

Witness Statement of James Driver

Department for Transport

19 December 2024

Witness Name: James Driver

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Exhibits: [1 – 179]

Dated: 19 December 2024

THE CRANSTON INQUIRY

WITNESS STATEMENT OF JAMES DRIVER

I, James Driver at the Department for Transport, Greater Minister House, 33 Horseferry Road, London, SW1P 4DR will state as follows:

1. Since January 2017, I have been the Head of the Maritime Security Division (“**the Division**”) at the Department for Transport (“**DfT**”). I am the senior civil servant in DfT with responsibility for policy and strategy in relation to the security of UK commercial ports, and British flagged commercial shipping. This encompasses maintaining the regulatory requirements of domestic and international maritime security regulation, and developing policy to mitigate risks to the sector. Additionally, the Division runs cross-government governance, and, along with the Home Office, sponsors the Joint Maritime Security Centre. I joined the Civil Service in 2004 and have spent most of that time in the field of security, risk and resilience.
2. At the outset, I would like to take this opportunity to extend my deepest condolences and sympathies to all those who have been affected by the tragic incident that took place on 24 November 2021 (“**the incident**”).

3. I make this statement in response to the Inquiry's request for evidence dated 30 July 2024 ("**the Request**"). The request set out a number of detailed questions, covering a wide range of topics, which I have endeavoured to respond to within this statement. I have sought to address the Inquiry's questions thematically and, where possible, chronologically. I am duly authorised to make this statement on behalf of DfT. The contents of this statement are within my own knowledge or derived from DfT records, save as otherwise appears, and are true to the best of my knowledge and belief.
4. Unless stated otherwise, all references to DfT below refer to DfT Central, which is the central component of the Department for Transport, and excludes all executive agencies within DfT, such as the Maritime and Coastguard Agency ("**MCA**").

Structure and governance of DfT

DfT's Maritime Security Directorate

5. As the Head of Maritime Security at DfT, I currently report to the Transport Security Director, but at the time of the incident, reported to the then Maritime Director, Petra Wilkinson. They in turn reported to the Director General for Aviation, Maritime and Security who, at the time of the incident, was Gareth Davies.
6. Whilst the small boats issue is not considered a maritime security matter within DfT responsibilities, it is my team, the Division, who primarily engage on issues relating to small boats.
7. In 2021, the Division was made up of four teams: (i) the Domestic and Europe Port & Ship Security team; (ii) the International Shipping and Counter Piracy team; (iii) the Strategy team; and (iv) the Coordination team. Whilst it is still made up of four teams, these are now: (i) the Domestic and Europe Port & Ship

Security team, (ii) the Strategy, Threat & Risk team, (iii) the International Shipping Security team, and (iv) the Maritime Security Governance team.

8. The structure of the Division has broadly remained the same for relevant purposes. It is still made up of approximately 20 civil servants, of whom 4 (5 at the time of the incident) are in the Domestic and Europe Port and Ship Security team. Within that team, it is primarily the Grade 7 head of team and one Senior Executive Officer who carry out work on small boats as a small part of their jobs, in addition to the Deputy Head of the Division. Other members of the Division have supported work on occasion where required.
9. The Division is responsible for a number of legislative functions on maritime security, as well as having a role in coordinating maritime security across government. The vast majority of the work carried out by the Division does not relate to small boats. The Division runs cross-government community structures to bring together departments and agencies with responsibility for maritime security, including the National Maritime Security Committee (Officials); and coordinated the production and publication of the previous government's National Strategy for Maritime Security. DfT does not have responsibilities for, or own, maritime security issues and risks outside of its remit (primarily the commercial maritime area) but enables enhanced coherence of government activity. These maritime security forums are not responsible for the governance of small boats, though occasionally items relating to small boats have been tabled on an *ad hoc* basis. See, by way of illustration, **INQ001049**.
10. The other team within DfT with involvement in small boats is the MCA Sponsorship Team. At the time of the incident, this team was made up of a Grade 7 and a Senior Executive Officer, and constituted one of the teams reporting to Name the Deputy Director for Maritime Operations. This team now sits within the Strategy and Sponsorship Division, within the Maritime Directorate, and is made up of 4 officials.

11. In November 2021, both the Division and the MCA Sponsorship Team sat within the Maritime Directorate, reporting to the Maritime Director (who is responsible for overall policy for shipping, including marine safety, Search and Rescue (“SAR”) and counter pollution response, as well as acting as the Agency Sponsor for MCA). They in turn reported to the Director General. Since January 2023, the Division has moved into a new “Transport Security Directorate”, under the Transport Security Director, albeit reporting to the same Director General.
12. DfT does not itself operate any specific small boats governance structures but has participated in cross-government structures where relevant. DfT and the MCA’s departmental responsibilities for responding to small boats are limited to delivering the UK’s SAR responsibilities; namely, the initiation and co-ordination of civil maritime SAR within the United Kingdom SRR. Therefore, the relevant governance and leadership structures in DfT are primarily those which oversee the sponsorship of the MCA, including their discharge of SAR obligations.
13. An organogram showing the relevant teams and structures within the department at the time of the incident is at [INQ008176]. An organogram of the relevant structures at the present time is at [INQ008175].

The structure and governance of DfT

14. Above the Maritime Directorate sits the DfT Executive Committee (“ExCo”). ExCo is one of the sub-committees of the DfT’s board and is central to departmental governance. ExCo meets weekly to steer DfT’s strategic vision, maintain strategic oversight, provide scrutiny of DfT policies and delivery commitments, and take significant management decisions across the department. It comprises the most senior officials within DfT, including the Permanent Secretary, the Second Permanent Secretary, the Group Human

Resources Director and the Director General, Aviation, Maritime and Security Group.

15. Its responsibilities include:

- a. Shaping strategic policy direction;
- b. Identifying and managing risks;
- c. Overseeing financial strategy; and
- d. Delivering policy, business plans and reporting arrangements to track progress on important areas of business.

16. Owing to the high level of discussion at ExCo, the details of small boats issues were rarely discussed. I can confirm that all identified meeting minutes, agendas and any other associated documentation of ExCo meetings where small boats issues were discussed have been disclosed: see, for instance, **[INQ009116, INQ009117, INQ009120, INQ009121 and INQ009118]**.

DfT investment governance

17. Under the extant DfT Investment Approvals Framework, the Combined Tier 2 Investment Board is one of the investment bodies that makes up DfT's investment governance, there to review projects and programmes and agree appropriate recommendations before advice goes to the relevant Accounting Officer and Ministers. DfT 'tiers' projects within the department to determine the appropriate level of governance. The investment tiering category for a project or programme is primarily determined by the financial whole life cost of the project or programme.

18. Within this framework, the role of the Combined Tier 2 Investment Board is to review projects and programmes categorised under this tier for three Director General led groups: Corporate Delivery Group, Aviation, Maritime and Security Group, and Decarbonisation, Technology and Strategy Group **[INQ009110]**. It has delegated authority as a subcommittee of the Investment Portfolio and

Delivery Committee to provide oversight, challenge and scrutiny of Tier 2 programmes and projects. This includes approving recommendations to ministers and the relevant Accounting Officer. Its recommendations highlight any areas of concern and risk, and the associated actions to manage and mitigate those areas.

19. The Combined Tier 2 Board's delegated authority limit covers projects and programmes with a whole life cost between £10m-£100m. It meets on a monthly basis to consider proposals [INQ009112]. The Combined Tier 2 Investment Board was launched in September 2022. Prior to 2022, the relevant Tier 2 investment Board was the AMS Tier 2 Board.

DfT's roles and responsibilities in relation to small boats

20. DfT's role in relation to small boats attempting to cross the Dover Strait is defined largely through its work with the MCA, an executive agency of DfT, and by extension, His Majesty's Coastguard ("HMCG"), which forms part of the MCA, as well as its interactions with other government departments.

MCA sponsorship

21. The MCA is an executive agency of DfT which includes HMCG within its directorates [INQ000957]. 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 [INQ000955].

22. It is through the MCA that DfT ensures the UK's implementation of its obligations under relevant international maritime conventions. The UK is a party to a number of international agreements which are relevant to small boats. The key legal obligations under domestic and international law in relation to small boats can be summarised as follows:

- a. 1982 United Nations Convention on the Law of the Sea (“UNCLOS”).
Article 98(1) of UNCLOS imposes an obligation on the State to require the master of a ship flying its flag to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. This obligation is met by the Merchant Shipping (Safety of Navigation) Regulations 2020. Article 94 of UNCLOS obliges a State to take such measures as are necessary for ships flying its flag to ensure safety at sea as regards the prevention of collisions. In addition, Article 98(2) of UNCLOS provides an obligation on the State to promote the establishment, operation and maintenance of an adequate and effective SAR service regarding safety on and over the sea.
- b. Convention on the High Seas 1958: Article 12 of the Convention on the High Seas requires States to promote the establishment and maintenance of an adequate and effective SAR service regarding safety on and over the sea, and where circumstances so require, by way of mutual regional arrangements, cooperate with neighbouring States for this purpose.
- c. International Convention for the Safety of Life at Sea (“SOLAS”).
Regulation 7 of Chapter V of SOLAS requires States to make arrangements for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress at sea. These arrangements should include the establishment, operation and maintenance of SAR facilities. Regulation 33 of Chapter V of SOLAS obliges the master of a ship at sea to provide assistance to those in distress. This is implemented by the Merchant Shipping (Safety of Navigation) Regulations 2020, which renders failure to comply with that obligation a criminal offence. Under SOLAS, the contracting government responsible for the SAR region in which such assistance is rendered must exercise primary responsibility for ensuring co-ordination and co-operation occur, so that rescued survivors are disembarked from the

assisting ship and delivered to a place of safety as soon as reasonably practicable.

- d. International Convention on Maritime Search and Rescue 1979 (“SAR Convention”). The SAR Convention sets out a detailed international system covering SAR. Its aim was to develop an international SAR plan so that, no matter where an accident occurs, the rescue of a person in distress at sea will be co-ordinated by a SAR organisation and, where necessary, by co-operation between SAR organisations. Under the SAR Convention, the primary responsibility is to ensure those rescued are disembarked and delivered to a place of safety. Following the adoption of the SAR Convention, the International Maritime Organization (“IMO”) divided the oceans into SAR areas, in which each of the States has delimited SAR regions for which they are responsible. In the Channel, the UK and France SAR regions align with the territorial sea divide, save for one small area, necessitated by the Traffic Separation Scheme (“TSS”) management, where the UK Search and Rescue Region (“SRR”) extends a couple of nautical miles into French Territorial Waters (“FTW”). The 2018 Mancheplan INQ000668 is a Memorandum of Understanding between France and the UK. The geographical area “*comprises the English Channel*”. Chapter 2 is an agreement between the UK and France to strengthen SAR co-operation and co-ordination pursuant to the provisions of the SAR Convention.
- e. The Convention on the International Regulations for Preventing Collisions at Sea 1972 (“COLREGS”). The COLREGS set out the navigation rules to be followed by vessels at sea to prevent collision. In this regard, the IMO has also adopted specific traffic rules around the Dover Strait under the TSS (for example: direction of travel, separation of lanes, crossing the lanes etc).
- f. European Convention on Human Rights (“ECHR”). Article 2 ECHR, the right to life, includes a duty on the State to take measures reasonably within the power of the State authorities to protect individuals against a

risk of death, typically from others or themselves, as well as a duty to provide a regulatory framework to protect the right to life.

- g. Customary International Law. The duty to render assistance to those in distress at sea is also generally accepted to have the status of a rule of customary international law.
- h. Civil Contingencies Act 2004 (the “CCA 2004”). which is further explained in the following paragraphs.

