Isotrope, a Maritime Contingent Commander and their staff were based in the Joint Control Room at Dover to exercise tactical command and to provide additional support to the staff and contractors based there.⁸⁸ The MoD's sharing of knowledge, expertise and competencies through an "*advisory approach*" led to improvements in multi-agency integration and interoperability.⁸⁹ In his oral evidence, Mr O'Mahoney agreed that Operation Isotrope enhanced multi-agency working,⁹⁰ and noted that "*there was a lot of skills transfer that happened during that period*".⁹¹

57. Thus, reflecting on the legacy of Operation Isotrope some three years following its commencement, it was, on any measure, a success.

58. One of the issues that the Inquiry has explored during the hearings is whether, following the changes that took place during Operation Isotrope, there would be any benefit to HMCG procuring its own surface assets for search and rescue taskings. Although a draft outline business case was prepared to this effect as a fallback position before Operation Isotrope came to an end,⁹² as Mr Driver explained, that proposal was not ultimately taken forward following Border

⁸⁵ *Ibid*, Para. 7.4.

⁸⁶ Transcript Day 12, Daniel O'Mahoney, Page 212, Lines 15-16.

⁸⁷ Transcript Day 12, Daniel O'Mahoney, Page 212, Lines 16-18.

⁸⁸ Witness Statement of Ms Jennifer Armstrong, dated 25 October 2024, Para. 7.6.

⁸⁹ INQ008948.

⁹⁰ Transcript Day 12, Daniel O'Mahoney, Pages 212-213, Lines 25-3.

⁹¹ Transcript Day 12, Daniel O'Mahoney, Page 207, Lines 11-12.

⁹² INQ004304.

Force's commitment to continue the contract. As Mr Driver told the Inquiry, there would be some benefits to HMCG procuring its own surface assets because it would be "*an opportunity to reposition [and] refine the search and rescue provision*".⁹³ However, it would also potentially lead to inefficient duplication in the number of vessels used, given that Border Force would still need its own vessels in the Channel given ongoing border security concerns, even if it were not carrying out SAR taskings.⁹⁴ Whether assets are procured by HMCG or Border Force, the most important consideration is that the current level of SAR assets in the channel is maintained. As Mr Driver explained in his evidence, "*the most important thing [is that] there is no interruption of that contract*".⁹⁵ This was echoed by Mr O'Mahoney, who pointed out that it is the sufficiency of assets, rather than "*which Government department they belong to*",⁹⁶ that is significant in the conduct of SAR and SOLAS operations.

Aerial assets and surveillance

59. The Inquiry has heard that Project Caesar secured transformative improvements in HMCG's surveillance capacity through the introduction of a Schiebel S100 drone and a DA42 fixed-wing aircraft which provide live video imagery to MRCC Dover.⁹⁷ This was followed by additional S100 drones, replacement of the DA42 aircraft with the larger and more capable DA62,⁹⁸ and a further AR4 drone in operation.

60. The Department is also aware of significant developments being led by the Home Office. For instance, Border Force contracted a Dash 8 maritime surveillance aircraft which is better capable of flying in challenging conditions.⁹⁹ The Dash 8 aircraft is equipped with advanced imaging and radar systems and provides invaluable Intelligence, Surveillance and Reconnaissance

⁹³ Transcript Day 14, James Driver, Page 51, Lines 21-22.

⁹⁴ Transcript Day 14, James Driver, Page 53, Lines 13-23.

⁹⁵ Transcript Day 14, James Driver, Page 52, Lines 21-23.

⁹⁶ Transcript Day 12, Daniel O'Mahoney, Page 200, Lines 20-21,

⁹⁷ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 2.22.

⁹⁸ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 2.23.