23. In terms of specific legal obligations on DfT:

- a. The Secretary of State (“**SoS**”) has responsibility for establishing, operating and maintaining an adequate and effective civil maritime and aeronautical SAR service¹, as required by a number of the conventions referred to above. The SoS fulfils those responsibilities through the MCA, HMCG and the Aviation Airspace Division. The tasking of adequate resources to respond to civil aeronautical and maritime SAR, and the co-ordination of that response, is the responsibility of the MCA, through HMCG.
- b. In addition, under the CCA 2004, the SoS is designated as a Category 1 responder *“in so far as [her] functions include responding to maritime and coastal emergencies (excluding the investigation of accidents)”* (Schedule 1(12) to the CCA 2004). The duty on a Category 1 responder is triggered by the risk of an emergency occurring which is defined as one causing or potentially causing a loss of life (see section 1(2)(a) of the CCA 2004). That duty is to engage in the risk assessment cycle as set out in section 2 of the CCA 2004. The SoS meets her responsibilities as a Category 1 responder through the MCA, whose responsibilities include *“[providing] a national 24-hour maritime search and rescue (SAR) emergency response service that can operate throughout the UK, at sea and internationally”* [INQ000955] at [4].

¹ Strategic Overview of Search and Rescue in the United Kingdom of Great Britain and Northern Ireland (January 2017)

https://assets.publishing.service.gov.uk/media/5a80891e40f0b62305b8bb83/mca_uksar.pdf

24. DfT does not itself have any operational functions in relation to small boats, nor is it involved in operational structures in relation to small boats attempting to cross the Dover Strait, and it does not have any relevant assets. However, through HMCG (as defined in the Coastguard Act 1925 (“**CA 1925**”), the SoS discharges her statutory responsibility to initiate and coordinate the civil SAR response within the UK SAR region, which includes the SAR response to small boats in the Channel. This position arises from what is often referred to within DfT as the “**SoS determination of 1992**”. In summary:

- a. Section 1 of the CA 1925 provides: *“His Majesty’s Coastguard shall consist of such numbers of officers and men as the Board of Trade (hereinafter referred to as “the Board”), may with the consent of the Treasury from time to time think fit, and shall be raised, maintained, equipped, and governed by the Board and employed as a coast-watching force for the performance of the duties hitherto performed by the coastguard on behalf of the Board, and of such other duties as may be determined by the Board.”*
- b. The Board of Trade’s responsibility for HMCG, as alluded to within section 1 of the CA 1925, was subsequently transferred to the SoS in 1983. Following that, the key “determination” was laid before Parliament in 1992 and read as follows: *“Her Majesty’s Coastguard is responsible for the initiation and co-ordination of civil maritime search and rescue within the United Kingdom search and rescue region. This includes the mobilisation, organisation and tasking of adequate resources to respond to persons either in distress at sea, or to persons at risk of injury or death on the cliffs or shoreline of the United Kingdom.”*²

25. DfT supports HMCG with its response to small boats in a number of ways.

² HC Deb 09 March 1992 vol 205 cc409-10W

26. DfT undertakes departmental sponsorship and governance of the MCA. As set out above, the MCA is an executive agency of DfT and HMCG forms part of the MCA. DfT retains responsibility for the framework within which the MCA operates (and of which HMCG forms part) and for agreeing its strategic objectives. This is set out in the “*Framework Document for the Maritime and Coastguard Agency (MCA), November 2017*” document (“**the Framework**”) [INQ000955]. The Framework is currently being updated and it is expected to be published before the end of 2024.

27. DfT oversees the overall performance of the MCA (including HMCG) through the MCA Sponsorship Board, chaired by the Director General responsible for Maritime (the “**DfT Director General**”) as the Agency Owner. The MCA Sponsorship Board advises the Agency Owner, and through them the Minister with responsibility for the Agency, on the MCA’s performance against the business plan and its associated objectives [INQ009122]. The MCA Sponsorship Board provides a core part of DfT’s oversight of the MCA. Risks can be escalated to the department via this Board.

28. The purpose of the MCA Sponsorship Board is to ensure that there is sufficient oversight of the strategic direction of performance, risks and financial reporting; Governance arrangements for the MCA are upheld or amended where necessary; and that the recommendations of any successive independent reviews of the MCA are fully implemented. Its activities include:

- a. Holding the MCA to account through analysis of regularly commissioned management information to the Sponsorship Board for having effective objectives, risks, business planning, achievement against targets and expenditure against its Defined Expenditure Limits and Annually Managed Expenditure allocations, and measures of performance against them;

- b. Advising the Agency Owner, and through them, the Minister with responsibility for the Agency, on the MCA's performance against its externally published business plan and associated objectives;
- c. Monitoring the MCA's performance against government and ministerial priorities as set out in the annual priorities/Chair's letter;
- d. Monitoring wider policy developments and cross-Government priorities with the potential to impact or affect the work of the MCA, and monitoring how the MCA takes account of these and ministerial objectives in setting and delivering strategic objectives and plans;
- e. Overseeing MCA projects and programmes to seek assurance that they remain on track to deliver on time, budget and quality; and
- f. Periodically carrying out assessments of risks to DfT and MCA objectives and activities.

29. The MCA Sponsorship Board meets on a quarterly basis. It is chaired by DfT's Director General for Aviation, Maritime and Security ("**AMS**"). Other DfT members include the Director for Maritime; Deputy Director, Strategy and Sponsorship; the MCA Finance Business Partner; and the Maritime MCA Sponsorship Team. The Secretariat function is performed by the DfT Sponsorship and Appointments Team.

30. The SoS or the junior Minister for Aviation, Maritime and Security with responsibility for the MCA is responsible for holding the MCA Sponsorship Board to account for its governance of the MCA, its performance, and ensuring that the MCA is guided and monitored in the public and taxpayers' interest. Any issues raised via the Sponsorship Board which are of interest to ministers, or the wider department, are brought to their attention through internal departmental processes.

31. The Secretary of State is accountable to Parliament for MCA business. These ministerial responsibilities are exercised by:

- a. approving the Framework and any revisions to it;
- b. approving the MCA's business plans;
- c. approving any specific proposals from the MCA for changes to the MCA's strategic objectives (such changes having been agreed by the MCA Sponsorship Board); and,
- d. approving the MCA's Annual Report and Accounts prior to them being audited by the Comptroller and Auditor General and being laid before Parliament.

32. DfT's Director General with responsibility for Maritime is currently Rannia Leontaridi, although at the time of the incident it was Gareth Davies. The Director General acts as the civil servant with responsibility for MCA-related matters (the "**MCA Owner**") on behalf of the minister with responsibility for the MCA. The MCA's budget forms part of the Director General's Group budget, and the MCA Owner acts as the reporting officer for the Chief Executive. The MCA Owner is responsible for allocating the MCA's resources and for setting its detailed objectives within the strategic parameters agreed by ministers. The MCA Owner is responsible for advising the Principal Accounting Officer and the responsible minister on an appropriate budget for the MCA in light of DfT's overall public expenditure priorities. In addition, the MCA Owner is responsible for ensuring that arrangements are in place to monitor the MCA's activities; addressing significant problems in the MCA, making such interventions as are judged necessary; periodically carrying out an assessment of risks both to DfT and the MCA objectives and activities; informing the MCA of relevant government policy in a timely manner; and bringing concerns about the activities of the MCA to the full MCA Board and, as appropriate to the departmental Board, requiring explanations and assurances that appropriate action has been taken.

MCA finances

33. The MCA is funded through a DfT Request for Resource (“RfR”), with its budget forming part of the International, Security and Environment Group’s budget. Accordingly, at each spending review, the MCA would set out their funding requirements to DfT, based upon operational and delivery expectations. There would then follow a negotiation between DfT and HM Treasury to set the overall departmental budget; out of which comes the MCA’s budget profile.
34. Prior to the start of each financial year, the MCA and DfT Finance team will discuss the MCA’s budget requirements for the year ahead, building upon any amendments to the budget profile set at the spending review. Once the budget is agreed, a delegation letter is sent from the Director General of Aviation, Maritime and Security to the Chief Executive of the MCA, setting out the budgets and the department’s expectations as to how they manage their finances. Examples can be found at **INQ008123**, **INQ008124** and **INQ008125**.
35. It is worth noting that, whilst DfT has a broad overview of the MCA’s key requirements, the Resources and Capital budgets are delegated to the MCA, who manage these themselves. There is, of course, an ongoing monitoring of the budget, and the MCA report their performance, or forecast, against these budgets on a monthly basis. The MCA would be expected to provide a narrative where they are encountering budget pressures.
36. Details of the financial delegations are set out at paragraph 57 of the Framework [**INQ000955**] and provide for the Chief Executive to commit expenditure and authorise payments for an “*unbudgeted emergency*”, with the requirement that “*Policy and Financial Sponsors must be notified and kept informed of pollution incidents and the level of expenditure (given the possible need for the Department to find offsetting savings from elsewhere in its allocations and/or to seek a claim on the HM Treasury Reserve.*” Proposals to invest in capital projects which exceed DfT or RfR limits set by HM Treasury

must be referred to DfT's Maritime Directorate prior to seeking HM Treasury's approval.

37. The Inquiry has sought details of increases and/or decreases in the MCA's budget between 2018 and 2021. I set out the relevant information in the table below by reference to two metrics, Resource Departmental Expenditure Limit ("**RDEL**") and Capital Departmental Expenditure Limit ("**CDEL**"), which are budget totals set by HM Treasury and used within the public sector for setting budgets. RDEL covers day to day spending while CDEL covers investment spending. The Main and Supplementary Estimates are the method through which Parliament grants approvals for Government expenditure. Main Estimates are set at the start of the financial year and Supplementary Estimates are revisions made towards the end of the financial year. The table below sets out the budgets that DfT have delegated to the MCA at the Main and Supplementary Estimate.

<i>£m</i>		<i>Main Estimate</i>	<i>Supplementary Estimate</i>
	<i>Resource Departmental Expenditure Limit ("RDEL")</i>		
<i>2018/19</i>		<i>352.4</i>	<i>349.1</i>
	<i>Capital Departmental Expenditure Limit ("CDEL")</i>		
		<i>12</i>	<i>11.9</i>
<i>2019/20</i>	<i>RDEL</i>	<i>358.5</i>	<i>366</i>
	<i>CDEL</i>	<i>29.1</i>	<i>17.1</i>
<i>2020/21</i>	<i>RDEL</i>	<i>396</i>	<i>371.8</i>
	<i>CDEL</i>	<i>104.6</i>	<i>26.5</i>
<i>2021/22</i>	<i>RDEL</i>	<i>386.4</i>	<i>378.4</i>

	<i>CDEL</i>	<i>61.1</i>	<i>38.1</i>
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38. The changes in the MCA's capital budget over this period largely reflect how their large capital programmes, such as the Radio Network Infrastructure Replacement Programme, have progressed. The changes in the resource budget reflect pay increases, as well as cost increases in SAR helicopters and aerial surveillance and spraying.

39. The department's approach to the MCA's budget monitoring is focused on accurate financial forecasting. It is expected that the MCA Accounting Officer, through their Finance Director and their Team, manages financial allocation within the agency and proactively flags any financial pressures to the department that affects its operational responsibilities, as set out in both their framework document and financial delegation letters. The budget allocation is then discussed at the MCA Board. The below details the financial position in period 13 for the 2021/22 budget for Resource and Capital expenditure, which has been taken from a June 2022 MCA Board paper. This shows how the in-year financial position is reviewed within the MCA and whether different areas of the business required further in-year financial support. DfT would expect a similar process to be run to allocate budgets across the MCA to reflect operational requirements [INQ008177].

Table 1 – Total Resource Budgets (Admin & Programme) – Year End Variance by Directorate

TOTAL	Full Year Revised Budget £'000	Full Year Outturn £'000	Variance (+ve Under/-ve Over) £'000
Aviation (SAR-H)	225,714	223,564	2,150

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UK Maritime Services	36,528	35,886	641
HM Coastguard	41,259	39,843	1,417
Information & Technology	22,147	21,290	857
HR & Estates	14,926	15,501	(574)
RNIR	5,723	4,275	1,448
Other Programme	13,570	12,638	932
Depreciation	12,799	12,144	655
Central Reserves	-2,005	-3,305	1,300
Admin Budgets	7,700	7,463	237
TOTAL Prog & Admin Spend	378,361	369,299	9,063

Programme & Admin shows £369.3m against a revised budget of £378.4m, an underspend of £9.1m (2.4%). The main movements are due to underspends in:

- £0.3m HMCG works at Dover
- £0.5m higher than expected income and underspend on Counter Pollution
- £0.7m IT project delays
- £0.4m HR/Estates – costs transferred to Capital
- £0.4m other minor movements

Offset by:

- (£1.1m) approved overspend on Project Caesar

Table 2 – Capital Budget – Year End Variance by Directorate

TOTAL	Full Year Revised Budget	Full Year Outturn	Variance (+ve Under/-ve Over)
	£'000	£'000	£'000
UK Maritime Services	2,340	830	1,511
HM Coastguard	3,191	1,559	1,632
Information & Technology	1,839	1,710	128

HR & Estates	1,312	1,987	(676)
RNIR	22,794	21,477	1,316
IFRS16	4,522	3,832	689
Other	2,125	452	1,674
TOTAL - Capital spend	38,123	31,847	6,274

The Capital table shows an underspend of £6.3m (16.5%) compared to the full year revised budget.

Incident reporting

40. In addition to its sponsorship role outlined above, DfT also plays a limited role in internal incident reporting and cross-government communications (such as parliamentary and media handling), and on some occasions liaises with HMCG about the details of specific operations on a fact-finding basis. DfT's role in this area is concerned only with internal and central government reporting and handling. It is not connected to reporting or liaison between operational agencies and therefore has no operational impact.

41. The Transport Security Operations Centre ("TSOC") provides cross departmental coordination of major civil contingency and security incidents affecting transport, and acts as a central hub for reporting on incidents. In the case of a significant SAR incident, whilst the department has no operational role, TSOC will disseminate HMCG incident reporting to relevant policy teams, senior civil servants, and ministers as required. This reporting is primarily internal to DfT, but in a particularly serious small boat incident (i.e. one involving potential fatalities in UK waters), TSOC will also share reporting with the Home Office who, in turn, will keep their ministers and the Cabinet Office apprised. TSOC sits within a sister Directorate to the Maritime and Security Directorates, but under the same Director General.

42. I have been asked to comment on the 'We Are Aware System' operated by DfT.

The 'We Are Aware' ("**WAA**") system is a well-established arrangement, which has been used by the TSOC for many years for reporting on all issues affecting the transport system and other DfT interests and assets. It is not unique to monitoring small boats or Channel crossings generally. The use of the phrase We Are Aware to denote an ongoing issue has been in place within DfT since 2017. The process has since been iterated and now includes a standard template.

43. The purpose of WAA is to quickly establish a single and authoritative account of events on any incident which meets DfT's reporting threshold. It simultaneously assures senior officials that TSOC, as the central reporting point within DfT, is aware of any ongoing incidents and confirms that any information that reaches officials should be passed to TSOC for central dissemination and reaction. This assures quality control of information at a centralised point and ensures that all key personnel are informed simultaneously.

44. The threshold for WAA reporting is variable and depends on factors including, but not limited to: ministerial priorities and preferences; recent events (such as a previous incident that impacted the transport network); and concurrent incidents (such as an incident that would not be of concern in isolation, but is significantly compounded by its concurrency with another factor). Broadly, the WAA reporting processes will be triggered by any incident that has a security or resilience impact on the transport network.

The small boats policy response

DfT's response to the small boats issue

45. From Autumn 2018, with migrant numbers starting to rise and an increased focus across government on the issue of small boats, the Division became

involved in cross-government meetings between the Home Office, the MCA and Border Force [INQ008165; INQ008162; and INQ008137]. These meetings discussed the UK's response to the migrant situation and departmental roles. HMCG was engaged from a SAR perspective, whilst DfT was engaged in connection with our maritime security role, as government sought to understand all elements of this issue, including whether those crossing posed a national security threat. As the number of crossings increased, and the issue was better understood as a border security threat, DfT's role shifted to focus on representing HMCG's interests and explaining the UK's obligations under SOLAS and its 1988 Protocol, with the aim of ensuring that any policy development was in compliance with such obligations.

DfT's role

46. DfT has been engaged on the small boats issue since 2018, and has been involved in a number of forums on the issue over that period. DfT's role in the cross-government response to the small boats issue and relationships with other government departments and stakeholders has evolved as the scale of the challenge has increased. Necessarily, the relative roles and responsibilities of the stakeholders involved have also evolved. DfT's engagement with other government departments is set out in more detail in paragraphs [204]-[248] below.

47. DfT's role was to contribute to the proposed policies of other government departments and cross-government initiatives, ensuring that there was no impact on the UK's obligations to safeguard lives at sea, liaising with SAR experts within HMCG and UNCLOS leads in the FCDO as required. DfT was not responsible for developing policy to counter illegal migration; that is an issue for the Home Office.

48. I am asked to provide details regarding any draft or implemented policy initiatives by DfT in relation to small boats. As DfT does not lead on any small

boat policies, it did not itself create any draft or implemented policy initiatives. Although DfT does have a policy-making role in relation to maritime security, the small boats issue is not generally considered to be a maritime security matter within the scope of DfT's core area of responsibility. That is to say, it is not an issue connected to DfT's legislative or core policy responsibilities on maritime security. Whilst, at times, the small boats issue has been considered in the wider context of the security of UK waters, it is first and foremost a border security matter [INQ008117, INQ001049]. In any event, whilst DfT has historically played a role in cross-government maritime security coordination, it does not assume responsibility for all maritime security risks, which remain the responsibility of the lead department. The Home Office leads, and has always led, on overall policy relating to small boats, primarily as a risk to the UK's borders, and is best placed to explain its policy initiatives in relation to small boats.

49. Where DfT has been involved in any draft or implemented policy initiatives by other government departments in relation to small boats, its role has largely been to comment on the statutory obligations and functions from a SAR perspective, including representing HMCG's views and remit [e.g. INQ008113, INQ008114, INQ008116 and INQ008117].

50. In terms of resourcing DfT's role, as set out above, there are two teams within DfT whose remit encompasses migrant crossings: the Division and the MCA Sponsorship Team. These teams represented the departmental personnel resource addressing the issue of small boats crossings. I am of the opinion that DfT possessed both sufficient resources, as well as the expertise to respond to the small boats issue, commensurate with its limited remit. I am further asked whether external policy advice was ever sought in developing the policy response to small boats. Owing to DfT's lack of policy development remit, as outlined above, no external policy advice of this sort was commissioned by DfT.

51. As noted above, it is the Home Office which leads the overall government policy on small boats [INQ001049].

52. The Home Office retains overall accountability for HMG's illegal migration and border security strategy, as well as owning the policy relating to small boats as part of its wider responsibilities on immigration enforcement [INQ000017]. The small boats response was, and remains, a key strand of its illegal migration strategy. The Home Office's approach to responding to the small boats issue has evolved over time, as have the governance structures in place for collaboration and cooperation with DfT.

53. DfT has engaged with the Home Office and Border Force on the issue of small boats since 2018; initially from a maritime security perspective, but later, primarily, in its capacity as the MCA's parent department. In all of DfT's engagement with the Home Office, DfT has maintained constructive working relationships with our Home Office counterparts, recognising its mandate to tackle illegal migration, whilst upholding the primacy of UK SAR obligations and HMCG's equities, including under SOLAS [INQ004307]. DfT (in partnership with the Foreign, Commonwealth and Development Office ("FCDO") as the lead Department for UNCLOS) has been involved in supporting the Home Office to ensure that any policies under consideration for countering illegal migration in the Channel did not infringe on the UK's obligations, or our ability to save lives at sea.

The Clandestine Channel Threat Command

54. At the time of the incident, the Home Office's operational response was led by Clandestine Channel Threat Command ("CCTC") in the Home Office, whilst Border Force Maritime led their operations at sea, including the Border Force vessels which were deployed in the Channel at the time of the incident. However, it is important to note that, both currently and at the time of the incident, HMCG retains responsibility for the tasking and coordination of assets

to respond to SAR incidents in the Channel. All small boats are initially deemed to be in 'Distress' on crossing the median line, and thus classed as a SAR incident, thereby falling to HMCG as the lead agency.

55. The CCTC was established to lead the overall cross-government response to clandestine entry to the UK, involving policy and operational commands from many departments and agencies. CCTC reported to Home Office ministers and was responsible for the intelligence picture around small boat crossings, including engagement with French authorities on countering organised crime. CCTC was also responsible for the collection, assurance and dissemination of data on migrant crossings.

56. The work of the CCTC was overseen by the CCTC Delivery Board, which I have been asked to describe. This Board was chaired by the Clandestine Channel Threat Commander, a Director within the Home Office, who reported directly to the Home Secretary. DfT was invited to be a member of the CCTC Delivery Board. The first meeting of the CCTC Delivery Board took place in November 2020 [INQ001052]. The strategic objectives of the CCTC Delivery Board, as set out in its Terms of Reference [INQ001108] were as follows:

- a. Reduce the supply of people seeking to cross the Channel or attempting other forms of clandestine entry from the near border;
- b. Remove the opportunity and resources available to those seeking clandestine entry, by bearing down on facilitators and organised crime;
- c. Prevent entry to the UK through effective interventions at the UK border – which includes at near border ports and in the Channel;
- d. Increase deterrents and ensure there is no benefit from reaching the UK via small boat or other high-risk methods, by disallowing asylum claims and ensuring prompt returns; and
- e. Control arrivals from first contact onwards, to ensure safety, exploit opportunities for criminal investigation and to maximise returns.

57. The CCTC Delivery Board's workstreams covered all aspects, from the upstream prevention of small boats crossing (i.e. in France and other transit countries) through to post-reception management of migrant arrivals. The majority of its scope, therefore, covered activities which were of limited relevance to DfT's maritime security responsibilities. Small Boat crossings *per se* were a small element. As such, DfT officials played a minimal role in the CCTC Delivery Board, providing support on an *ad hoc* basis where required.

58. In 2020, as the scale of the small boats issue increased, so too did the engagement between the Home Office and DfT. DfT's focus was on ensuring that the Home Office was properly apprised of HMCG's SAR obligations and representing HMCG's interests in inter-departmental contexts [INQ001929].

The Joint Maritime Security Centre

59. In addition to the work being coordinated by the CCTC within the Home Office, the Joint Maritime Security Centre ("**JMSC**") was involved in the early stages of cross-government discussions and initiatives to respond to the small boats issue.

60. The JMSC was created in 2019 through the amalgamation of two pre-existing organisations: the Joint Maritime Operations Coordination Centre ("**JMOCC**") and the National Maritime Information Centre ("**NMIC**"). JMSC is a multi-agency organisation, jointly funded and sponsored by the Home Office and DfT, with significant non-financial support from the MoD. It sits under the Border Force for administrative purposes but is mandated to deliver functions for customers including departments and operational partners across HMG. Its remit includes maritime security response coordination/coherence, maritime domain awareness, threat assessment and building of technical capabilities.

61. Although small boats were not directly within JMSC's purview, its mandate allowed it to provide assistance and expertise to lead agencies. JMSC was well-

placed to provide such support owing to its dual expertise in maritime security capability coordination and maritime domain awareness, as well as the fact that it is a multi-agency organisation.

62. As such, JMSC did not play any role in day-to-day SAR operations but was involved in strategic discussions concerning capabilities and coordination on the small boats issue [INQ004161 and INQ001131]. This included organising a series of table top exercises, which I have been asked to describe.

63. A table top exercise (“TTX”) is an exercise to test Command, Control and Communication (C3). Its purpose is to probe the plans that are in place for an event or known incident to test lines of communication and identify gaps in the plan in advance of the event. This allows a list of recommendations to be compiled and worked through to address them. The format of a TTX can take several forms including virtual or in-person. A TTX often uses a range of plausible scenarios that develop and often worsen as the exercise runs to encourage participants to consider what they would do in each scenario, thinking about who they would talk to and how they would respond.

64. In August 2019 [INQ001939], JMSC conducted a TTX exercise with a number of operational partners, including HMCG, MoD, Border Force and the Royal Navy, to test assumptions on the UK’s ability to effect returns at sea.

65. I am aware of, and was invited to attend, two additional TTXs run by JMSC on 15 and 21 April 2020 [INQ008090; INQ009133; INQ009129] but was unable to attend. No further details or papers for these have been identified.