⁹⁹ INQ009977.

support to the Small Boats Operational Command.¹⁰⁰ In addition, as outlined by Mr O'Mahoney in his oral evidence, the CCTC worked at pace to develop a shore-based predictive intelligence capability.¹⁰¹ This technology, which is now in place, is a persistent capability, meaning it consistently contributes to maritime awareness.¹⁰² These developments have reduced the possibility of gaps in surveillance coverage in the event of a fixed-wing aircraft being unavailable for tasking.¹⁰³

61. It is important to note, as Mr Leat did in oral evidence, that weather conditions will always be a factor that affects the reliability of the maritime picture. However, it is clear that the *"layered effect of different tools"* now available in SAR operations provides continuity in maritime domain awareness which is invaluable.¹⁰⁴ The improvements described have resulted in HMCG and Border Force having at their disposal *"a suite of aeronautical assets...that are able to respond in pretty much any weather condition"*.¹⁰⁵ These provide an adequate fallback position, or 'plan B', in circumstances where fixed-wing assets are unable to operate. As described by Mr O'Mahoney, the *"more sophisticated"*¹⁰⁶ aerial capabilities now available were a result of concerted engagement with industry and defence professionals to identify a capability that could be delivered more reliably. As a result, *"a very comprehensive surveillance capability"* is now in place.¹⁰⁷ This capability will continue to be monitored and assessed to ensure the MCA can continue to provide an effective and adequate SAR response.

Changes within HMCG and the MCA

¹⁰⁰ INQ008773.

¹⁰¹ Transcript Day 12, Daniel O'Mahoney, Page 166, Lines 2-4.

¹⁰² Transcript Day 12, Daniel O'Mahoney, Page 166, Lines 5-6.

¹⁰³ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 7.41.

¹⁰⁴ Transcript Day 13, Matthew Leat, Page 120, Lines 10-12.

¹⁰⁵ Transcript Day 13, Matthew Leat, Page 119-120, Lines 23-2.

¹⁰⁶ Transcript Day 12, Daniel O'Mahoney, Page 174, Line 24,

¹⁰⁷ Transcript Day 12, Daniel O'Mahoney, Page 166, Lines 12-13.

62. Finally, the Department is aware that HMCG, as an organisation committed to ongoing learning and reflection,¹⁰⁸ has continued to learn lessons and to drive improvements in its Channel operations since the incident, which the Department has, in its role as parent department of the MCA, overseen. Since the period of interest to the Inquiry, HMCG has continued to develop its capability in this regard, as demonstrated by the following illustrative examples:

- i Increases to staffing numbers: the Inquiry has heard that a recruitment campaign for further staff at Dover commenced in August 2021 in anticipation of increased crossings in 2022.¹⁰⁹ This resulted in an increase of 24 staff.¹¹⁰
- ii Further development of Standard Operating Procedures (“SOPs”): following the US Coast Guard’s SAR case study, a number of recommendations were made and accepted regarding updates to existing SOPs. This has included updating SOPs to reinforce the requirement on watch officers to treat every distress alert as genuine until determined otherwise.¹¹¹
- iii Development of specialist technology: in accordance with the US Coast Guard’s recommendation to continue seeking mobile phone location data capability, the ICU system was introduced. The ICU system automatically provides positional and geolocation data for mobile phones calling HMCG.¹¹² It also provides automatic translation of text messages sent by HMCG and has video streaming capabilities.¹¹³ Mr Leat confirmed in oral evidence that the ICU system has “*hugely assisted*” communication with small boats.¹¹⁴

¹⁰⁸ Transcript Day 13, Matthew Leat, Page 18, Lines 9-10.

¹⁰⁹ Transcript Day 13, Matthew Leat, Page 64, Lines 17-20.

¹¹⁰ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 7.19.

¹¹¹ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 7.31.14.

¹¹² Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 7.31.12.

¹¹³ Transcript Day 13, Matthew Leat, Pages 160-161, Lines 25-4.

¹¹⁴ Transcript Day 13, Matthew Leat, Page 161, Lines 16-19.