66. In early April 2020, Dan O’Mahoney, then Director of the JMSC, contacted several stakeholders, including me, to begin coordinating a Ministerial Submission on options to prevent migrants from crossing the channel in small boats. The JMSC had been commissioned by Home Office ministers to provide

a suite of potential options, including those that were possible within existing legal frameworks and those that might require new legislation [INQ008090].

67. The process for drafting the submission to ministers was as follows:

- a. An initial call to define and agree the scope of the requirement for a table top exercise;
- b. A table top exercise chaired by JMSC to identify options, including intervention at sea and returns to the last country of departure; and
- c. A further table top exercise to produce a set of costed options, forming the basis of the ministerial submission.

68. I can confirm that all identified documents related to these planning meetings, where held by DfT, have been disclosed to the Inquiry: see, for instance [INQ008014].

69. In addition to these TTXs, I have been asked about the Multi Agency Sea Trials which took place in Portsmouth between 28 September 2020 and 2 October 2020 [INQ004877]. The aim of the week-long Multi Agency Sea Trials was to allow the different agencies involved to design and develop effective and safe tactics to support the Government's ambitions to turn back migrant vessels from UK waters by sharing best practices. The Multi Agency Sea Trials involved Border Force, the Royal Marines, police and the Home Office. DfT was not involved in the sea trials and has not identified any further documents relating to this or any other exercises.

70. In 2020, 8,000 people travelled to the UK in small boats, and by July of 2021 there had already been over 5,000 arrivals. Thus, engagement continued to accelerate in 2021, with increased cross-government efforts to tackle the rising numbers of small boats crossing [INQ001949] and the plans to implement Operation Isotrope, which went live in Spring 2022.

71. In November 2021, JMSC organised a simulation exercise, titled 'Mass casualty event in the English Channel as a result of a small craft carrying migrants', which was an hour and a half table top exercise held over Microsoft Teams on 4 November 2021. It was one of a series of maritime security exercises, each a totally different set of circumstances, conducted by Nous Group, an international management consultancy firm, on behalf of JMSC.

72. The objective of the exercise was to explore how agencies would respond to two migrant vessel capsized incidents, focussing on the need to ensure appropriate communication between the agencies, explore risks and unintended consequences, as well as broadening the understanding and relationships between agencies [INQ008128].

73. Whilst DfT officials were in attendance, the exercise focussed on operational issues, and DfT had no direct involvement in the exercise scenario. The recommendations [INQ008129] made following the exercise all pertained to either managing the operational response or managing communications.

74. Following the establishment of the CCTC (as outlined above), under the auspices of the Home Office, and with Dan O'Mahoney moving roles to become the head of this organisation as the Clandestine Channel Threat Commander, JMSC's role in the small boats issues reduced. Its role was re-examined in the context of Operation Isotrope, but ultimately it was not included as part of the final scope of military primacy.

The Illegal Migration Taskforce

75. I have been asked about the Illegal Migration Taskforce ("IMTF"). The IMTF was established in November 2021 after a request to the Cabinet Secretary by the Prime Minister to establish a new Cabinet Committee [INQ000863]. The new Cabinet Committee, titled Domestic and Economic (Illegal Migration), was

chaired by the Chancellor of the Duchy of Lancaster and attended by the Home Secretary, the Foreign Secretary, the Secretary of State for Defence, the Attorney General, the Chief Secretary to the Treasury and other Secretaries of State and officials as requested.

76. Although the Secretary of State for Transport requested to attend the first meeting of the IMTF, the request was not acceded to [INQ004064]. Attendance of Cabinet Committee meetings is limited to a small number of Secretaries of State whose attendance the Cabinet Office considers necessary. It is my assumption that, as DfT does not have an illegal migration remit, it was not considered necessary for DfT to attend on this occasion. The Secretary of State for Transport was invited to subsequent meetings where the group was to discuss matters of interest to DfT's departmental responsibilities and equities [INQ004272]. Officials within DfT were also asked to attend official level meetings led by the Taskforce on an *ad hoc* basis, and contributed where the agenda covered areas of DfT interest [INQ009094]. For instance, on 4 February 2022, the IMTF convened a meeting of Senior Officials to discuss matters including military primacy over operations in the Channel [INQ002136]. This meeting was chaired by Name and attended by senior officials from departments including the Home Office, MoD, DfT, Cabinet Office, HM Treasury and FCDO [INQ004284].

77. The main priority for the IMTF was to establish MoD military primacy over operations in the Channel, as discussed below. It further held responsibility for cohering the cross-Government effort to respond to illegal migration, including the response to small boat migration across the Channel [INQ004274].

78. I am not aware of any meetings or activity of the IMTF taking place following the end of Operation Isotrope. I can confirm that DfT has disclosed any identified papers held by it relating to meetings of the IMTF: see, for instance [INQ004291, INQ004064, INQ002152, INQ002139, INQ004280 and INQ004187]. Further documents relating to the work of the Illegal Migration

Taskforce would be held by the Cabinet Office as the Department which convened its work.

The Tug Haven reception facility

79. I have been asked to address the events on 12 November 2021 which led the Home Office to declare a “*critical incident*” at Tug Haven.

80. Tug Haven is a reception site operated and run by Border Force. The number of crossings increased significantly in November 2021, peaking on 11 November 2021, when records show 1250 migrants crossed in 36 boats. It is understood that this “*unprecedented number*” of migrant crossings over 24 hours caused significant challenges to landside operations for Border Force, both at Tug Haven, and in providing food and onward accommodation and transport for large numbers [INQ008112]. The Inquiry has indicated that this led the Home Office to declare a “*critical incident*” on 12 November 2021. However, this decision was one for the Home Office, and, having reviewed the relevant records carefully and in detail, I am not certain that DfT was aware that the situation had been categorised as such at the time. From a DfT and HMCG perspective, concerned with SOLAS operations, the main impact was that the delays led to Border Force and Royal National Lifeboat Institute (“**RNLI**”) vessels having to queue at port whilst waiting to offload the migrants [INQ001110]. This created a risk from reduced capacity, if a rescue vessel was unavailable to be re-tasked to another incident when required.

81. I have been asked to opine on the cause of the high crossing numbers on this date. DfT does not have a role in analysing trends and causes of crossing numbers, which is led by the Home Office. I understand that the assessment made by Home Office officials at the time was that the particularly high numbers of crossings the previous day had been due, in part, to low numbers of French officers deployed, which was attributed to Armistice Day [INQ001110].

82. A cross-Whitehall meeting was held on 12 November 2021, chaired by Name Name Director General EDS Cabinet Office, to ensure cross-government understanding of, and support to, the situation. The actions following the meeting were directed at the Home Office, with Cabinet Office and FCDO support, and focused on the immediate operational response, covering catering, transport and accommodation, contingency planning for further high numbers of arrivals, and diplomatic engagement with the French [INQ001101]. No actions were directed at DfT or the MCA.

83. Nonetheless, DfT engaged with HMCG colleagues to understand the potential impact on SAR capabilities, both on 12 November 2021 and in the weeks following [INQ001055]. DfT's understanding in November 2021 was that, whilst the high crossing numbers and landside issues were putting maritime operations under pressure, and were increasing the risk of maritime capabilities being overwhelmed, this was being successfully managed and an appropriate SOLAS response continued to be delivered. A concurring view was provided by the Director of the JMSC, that the "*maritime element of small boat operations continues to run as BAU (though stretched). The critical incident is focused on the land response.*" [INQ008099].

84. In light of the pressures on HMCG's SOLAS operations in the Channel, on 26 November 2021 [INQ000006], a Submission written jointly with HMCG was sent to DfT Ministers, which informed them that work was taking place to examine the means of addressing the increased numbers of small boats crossing the Channel, as well as identifying the limits of HMCG's SAR capacity and options to maintain the rescue of those migrants in distress. The minister was informed that migrant crossings were now increasingly occurring on days when sea and weather conditions were unsuitable. In the submission it was noted that 4,935 migrants had been rescued to date during November 2021, as opposed to 700 in November 2020. The minister was informed that "[t]o date, HM Coastguard operations have met the demand of tasking the RNLI and Border Force to fulfil

the UK's statutory duties. If we continue to see the same increased volumes of crossings on 'red' and 'amber' days, this may have an adverse impact on the availability of resources to respond".

85. The challenges caused by high-crossing numbers in November 2021 also prompted the multi-agency table top exercise on 2 December 2021. Those participating in the exercise suggested that the humanitarian processes i.e. provision of clothing and a health check, be applied at Tug Haven, with follow up Immigration and Enforcement processes to be applied at another facility inland. It was also proposed that there would be a second landing facility to be established in Ramsgate. It was considered that "...maritime assets were being stretched to the limit and with the recent increase in migrant activity volumes, if this were to continue current maritime assets will be unsustainable on the current trajectory to provide an adequate and appropriate level of response. Those at the workshop agreed to set up a working group to identify the user requirements and specifications for additional maritime assets – commencing next week (6 December 2021)". [INQ004203] 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.

86. In an e-mail received by my Department from the Home Office, dated 16 December [INQ008112], DfT was informed that the plan was to re-set "*the processes and physical layout of Tug Haven and the Western Jetfoil to maximise processing throughput; and identifying and assessing a suitable site for the inland triage of migrant arrivals at the MoD site in Manston. We've pressed ahead to accelerate the work on Manston, and MoD were looking to hand us the keys today. We need to finalise some things (including costs!) but that should all be resolved before Christmas.*"

87. A further submission to DfT Ministers, dated 14 December 2021 [INQ000846], outlined the next steps and recommendations arising from the 2 December

exercise, including seeking their agreement to HMCG exploring *“Increasing additional maritime surface search and rescue (SAR) assets in order to continue to meet the rising levels of activity and deliver our obligations to preserve the safety of life at sea”* and that *“HMCG must explore developing enhanced situational awareness capabilities: The business case for increased aerial assets (see previous submission at Annex A) will continue to be developed. HMCG will investigate the use of mobile phone location systems and camera technology to enhance the ability to locate vessels who have made a distress call”*.

88. For completeness, whilst the tragic incident of 24 November took place during this period of wider pressures and challenges from increased crossing numbers, DfT is not aware that there were any issues arising from Tug Haven and landside processing which impacted on the SOLAS response to this incident on the night.

Exercise Joint Blockade

89. I have been asked about Exercise Joint Blockade, which was held between 24-27 November 2021 off Portland. This exercise was intended to test *“the cross-government response to an escalating civil disorder at sea”*. The exercise scenario included a blockade, formed by 2 vessels, which prevented access to the port of Portland. The exercise tested the interoperability between operational personnel and equipment, specifically focussing on boarding operations. The exercise was seen as the largest and most well attended operational maritime security exercise in recent years, with all operational agencies in attendance. Although DfT officials, including myself, were present as observers at the exercise, as DfT does not have an operational function, it did not play an active role. As far as I am aware and recall, HMCG also did not participate on this occasion. JMSC will no doubt be better placed to provide further details of the exercise. As far as I can ascertain, the exercise did not have any relevance to small boat maritime operations.

90. The JMSC's daily briefing for 24 November 2021 [INQ000005], which noted the ongoing Exercise Joint Blockade, did not envisage any risks arising from reduced availability of assets. Whilst it covers the entirety of the UK coastline, as opposed to being limited to the Dover Strait, it assessed the asset availability as "Acceptable" and, in particular for Border Force, the forecast was that their assets would be available and that it would be business as usual.

91. DfT has seen no evidence to suggest that Exercise Joint Blockade had an adverse impact on the number of assets made available to HMCG for SOLAS tasking in the Channel on 23-24 November. It is our understanding that the good inter-agency cooperation and planning arrangements between HMCG and Border Force would have reviewed and agreed the asset availability requirements that week. DfT would not expect asset availability to have been reduced below what HMCG considered necessary, based on estimated crossings, to deliver an adequate SAR response.

92. To DfT's knowledge, neither HMCG nor the RNLI participated in Exercise Joint Blockade, so it should not have had any impact on their resourcing. The Home Office will be better placed to confirm where their assets were deployed, and the MCA will be better able to confirm what assets were made available to them for SAR tasking in the Channel on the 23/24 November 2021.

Operation Isotrope

93. I have been asked to describe 'Operation Isotrope'; the name given to the assumption of military primacy in the Channel. At the end of December 2021, the Prime Minister set out his ambition for the MoD to take primacy over all aspects of HMG's operational response to small boats illegal migration. The agreed objective of the MoD led operational response was to ensure that small boat arrivals did not enter the UK on their own terms and, instead, were intercepted before, or as, they landed; thereby preventing the uncontrolled

arrival of migrants on UK shores [INQ000009]. It was envisaged that this approach would both act as a deterrent and restore public confidence.

94. DfT was not involved in the initial decision making for the military to assume primacy, on the basis that the rationale for the change was connected to immigration enforcement (in which DfT has no policy function), rather than SAR.

95. DfT's primary interest and involvement in the development of Operation Isotrope was ensuring that the UK's SOLAS obligations and HMCG's responsibilities for SAR were understood and reflected in the terms of the operation, and that there would be no reduction in the availability of assets made available to HMCG for SAR.

96. The MoD assumed maritime primacy on 14 April 2022, pursuant to Operation Isotrope. The operation was underpinned by an inter-departmental Memorandum of Understanding ("MoU") signed by the Permanent Secretaries of the MoD, the Home Office and DfT on 8 April 2022 [INQ004079]. The MOU established the responsibilities, governance and financial arrangements of the operation.

97. Under the MoU, a senior Royal Navy officer was appointed as the Joint Inter-Agency Task Force ("JIATF") Commander. It was agreed that the JIATF Commander would have full operational control over all maritime assets and relevant personnel operated by the MoD and HMG partners for the purposes of Operation Isotrope and, once allocated to this task, Border Force, the Home Office and wider HMG maritime assets would not be diverted from Operation Isotrope, save for SOLAS purposes. Whilst it was agreed that immigration sites (Manston, and Western Jetfoil) would remain within the possession of the Home Office, the MoD would be responsible for the operational effectiveness of the reception, triaging and processing of migrants. To this end, the MoD had the authority to direct activity to existing personnel, including contractors.

98. However, notwithstanding the MoD assuming operational responsibility, it was agreed that HMCG would retain the lead for SAR. Paragraph 9 of the MoU provided:

“Her Majesty’s Coastguard (HMCG) retains statutory responsibility for Search and Rescue operations, including tasking and coordinating search and rescue in the Channel. From the point at which Defence primacy commences, HMCG will retain the ability to task and coordinate any necessary assets to perform Search and Rescue operations, including civilian assets and personnel aligned to Op ISOTROPE in priority to other direction from the JIATF Commander. The tasking of military assets and personnel to Search and Rescue operations by HMCG will continue to be governed by the arrangements in place immediately prior to the commencement date. HM Coastguard categorises all migrant vessels to which they are notified of as being ‘in distress’. An Op ISOTROPE asset which encounters a migrant vessel must immediately inform HMCG who will then assume co-ordination of a Search and Rescue response. No enforcement action is to be delivered against any vessel in the distress, urgency or uncertainty phases of a Search and Rescue incident. The JIATF Commander may offer suggestions to the MCA regarding asset allocation but the responsibility for asset selection, tasking and co-ordination rests with the HMCG.”

99. The MoU was subsequently updated in May 2022 and on 8 September 2022 [INQ001009].

100. Whilst HMCG are the relevant authority on SAR operations in the Channel, DfT’s understanding is that, during Operation Isotrope, there was one small boat incident in UK waters which resulted in fatalities, which occurred on 14 December 2022. The full facts of the incident are covered by the MAIB’s Report. It is anticipated that the Home Office or the MoD will be better placed to respond

to the Inquiry's query as to the number of crossings attempted during Operation Isotrope.

101. The direct impact of Operation Isotrope on DfT was minimal, given our lack of operational role. A new departmental 'Standard Operating Procedure' [INQ004303] was agreed to clarify roles around cross-government incident reporting and communications (e.g. media and parliamentary handling) between DfT, the Home Office and the MoD, but otherwise DfT's role did not change under Operation Isotrope. From a HMCG/SAR's perspective, DfT is aware of the operational developments implemented under Operation Isotrope, including strengthened inter-agency working and capability uplifts (such as increased assets).
102. DfT was not involved in decisions around the duration of Operation Isotrope, but note that the original MoU included an end date of 31 January 2023, and this was reflected in the press notice issued which confirmed the end of military primacy in the Channel (<https://www.gov.uk/government/news/leadership-of-small-boats-operations-returns-to-the-home-office>).
103. As little had changed for DfT by the commencement of Operation Isotrope, the impact on DfT of responsibilities reverting from the MoD back to the Home Office was also minimal [INQ002287]. DfT's primary concern was to ensure that, as Operation Isotrope came to an end, there would be no negative impact upon assets that HMCG could utilise in SAR operations.

Potential withdrawal of Border Force assets

104. I am asked to comment on discussions beginning in 2019 regarding the possibility of the Border Force withdrawing from SAR operations. By way of context, HMCG does not operate its own fleet of maritime surface assets (although it does have its own aerial assets). Instead, it co-ordinates available

maritime assets for the purposes of SAR; typically those assets will be provided by the RNLI, but they will be determined by the particular circumstances of an incident/operation. In the case of small boats in the Channel those maritime assets were either Border Force vessels or those operated by the RNLI. At the time of the incident around 90% of small boat rescues in the Channel were conducted by Border Force vessels.

105. Concerns about Border Force assets being tied up delivering primarily SAR in the Channel were beginning to be raised by July 2019 [INQ008159, INQ008158], although I have been unable to ascertain exactly when the possibility of Border Force withdrawing their assets was first raised, or by whom. The topic was also raised in the JMOCC meeting on 24 July 2019 [INQ001131] which discussed the position regarding SAR, should Border Force re-deploy their assets to other tasks, and it is clear from this readout that the issue was being discussed in other forums. The impact of Border Force vessels being deployed in the Channel to respond to small boats, including being available for SAR taskings by HMCG, meant that they were not available for tasking on other missions, which impacted Border Force's capacity to respond to other, broader, security threats. This question is therefore one which has been raised on a number of occasions over the years since the phenomena of small boat crossings began.
106. By way of illustration, on 23 December 2021 [INQ000837], DfT was notified that Border Force had submitted a proposal to their ministers recommending that agreement be sought to transfer SAR responsibility to private contractors, under the direction of HMCG. The submission [INQ001971] discussed the challenges that were faced by Border Force; namely that they were responding to 89% of SAR events, and suggested that the increased volume of crossings was now regularly overwhelming Border Force and RNLI assets. The submission also indicated their objective of re-deploying their vessels for the purposes of law enforcement.

107. The submission predicted that “[m]aintaining current resourcing levels and vessels will result in a failure to meet demand, exacerbate existing issues with staff welfare and ultimately lead to increased loss of life.” Three different options were proposed in the submission: i) doing nothing; ii) bolstering the Border Force’s effort with support from external contractors, which would “enable BF to meet increased SAR demand”; or iii) remove Border Force vessels and replace them with contractors. The submission recommended option iii), noting:

“MCGA already direct the SAR response in the channel and BF Maritime operate under their direction when deploying in response to small boats. Informal discussions at official level have commenced and MCGA are supportive of this approach, and this option is recommended.”

108. This submission appears to have been produced following a meeting of the CCTC, conducted on 29 October 2021, titled ‘Resourcing SOLAS 2022’. At this meeting it was suggested that civilian vessels be commissioned for SAR operations, albeit manned with Border Force personnel. It appears, however, that this submission may well have been superseded by the Prime Minister’s tasking at the end of December 2021, that the MoD should take primacy over all aspects of HMG’s response to small boats illegal migration in 2022.
109. Following the Prime Minister’s announcement, one of DfT and the MCA’s priorities was to ensure that military primacy would not impact on the availability of surface assets made available to HMCG to deliver SAR, given the existing reliance on Border Force vessels and uncertainty around Border Force’s role in the Channel during Operation Isotrope. DfT Officials’ concerns around this period can be seen in ministerial briefing papers e.g. for the Domestic & Economic (Illegal Migration) Committee Meeting on 14 January 2022 [INQ004191]. The issue was also raised in an e-mail from Petra Wilkinson to Commander Utley on 17 January [INQ004127], in which it was said that, if the MoD were to remove the assets currently relied upon by HMCG, then it was to

be “...essential both that sufficient time is allowed for that transition and that the cost of those additional assets... is included in the overall funding sought to deliver these plans. These additional costs cannot be met from existing DfT/HMCG budgets.” Fortunately, these concerns did not eventuate.

110. Operation Isotrope in fact led to an increase in surface assets in the Channel [INQ001009, at paragraph 13], including those being made available to HMCG for SAR. The Home Office procured five Crew Transfer Vessels (“CTV”s) to manage the growing number of migrant crossings. CTVs have an open deck space which those involved in the day-to-day small boats operations regarded as a useful design for managing migrants recovered from small boats. DfT understands that the vessels were specified because of their suitability and commercial availability. The documents suggest that all five vessels were located in Ramsgate. However, on the days when small boat activity was anticipated, one of the vessels would be relocated to Dover. Typically, two or three vessels would be operating at any one time [INQ004304].

111. The possibility of Border Force withdrawing assets from SAR operations arose again prior to the end of Operation Isotrope. In a meeting on 21 September 2022 [INQ004072] it was asserted that the current “Home Office (HO) model which contracts surface response assets in support of Op ISOTROPE is complex and constrained by departmental policy”. It was proposed that “[w]ith new senior Ministerial leadership, there is a window of Strategic Opportunity to restructure response: management of Safety of Life at Sea (SOLAS) assets can be simplified and optimised under the Department for Transport (DfT) HM Coast Guard (HMCG) ownership. This will realise operational benefits and efficiencies, reduce the Risk to Life (RtL) and align with HMCG’s legislative responsibility to provide SOLAS in the Dover Strait.” It was suggested that:

“5. The capability to respond to incidents has improved significantly since 2021 with the addition of assets and improved processes. However, clearer divisions of responsibility aligned with ownership of rescue

assets provide an opportunity to improve efficiency further by bringing accountability for SOLAS in the Dover Strait, planning and tasking together.

- 6. The core BF Maritime vessels (Cutters, Coastal Patrol Vessels (CPVs) and RHIBs) are unsuitable for deliberate SOLAS operations: as such five Crew Transfer Vessels (CTVs) are under charter to meet the task. These vessels have reduced the risk of mass drowning by providing an increased lift capacity and pre-planned response options, but do not meet the ALARP level recommended by HMCG. Consequently, the Rtl from drowning remains a realistic possibility during peak crossing windows and HMCG does not currently own the control mechanism to reduce this risk. CTVs are chartered on short-term contracts, precluding investment incentives in crew or specialist equipment by the owners.*
- 7. The transfer of resource and responsibility for SOLAS response assets to the DfT (HMCG) would enable suitable control measures and their ability to shape the force generation and contracting of appropriate maritime response assets to mitigate SOLAS risks in the Dover MRCC area. Benefit could also be realised by BF through the release of operational resource allowing an increased focus on LE and Border enforcement across the JOA or redistribution nationally. Under an MoU, LEDETs could continue to support Clandestine Small Boat activity to meet focused operations.”*

112. It is thought that this proposal may have been prompted by the publication of the Independent Review of Border Force, conducted by Name in July 2022, in which he recommended, at 10.1:

“10.1 Border Force maritime should not be providing an ongoing search and rescue function in the English Channel. Neither Border Force nor Royal Navy vessels are appropriate to this task. Appropriate

vessels and crews should be sought under contract to conduct this task

While any maritime asset should of course be made available for search and rescue when required, where it is predictable that search and rescue operations will be stood up on a semi-permanent basis, a more appropriate resource should be deployed to the task. Vessels that are better suited to the task should be contracted for and placed under the command and control of either the Coast Guard or Royal Navy so that Border Force are not used as the primary resource for such operations.” (emphasis in the original)

113. On 28 November 2022, following a meeting on 1 November 2022, where DfT set out a number of issues requiring consideration [INQ008109], the Home Office circulated a document, titled ‘Options for the operational maritime response to small boats post-military primacy’ [INQ004117]. Whilst it is understood that this was not yet official Home Office policy, the document recommended that:

“The Home Office should extend or reprocure the current contractual arrangements to provide CTVs and crew for a period of nine months to ensure that there is no gap in capability. Additional funding will need to be secured for this.