- iv Improvements to the working relationship and liaison systems with French authorities: HMCG has worked with its French counterparts to devise a live internet-based tracking and identification system,¹¹⁵ providing instantaneous updates and improved communication. As Mr Leat noted in his evidence, since the introduction of the live tracker, no small boats have entered the UKSRR without first being recorded by the French Coastguard in the live tracker.¹¹⁶ Further improvements to communication and co-working are considered between HMCG and the French Coastguard on a continuous basis.¹¹⁷
- v Internal and external reviews: the Inquiry has heard that three reviews have taken place, all of which have considered the actions taken by HMCG on the night of 23/24 November 2021. These were: the investigation conducted by the MAIB; the US Coast Guard SAR case study; and the HMCG Tier 3 review. These reviews and their outputs are considered in further detail above. The Department is aware that HMCG and MCA carefully considered the recommendations provided by each review, and have accepted and implemented many of them. The contributions of the US Coast Guard and HMCG, through their reviews, have provided particularly valuable opportunities for sharing knowledge and learning amongst SAR experts with unparalleled operational experience and expertise. As recognised by Counsel to the Inquiry, a great deal of work has been undertaken to learn lessons from the tragic incident of 24 November 2021.¹¹⁸
- vi Improvements to cross-government working: MCA has continued to develop its relationship with Border Force. For instance, the co-location and embeddedness of Border Force Maritime staff in the Joint Control Room has continued to drive improvements in communication and working relationships. Mr Dominic Golden described this development

¹¹⁵ Transcript Day 13, Matthew Leat, Page 138, Lines 2-7.

¹¹⁶ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 7.40.

¹¹⁷ Witness Statement of Mr Matthew Leat, dated 1 November 2024, Para. 7.40.

¹¹⁸ Transcript Day 1, Opening Statement, Page 82, Lines 3-12.

as “a very positive step forward”.¹¹⁹ Mr Whitton also agreed that this has improved the sharing of information regarding asset availability across organisations.¹²⁰

vii MCA governance: since the period of interest to the Inquiry, there have been several improvements to the MCA’s governance and management systems, and in turn, the Department’s oversight. For instance, MCA is in the process of recruiting four Non-Executive Directors, to be completed by the end of 2025, to support the MCA chair and further improve organisational assurance. Two of these are existing roles, with the other two providing additional skillsets to the MCA Board. The Department is on track to publish the updated MCA Framework Document before the end of 2025, which will reference key changes that have already been introduced. These include new requirements for the provision of management information in order to allow more effective scrutiny, and closer engagement between MCA and the Department’s finance business partners to provide strengthened financial oversight. Finally, and more generally, the Department and MCA have continued to work closely, with the Department monitoring, challenging and supporting the MCA’s work in delivering the improvements set out above.

Summary

63. Overall, the evidence before the Inquiry was that, as a result of the uplifts delivered during Operation Isotrope; Project Caesar; the modification to HMCG’s contract with Bristow Helicopters; and continual organisational improvements within HMCG, the SAR ecosystem in the Channel today is very different from that in place in November 2021. Consequently, the Department is assured that HMCG continues to provide a world-leading SAR service and is discharging its obligations under domestic and international law.

¹¹⁹ Transcript Day 6, Dominic Golden, Page 175, Line 17.

¹²⁰ Transcript Day 12, Steven Whitton, Page 54, Lines 19-22.

64. However, the Department recognises the critical importance of organisational learning and reflection, and the role such processes play in preventing future loss of life in the Channel. As an organisation, the Department continually seeks to identify areas of improvement. As such, it looks forward to considering this Inquiry's recommendations.

CONCLUSION

65. The events of 24 November 2021 were acutely significant and tragic. The evidence given by Mr Issa Mohamed Omar about what happened that night in the Channel was harrowing, and the testimony of all those whose loved ones died or remain missing in this incident, read in their own languages and accompanied by photographs of their loved ones, was powerful and uniquely poignant. No-one who has seen and heard this evidence will forget it. The Department offers its deepest and sincere condolences to the bereaved, the survivors and to all others who have been affected by what happened. It is of the utmost importance that any lessons that can be learned are now identified to ensure that history does not repeat itself. The Department looks forward to receiving the Inquiry's findings and recommendations within the Chair's Report.

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17 April 2025