Responsibility for the CTVs, or an alternative arrangement, should be transferred to HMCG at the end of this nine-month period. This should provide sufficient time for HMCG to generate a statement of requirements, a concept of operations (CONOPs), and conduct whatever recruitment and commercial activity may be necessary. Additional funding will be required for this.”

114. In an e-mail, dated 1 December 2022 [INQ004109], I responded to the Home Office, welcoming the news that they were seeking to extend the CTV contracts for nine months, thereby enabling HMCG sufficient time to properly consider alternatives. However, DfT also reiterated that the proposed changes would give rise to a number of issues that would need to be resolved prior to any transfer taking place, including that HMCG could not deliver law enforcement functions and the potential funding implications if duplicate assets were therefore required, as well as resourcing and liability implications.
115. DfT and the MCA recognised the risk of the CTV contracts expiring without provision for replacement assets having been made, and the lack of certainty on arrangements surrounding the end of Operation Isotrope, particularly prior to sight of the draft Home Office submission on 28 November 2022, in which Border Force confirmed the intention to extend the CTV contracts for nine months. DfT began engaging other departments on this issue in August 2022 [INQ002295], and a cross-government meeting was planned for 27 September [INQ008130], although this did not go ahead. Following DfT's meeting with the Home Office on 1 November, DfT's Director General wrote to their counterpart at Border Force on 25 November 2022 to "seek clarity on the planning for Channel operations next year, as the current Operation Isotrope agreement comes to an end" and "to understand what plans are currently in place around the extension of the CTV contracts and how you envisage the Border Force Cutters being deployed next year", stating that:

"My priority is to ensure that HM Coastguard continue to be able to meet the UK government's obligations to deliver an effective Search and Rescue response. As you know, that response is currently reliant on the HMG assets deployed in the channel. The additional assets deployed under Op Isotrope have been essential to meeting those SAR obligations for the number of crossings this year. Given the long lead-ins for commercial contracts, it is essential that sufficient assets continue to be deployed and that the funding for those assets is secured quickly" [INQ000013]

116. In light of that period of uncertainty and recognising the long lead in times to procure replacement assets if required, the MCA commercial department commenced work on procurement and investment processes in order to mitigate the risk and ensure they could act quickly [INQ008122]. This led to the production of a detailed Search And Rescue in the Channel (“SARiC”) 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, in the event of a planned withdrawal of Home Office operated rescue boats”* [INQ004304]. This was sent to the DfT Tier 2 Investment Board in February 2023. In 2022 the MCA, with the support of DfT’s Maritime Security Division, prepared a Search and Rescue in the Channel 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, in the event of a planned withdrawal of Home Office operated rescue boats”* [INQ004304]. This was approved in principle by the DfT Combined Tier 2 Investment Board in February 2023 [INQ009137].
117. Ultimately DfT were not formally re-engaged on the issue, and are not aware whether a formal readout was ever given from the then Home Secretary on the submission. The CTV contracts have been extended and remain under Border Force Maritime management, as assets made available to HMCG for SAR.

Resourcing the MCA’s response to small boats

118. As the sponsoring department for the MCA, DfT had both formal and informal mechanisms in place for overseeing the operational SAR response to small boats crossing the Dover Strait. The MCA Sponsorship Board provided a core part of this oversight of MCA.

119. Although DfT was generally aware of the resources available to the MCA, through the mechanisms described below and above, as the MCA is operationally independent of DfT, DfT would not have had an in-depth knowledge of the assets at HMCG's disposal on a day-to-day basis. HMCG does not operate its own surface assets. Instead, it is reliant on utilising the assets made available to it by Border Force and the Royal National Lifeboat Institution ("RNLI"). Therefore, DfT was ordinarily reliant upon HMCG notifying it when significant pressures arose, or by DfT actively requesting the information. The latter was done on 12 November 2021, when I sought information on available assets/SAR capability, so that DfT and the MCA could provide information in response to an action from a Cabinet Office cross-Whitehall meeting [INQ001055].
120. On 18 November 2021, the Director of HMCG wrote to the Maritime Director, Petra Wilkinson, in response to a request for further information, notifying her of the non-RNLI assets available to HMCG in the Channel at that point in time [INQ008168]. The attachment [INQ008169] set out the available Maritime Surface Assets, Air support and Operations. The document clarified that HMCG tasked Border Force and RNLI surface assets to respond to small boats in distress; stating that Border Force responded to the vast majority, 89%. The document informed Mrs Wilkinson that HMCG would be leading a multi-agency table top exercise on 2 December 2021, concerning the availability of maritime surface assets, and what contingencies could be implemented, e.g. the broadcast of a mayday relay to vessels in the area to respond. The Director of HMCG noted the existence of logistical challenges at Tug Haven, which had led to a queuing system before boats were able to disembark migrants.
121. In terms of air support, HMCG highlighted that they were currently working to increase air presence in order to support situational awareness, and were due to send a submission to the minister that week seeking approval for unmanned drone and fixed wing air support which, it was envisaged, would be available in December 2021 and May 2022 respectively. In the meantime, HMCG had

increased helicopter support and their fixed wing provision would provide situational awareness until the new arrangements were implemented.

122. In terms of operations, HMCG had a permanent Coastguard Liaison Officer at the Joint Control Room in Dover to enable collaboration across other agencies on small boats. The Director of HMCG also clarified that they had invested in an additional 24 staff at Dover Coastguard station; creating a specific migrant response cell which was due to go live in April 2022.

123. In relation to the assets available to HMCG from RNLI, the HMCG Assistant Director informed me, on 12 November, [INQ001055] that:

“There are currently 4 All Weather Lifeboats (ALB) and 2 inshore Lifeboats (ILB) in the South East corner of the English Channel these are:

Dungeness ALB - Shannon Class - survivor capacity - 73

Littlestone-on-sea ILB - Class B Atlantic 75 - survivor capacity 20

Dover ALB - Severn Class Lifeboat - survivor capacity 124

Walmer ILB - Class B Atlantic 85 - survivor capacity 20

Ramsgate ALB - Trent Class Lifeboat - survivor capacity 7.”

124. In my request for information, I had reported that, in a Cabinet Office cross-government meeting I had indicated that although difficulties may arise, were the high level of crossings to continue, capability “*was okay for the immediate outlook*”. Neither the Director of HMCG nor their Assistant Director sought to correct this description of the situation, and this conclusion is reflected in the joint advice put up to ministers on 24 November 2021 and 14 December 2021.

125. The Inquiry has asked about a draft Home Office submission *Subject line: Responsibility for the operation of surface assets responding to small boats* [INQ001971] dated 20 December 2021. From reviewing our records, I understand that the submission was first shared in draft form with DfT via

HMCG colleagues on 22 November 2021 [INQ008110]. It was understood that it remained a “*draft sub from Border Force that will be presented [to] Home Office ministers in the coming days*” [INQ000837].

126. Although there had undoubtedly been a significant increase in the number of migrants crossing the Dover Strait in small boats in 2021, which placed a considerable strain on both surface and aerial assets, it is not DfT’s understanding that the Home Office made an assessment that there were insufficient surface assets that prevented HMCG from fulfilling its obligations at that time. Rather, the Home Office made a prediction concerning the UK government’s ability to deliver SOLAS operations in 2022; focussing on a future risk, premised on projected numbers.
127. Whilst the submission states that “[t]he increased volume of crossings is now regularly overwhelming existing BF Maritime and RLNI assets”, it should be noted that this statement is in the context of creating “a border security risk in the form of unsupervised beach landings”, which is a different consideration to SAR provision. The submission further notes that “**[a]s the migrant crisis worsens across the globe, we anticipate a significant increase in migrant channel crossing attempts in 2022/2023, coupled with greater risk taking by migrants and OCGs. Maintaining current resourcing levels and vessels will result in a failure to meet demand, exacerbate existing issues with staff welfare and ultimately lead to increased loss of life**” (emphasis in the original). The submission then proceeded to list a variety of options, with the Home Office favouring the withdrawal of Border Force assets, to be replaced by contractors under the direction of HMCG.
128. To DfT’s understanding, at no time in 2021 did HMCG make an assessment that there was an insufficient number of surface assets to support SAR in the Dover Strait at that time. Communications between DfT and HMCG at the time reflect this. DfT’s understanding that HMCG was currently able to meet its obligations was supported by the correspondence from the Director of HMCG,

dated 18 November 2021 [INQ008168 and INQ008169] and correspondence between the Head of the Division and the Assistant Director of HMCG, dated 12 November 2021 [INQ001055].

129. However, it was clearly recognised between DfT and HMCG that the increased numbers at the end of 2021 were placing significant pressures on SAR capacity; in particular following the record number of 1250 crossings on 11 November. In light of these concerns, a submission prepared by both DfT and HMCG, dated 26 November 2021 [INQ000006] was sent to DfT ministers. They were informed that the current high number of small boats crossing the Dover Strait was predicted to continue and *“will place pressure on HM Coastguard operational staff and Border Force and Royal National Lifeboat Institution (RNLI) maritime surface assets.”* Ministers were advised that, thus far in 2021, more than 24,835 people had crossed the Channel in small boats. This represented a 198% increase from 2020.
130. The submission stated that *“[t]o date HM Coastguard operations have met the demand of tasking the RNLI and Border Force to fulfil the UK’s statutory duties. If we continue to see the same increased volumes of crossings on ‘red’ and ‘amber’ days, this may have an adverse impact on the availability of resources to respond.”*
131. Ministers were informed that *“work is taking place to examine means of addressing this challenge”* and advised of a table top exercise, scheduled for 2 December 2021, which was to be led by HMCG and attended by: Border Force, RNLI, Clandestine Channel Threat Command, Bristow (the supplier of rotary aircraft to HMCG) and 2 Excel (who provide fixed wing aircraft to HMCG).
132. The multi-agency table top exercise proceeded on 2 December 2021 [INQ004203]. The purpose of the exercise was to bring the various organisations who were responding to small boat incidents together, in order to identify the impact that responding to small boat crossings was having on each

organisation, share lessons learned and consider potential improvements to: planning, cooperation, interoperability and assess sustainability. Representatives from DfT were not present at the exercise, which was operationally focused, but received a readout of the meeting from HMCG colleagues. There was a recognition at the exercise that:

*“... maritime assets were being stretched to the limit and with the recent increase in migrant activity volumes, **if this were to continue** current maritime assets will be **unsustainable on the current trajectory** to provide an adequate and appropriate level of response. Those at the workshop agreed to set up a working group to identify the user requirements and specifications for additional maritime assets – commencing next week (6 December 2021)”. (emphasis added)*

133. It is understood that the exercise also examined the issues at Tug Haven, discussed further at paragraphs [80]-[89] above, and the impact these were having on the ability to re-task surface assets due to the time it was taking to process those migrants who had just disembarked.
134. Following the 2 December 2021 table top exercise, a further submission was sent to ministers, jointly from DfT and HMCG, dated 14 December 2021 [INQ000846]. In this submission, ministers were provided a summary of the aforementioned exercise, and advised:

*“[t]he recent increase in small boats crossings is stretching maritime assets to the limit; the continuation of this trend is considered unsustainable. A period of consecutive days with high numbers of crossings would reduce the availability of maritime surface SAR assets and significantly increase the risk of loss of life. This is due to the need to rest crews and volunteers and to conduct maintenance on assets. **To date, demand has been met**, but if this continues then HMCG may not*

be able to provide an appropriate level of maritime surface asset response. A working group has been set up to identify the user requirements and specifications for additional maritime assets, with the aim of providing further advice to ministers in January.” (emphasis added)

135. Ministers were asked to agree to a number of proposals, including:

- i) That HMCG should explore increasing additional maritime surface SAR assets; and
- ii) That HMCG should explore developing enhanced situational capabilities.

136. With regards to ii), an earlier submission, titled *‘Increased capacity in Coastguard aviation’*, dated 18 November 2021 [INQ008132] was appended to the current submission. The earlier submission had advised ministers that HMCG was *“taking steps to not only increase the number of crewed search and rescue aircraft, but also to introduce uncrewed search and rescue aircraft to meet increasing demands for Coastguard aviation services.”*

137. These “steps” led to the introduction of the Channel Aviation Emergency Search And Rescue (“**Project Caesar**”), which was endorsed by DfT and HM Treasury in February 2022 and mobilised in March 2022 [INQ004179]. Project Caesar was a £35 million (ex-VAT) investment over three years, and involved the procurement of S-100 unmanned aerial vehicles leading to an increase in aerial surveillance over the Channel. This would provide additional situational awareness to assist HMCG in small boats operations, to locate and determine the status of small boats crossings and help prioritise response [INQ004078].

138. With regards to i), it is understood that matters were somewhat overtaken by the Prime Minister’s tasking at the end of December 2021 that the MoD would take primacy over all aspects of HMG’s operational response to small boats illegal migration. As Operation Isotrope progressed, HMCG continued to work

at an operational level with both Border Force and the Royal Navy to ensure that effective SAR provision continued irrespective of changes to illegal migration responsibilities. As mentioned above, the additional funding available under Operation Isotrope enabled an uplift in capability, with CTVs being brought in to replace Border Force cutters and additional vessels (six P2000s) being introduced to retrieve abandoned small boats, thereby reducing the prospect of false sightings.

139. The assets made available to HMCG were assessed, by them, as providing an “adequate and proportionate provision of Search and Rescue in the channel, which meets our domestic and international legal responsibilities.” In its submission to the MCA Sponsorship Board, dated 20 October 2022 [INQ003842], HMCG stated:

“To satisfy ourselves that HM 2Coastguard can fully discharge its Search and Rescue obligations in the Channel, we have put in place additional assets to mitigate the risk of loss of life. The MCA has worked with Border Force and Royal Navy colleagues to increase HM Coastguard’s situational awareness by deploying air assets via Project CAESAR, deploying more operational staff at Dover, the provision of five Crew Transfer Vessels via Border Force, multi-agency joint control room collaboration and trials for enhanced at sea locating technology. With these arrangements in place, HMCG is satisfied that we are ensuring adequate and proportionate provision of Search and Rescue in the channel, which meets our domestic and international legal responsibilities.”

140. Consequently, I am of the opinion that any predictions made by the Home Office in December 2021 did not, fortunately, arise.

141. Whilst the demands on SAR resource was high, DfT does not recall there being any discussions regarding HMCG resource/capacity until the autumn of 2021.
142. With regards to the further submissions, dated 26 November 2021 and 14 December 2021 that the Inquiry has requested these can be found at [INQ000006] and [INQ000846]. In relation to the latter, I understand that DfT Ministers were content with the recommendations [INQ002302].
143. Naturally, over the three years of interest to the Inquiry, the MCA has sought investment in large capital projects, some of which would assist in SAR operations i.e. the Second Generation UK Search and Rescue Aviation Programme (“UKSAR2G”); a £2.3bn programme that will replace the existing SAR helicopter and aerial surveillance contracts when they expire in 2024 [INQ008145] or the Radio Network Infrastructure Replacement Programme [INQ008170]. However, I have been informed by the DfT’s Strategic Finance team that, although there are references in the monthly narratives to “*migrant activity*” e.g. in the context of aerial surveillance investment [INQ008127], there were no specific requests for additional budgetary cover due to an increase in the number of small boats crossing the Channel before November 2021. Although DfT was aware of the pressures HMCG were facing as a result of increased migrant activity, there was no suggestion that HMCG could not manage these pressures within the existing delegated budget.
144. As set out above, the MCA decides how to apportion its budget in order to reflect operational needs. An illustration of this can be seen in the minutes from the MCA Board meeting on 2 November 2021, where the HMCG Director informed the Board that 24 additional staff were to be deployed in Dover, in order to “*operate an intelligence led working pattern to cover migrant activity and will be absorbed into the national network when not required for this. 16 additional staff are being deployed at two other locations based on incident levels.*” [INQ008142]

145. The key investment sought by the MCA in November 2021 to address an upsurge in small boat crossings, was the need to increase Coastguard aviation search capacity. This was given effect to under Project Caesar.
146. In their submission to the minister, dated 18 November 2021 [INQ008132], the MCA noted that HMCG's aerial assets had reached "*the limits of their operating capacity*", and with the anticipated increase in small boats crossing the Dover Strait, the minister was informed that "[w]e have therefore determined that a dedicated Channel search capability is required to work alongside and support the Kent-based search and rescue helicopter and to help reduce the ever-increasing burden currently placed on the existing Coastguard planes." It was proposed that a modification be made to the existing contract with Bristow Helicopters in order to meet the demands. The minister was asked to note that the MCA would be seeking a "*core 2000-hour annual flying provision which is adjusted depending upon seasonal peaks and troughs*", and that "*Bristow Helicopters Limited is proposing dedicated crewed and uncrewed aircraft to support the Kent-based search and rescue helicopter. The costs for these dedicated assets will be contained and managed as a pressure within the existing search and rescue helicopter budget.*"
147. In correspondence from the MCGA's Commercial and Programmes Director to the Aviation, Maritime, International and Security Director General and Maritime Director, dated 29 November 2021, [INQ008118], MCGA informed DfT that:

"I commissioned Bristow Helicopters to put forward a proposal to provide a dedicated aerial surveillance service for the Channel that will run until we reach the start of UKSAR2G, which has got this requirement already baked in. That proposal comprises 50% uncrewed and 50% crewed planes equipped to provide real time situational awareness back to Dover Coastguard. The CAA has been incredibly supportive in allowing

us to fly beyond visual line of sight over the Channel with remotely piloted aircraft. Operations using these uncrewed aircraft will be ready within weeks from now.

....

The total cost of these arrangements is just short of £9m annually. There is also an IFRS upfront £30m capex implication. Clearly MCA does not have the costs of these arrangements within its existing baseline. Claire Hughes and I are working with Dan O'Mahoney who leads on this issue for the Home Office to find a way to secure the funding, which you might think shouldn't be difficult given the very topical nature of this problem. This might be attractive to the new CDL his role in coordinating Government's response to this issue...."

148. Attached to the Director's e-mail was a presentation detailing Bristow's proposal [INQ008119].

149. In the MCA's proposal, dated 19 January 2022 [INQ004157], it was stressed that the demands on planes were far exceeding their capacity and that "[w]e expect these arrangements to become overwhelmed this year in the absence of any additional capacity....Availability and Channel cover has been maintained so far (although it is at risk) through the cancellation of planned patrols for internal and external stakeholders until the end of January. In short, it has only been achieved so far at the expense of other important activity and is not sustainable." The proposal from Bristow Helicopters included:

- i. Crewed and uncrewed planes dedicated to Channel patrols capable of flying long durations on days where small boat crossings are most anticipated;
- ii. Radar that can create a surface picture at a higher altitude creating targets of interest;

- iii. High resolution electro-optic infrared cameras;
- iv. Mobile phone detection equipment that can triangulate the location of small boats crossing the Channel further enhancing HMCG's situational awareness; and
- v. Live video and data downlink to the Dover Joint Rescue Centre.

150. DfT supported the MCA with this proposal and sought to reassure them that *"we'll support them centrally on this"* [INQ008134]. Whilst the project was not affordable within the DfT's spending review, it could be managed as a DfT budget pressure [INQ008136].

151. The proposal was signed off by the DfT Board on 17 January 2022, but required approval by HM Treasury, as it was addressing a 'contentious' issue [INQ008121]. Accordingly, a further submission was sent to the minister on 7 February 2022 [INQ008121] requesting that they seek HM Treasury's support. It is understood that HM Treasury approved the project on 15 February 2022, and it was approved by the minister the following day. This project proceeded notwithstanding the assumption of military primacy in the Channel in 2022.

Other aerial capacity

152. I have been asked about Tekever drones. The Tekever drones belonged to the Home Office and were operated by them. They were, however, made available to HMCG for SAR tasking.

153. DfT was informed by the Home Office that the Civil Aviation Authority had suspended the Tekever drone's licence pending the conclusion of an investigation. In an e-mail to DfT, dated 14 October 2021, the Home Office informed DfT that, irrespective of the licensing issue, they had yet to deploy the drones to date for other, unspecified, reasons. Furthermore, they had a contingency in place in the form of a MCGA surveillance aircraft.

154. DfT was informed by the Home Office, on 9 November 2021, that the issue had been resolved and that *“Tekever are flying their AR3 and AR5 drones again”*.
155. It is apparent, from HMCG’s Internal Review into the incident that a Tekever drone was deployed from about 0730 on the morning of 24 November 2021. Whilst there had been plans to deploy it at 0530, this was delayed due to fog.
156. Accordingly, the licensing issue did not impact the ability to deploy the drone on the morning of 24 November 2021, and I am unaware of any impact it may have had on other small boat incidents in the Channel. The Home Office may be better placed to respond to this request.

DfT’s working relationship with the MCA

157. Within DfT, the Agency Owner and the Agency Sponsor are the MCA’s primary points of contact, and it is they who are the principal sources of advice to the responsible minister on the discharge of his or her responsibilities. They also support the DfT Principal Accounting Officer on their responsibilities toward the MCA. Close working relationships exist between the MCA and DfT officials. The MCA Chief Executive is line managed by the DfT Director General, and meets regularly with the Maritime Director, as the Agency Sponsor.
158. As the number of small boats attempting to carry migrants across the English Channel has increased, DfT and MCA have engaged regularly on the development and operationalisation of the SAR response to migrant vessels. Non-exhaustively, this has included:
- a. Ongoing live issues: as the policy response to the small boats issue across His Majesty’s Government (**“HMG”**) developed, DfT and the MCA regularly discussed appropriate responses. While DfT does not (and did not) provide day-to-day management of how HMCG carries out its

operations, DfT and the MCA would regularly discuss high-level issues. Since July 2021, weekly small boats meetings have been held, attended by members of the Division, colleagues at HMCG and DfT Legal Advisers [INQ008156]. Issues discussed included matters such as the Nationality and Borders Bill, as well as communications strategy. When discussion of operational matters did take place, it took place at a high level; for instance, whether large numbers of crossings were expected to be made in any given week. DfT and the MCA manage areas of shared working through regular two-way communication [INQ008154];

- b. Engagement with other government departments: DfT represents the MCA's interests and position in its ongoing engagement across Whitehall on the small boats issue [INQ008139]. This includes receiving feedback from MCA colleagues on important 'lines' to take in meetings with officials in other departments in order to ensure that MCA's views and interests are represented [INQ004862];
- c. Ministerial engagement: DfT provides support to the MCA by briefing ministers, both in DfT and other departments, on the MCA's role, position and interests regarding the issue of small boats [INQ001947]. The MCA and DfT may liaise in the preparation of briefings for ministers and/or Secretaries of State, or in preparing responses to written ministerial questions [INQ004270].

159. Outside of the formal governance structures set out in the Framework, as detailed above in paragraphs [26]-[32] above, close working relationships exist between the MCA and DfT officials, and regular working level engagement takes place across teams. The MCA's Chief Executive and DfT's Maritime Director attended regular bilateral meetings on an *ad hoc* basis to discuss all issues of shared concern, including small boats. In addition, the Chief Executive of the MCA is line-managed by the same Director-General who has responsibility for the Division.

160. In early 2021, the main activity that DfT was involved in on a day-to-day basis, was working with HMCG to support them in cross government discussions. In particular, in early July 2021, the Home Secretary announced the start of a series of ministerial meetings to discuss implementing turnaround tactics. Weekly 'small boats huddles' were started between DfT and MCA at this time, to ensure engagement with the Home Office regarding their development of policies. Small boats huddles enabled a forum for DfT and HMCG to discuss the development of Home Office policy on small boats, including communications and operational aspects. Actions that arose from these huddles were monitored through action trackers, examples of which have been disclosed: see, for instance [INQ008050 and INQ008048].
161. This engagement was primarily for the purpose of providing additional support, and coordinating joint activity (for example, in cross-government engagement), but also provided the department with increased visibility of HMCG small boat operations. This ensured DfT was close enough to HMCG operations to identify any emerging risks and issues; prompting, for example, the joint submissions put to DfT Ministers from DfT and HMCG in November and December 2021 to advise them on increasing SAR pressures. An illustration of this can be found in the action trackers following those meetings [e.g. INQ001944]. Between formal governance arrangements and informal regular engagement, DfT keeps ministers sighted on significant issues and provides support to HMCG where needed.
162. As the meetings were regular and informal catch-up discussions, formal meeting agendas and minutes were not routinely produced. I can confirm that all identified documents that were produced, such as emails containing notes of the huddle discussions, have been disclosed to the Inquiry.

DfT oversight of the MCA

163. As set out above, DfT's primary responsibility in respect of small boats is as the MCA's parent department, and therefore our role in any systems to review arrangements for responding to small boats is limited to the SAR response. However, as the parent department for the MCA, DfT had a role in ensuring appropriate systems were in place to deliver an adequate and effective SAR service to respond to all persons in distress in the UK SAR region; including those attempting to cross the Channel by small boat.
164. DfT had formal and informal mechanisms in place to provide oversight and assurance of the MCA's SAR systems; including sponsorship governance structures and external audits. These mechanisms were effective in ensuring that DfT had sufficient oversight of HMCG's performance of its SAR function, as the aspect of the UK arrangements for responding to small boats that DfT had an interest in. In particular, the MCA Sponsorship Board was kept informed of the challenges faced by the MCA in relation to small boats.
165. The MCA Sponsorship Board regularly reviewed the MCA's Risk Register, which ensured that, at a senior level, DfT was aware of the issues that were being faced by the MCA in relation to small boats. For example, in 2020 and 2021, the MCA identified risks associated with small boats and migrant crossings in relation to the proposed Home Office tactics which could pose a risk to the safety of life at sea [INQ008149, INQ001019, and INQ000960]. Where the MCA Sponsorship Board has considered the issue of small boats, I can confirm that all identified relevant documents have been disclosed to the Inquiry: see, for instance, [INQ003842, INQ008149 and INQ001019].
166. The MCA Sponsorship Board's activity included a 'Deep Dive' discussion [INQ002043] that took place at the MCA Sponsorship Board meeting on 9 November 2022 [INQ000966; INQ008122]. This was not an internal DfT 'Deep Dive'. The purpose of the 'Deep Dive' exercise was for the MCA Sponsorship Board to consider the residual risks of significant loss of life during a small boat

crossing (such as the tragic incident of 24 November 2021) and to discuss steps that had been put in place, such as the deployment of additional assets, to mitigate the risk of loss of life [INQ003842].

167. At the 'Deep Dive' meeting, it was noted that:

...despite the significant investment in search and rescue operations in the Channel and that we continue to assess our provision in the Channel as adequate, there remains a risk of a similar incident to 24 November 2021. It is not possible to eliminate the risks of a similar incident occurring at some point in the future, other than the complete elimination of small boat crossings by organised crime groups.

...

Treatment of the residual risk is beyond the resources of the MCA and DfT. The MCA Sponsorship Board is asked to recognise this reality. Such a risk also exists in respect of all other types of Safety of Life at Sea incidents in UK waters, where a number of deaths occur each year, despite our best efforts.

168. No other meetings which could be described as internal DfT 'Deep Dives' on the topic of small boats have been identified.

MCA internal systems

169. A core part of the systems in place for reviewing and inspecting SAR arrangements, including those for responding to small boats, is within the MCA; which DfT is not directly involved in, but is aware of. DfT was and is assured that the MCA is committed to continuously learning lessons and improving their delivery of SAR operations, including regular updating of their SOPs and participating in inter-agency incident reviews and table top exercises. DfT was aware that HMCG also held regular liaison meetings, both operationally and strategically, with the French Coast Guard to discuss the coordination of and

response to SAR operations in the Channel. HMCG's governance team conduct internal reviews of serious SAR incidents, and also utilise peer reviews from other State coastguards to provide external validation and recommendations from international SAR experts – as was carried out for the 24 November 2021 incident.

170. An additional layer of oversight is provided by the MCA Board. The MCA Board is the highest decision-making corporate management group in the MCA [INQ000955]. The MCA Board comprises the Non-Executive Chair, the MCA Chief Executive and a number of executive and non-executive members that possess a balance of skills and experience appropriate to directing the MCA's business. The MCA Board also includes the Agency Policy Sponsor and DfT's Maritime Sponsorship Team. During 2018-2021, the MCA Board met on a monthly basis.

171. The MCA Board takes decisions about the MCA's overall strategy, intent, direction of travel and goals. The MCA Board's responsibilities include:

- a. Establishing and taking forward the strategic aims and objectives of the MCA;
- b. Providing assurance to DfT and its ministers about the performance of the MCA as a whole and the effectiveness of the Chief Executive;
- c. Holding the executive board members to account for the effective and efficient delivery of the business plan;
- d. Ensuring that the responsible minister is kept informed of any changes which are likely to impact the strategic direction of the MCA or on the attainability of its targets;
- e. Ensuring that the Board receives and reviews regular financial information concerning the management of the MCA, is informed in a timely manner about any concerns regarding its activities and provides positive assurance to DfT that appropriate action has been taken, where concerns have arisen.

172. This has, on occasion, included receiving high-level briefings on relevant developments concerning the small boats issue [INQ008042].

Audits and Reviews

173. External audits and reviews also form an important part of the good governance systems in place for inspecting and reviewing UK SAR arrangements. Prior to 23-24 November 2021, these included in particular:

Departmental review of the MCA

174. As the MCA's sponsoring department, DfT conducts reviews of the MCA in line with the Cabinet Office's guidance 'Tailored Reviews: Guidance on Reviews of Public Bodies' dated May 2019. In the period immediately prior to 23-24 November 2021, DfT was in the process of undertaking what it referred to as a light-touch departmental review of the MCA. The review sought to provide assurances that the organisation was well run with good governance and assurance, and strong leadership; and that the MCA was carrying out its functions effectively and efficiently.
175. DfT produced an interim report [INQ008152] which made a number of recommendations which were noted and discussed by the MCA Board in October 2021 [INQ008153]. The report did not make any substantive recommendations on HMCG's SAR operations, though noted the close working relationship between the MCA and both Border Force and the RNLI on small boats issues. This review provided assurances to DfT that MCA was carrying out its wider operational duties effectively and efficiently, while also making recommendations for improvements.
176. It should be noted that this report was never finalised or published. After the interim report had been prepared, it was shared with the MCA. However, by the time that DfT revisited the interim report, some of its contents were superseded

due to the 18-month gap that occurred following a shift in priorities caused by the pandemic. It was agreed that this would be revisited within the next review (Public Bodies Public Reform), which is expected to take place in early 2025.

The IMO III C Audit

177. In 2021, the IMO undertook a “III Code” audit of the UK, carried out under the mandatory IMO Member State Audit Scheme. 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 includes SOLAS. The *IMO Instruments Implementation (III) Code* (resolution A.1070(28)) provides the standard framework for these audits.

178. The audit itself was carried out remotely between 14 and 28 October 2021. The audit report was not finalised until early 2022, after being sent to the MCA in draft on 21 February 2022. The audit report is however based on the time period during which the audit took place, i.e. pre-November 2021. [INQ008173]

179. DfT was represented at the opening meeting of the audit, and both Petra Wilkinson, the then Maritime Director at DfT, and [Name] then the Deputy Director for Maritime Operations, participated in the audit process. Numerous MCA officials were also involved.

180. In my estimation the audit process will include a review of the operational learning systems MCA have in place for SAR, including incident reviews. The final audit report concluded that the UK complied with the vast majority of its III Code requirements. The report made only two findings, neither of which had any application to UK SAR operations; the finding on SOLAS related solely to Gibraltar and the Cayman Islands. [INQ008172]

MAIB

181. MAIB is an independent unit within DfT, with statutory responsibility for carrying out investigations to determine the causes of accidents at sea and publishing reports that include recommendations on improving safety at sea. Prior to November 2021, there had been no known fatalities from small boat incidents coordinated by HMCG in the UK SAR Region [INQ004106], and therefore there had not been any investigations on small boats incidents. MAIB investigations form an important part of the wider systems in place for inspecting arrangements on responses to SAR incidents.

DfT/MCA engagement under the MCA Framework

182. In addition to the above, under the MCA Framework, several regular meetings took place during the period of 2018-2021.

*The MCA Non-Executive Chair, MCA Chief Executive and the Responsible Minister
(or other senior official delegated under the terms of the Framework)*

183. The Non-Executive Chair of the MCA is responsible for providing external advice and expertise to the MCA Executive Team, and for ensuring that the policies and actions of the MCA support the responsible minister's wider strategic policies and that its affairs are conducted with probity [INQ000955].

184. The Chief Executive is appointed by the Secretary of State and is accountable to the Agency Owner and Ministers for the Agency's performance. He or she is the source of professional, technical and expert advice to the Secretary of State on all matters within the scope of its remit and additionally acts as the MCA's Accounting Officer.

185. The Non-Executive Chair and Chief Executive meet with the responsible minister (unless delegated to another senior official) once a year, to discuss

HMG's priorities for the MCA and its performance in meeting its objectives. I can confirm that no documents from these meetings have been identified that are relevant to this question and the Inquiry's Terms of Reference. However, where any meetings between the Non-Executive Chair, the responsible minister and the Chief Executive discussed the topic of small boats, all identified documents associated with those meetings have been disclosed: see, for instance, [INQ002211, INQ004300 and INQ002221].

The MCA Non-Executive Chair, MCA Chief Executive and the Permanent Secretary (or other senior official delegated under the terms of the Framework)

186. The Permanent Secretary, as the Department's Principal Accounting Officer, is responsible for the overall organisation, management and staffing of the Department and for ensuring there is a high standard of financial and other resource management in the department. The Permanent Secretary needs to be satisfied that the MCA has adequate financial systems and procedures in place to promote the efficient and economic conduct of its business, and to safeguard financial regularity.

187. The Non-Executive Chair and Chief Executive meet with the Permanent Secretary on a periodic basis to review performance, monitor progress against strategic objectives and evaluate arrangements in the MCA. Records of such meetings were not routinely kept, but I can confirm that all identified documents relating to relevant meetings have been disclosed: see, for instance [INQ008080 and INQ008081].

The Agency Owner and the MCA Non-Executive Chair

188. The Agency Owner meets with the Non-Executive Chair on a monthly basis to discuss the MCA's progress and performance against strategic objectives. I can confirm that DfT has not identified any documents from these meetings that are relevant to this question and the Inquiry's Terms of Reference.

The Agency Owner and MCA Chief Executive

189. The Agency Owner (the Director General for Aviation, Maritime and Security) holds regular one-to-one meetings with the Chief Executive to discuss objectives and tactics. The Director General also has line management responsibility of the Chief Executive. Records of this engagement would not routinely be made, but I can confirm that any relevant documents identified relating to these meetings have been disclosed: see, for instance [INQ008082 and INQ001048].

'Contact Group'

190. The Agency Sponsor chaired regular 'Contact Group' meetings between the MCA Chief Executive, MCA Directors and Deputy Directors within the Maritime Directorate to discuss live, cross-cutting, and time-critical issues. These meetings were telephone conferences where attendees provided verbal updates on areas of interest across maritime and MCA issues, providing an opportunity to work collegially.

191. 'Contact Group' meetings typically operated a dynamic standing agenda which was responsive to the issues of the day. This ordinarily involved discussion of:

- a. Key achievements and good news stories to share for communications and policy purposes;
- b. 'Worry lists', namely, policy and operational issues causing concern to either DfT or MCA; and
- c. 'Bubbling issues', namely, policy and operational issues with the potential to escalate and cause concern.

192. Attendees comprised the senior civil servants from the MCA and DfT Maritime Directorate.

193. 'Contact Group' meetings occurred on a fortnightly basis from approximately 2017. At some point in 2019, these meetings began taking place on a monthly basis, before ceasing in 2020, as the regular channels of communication between the DfT Maritime Director and the MCA Chief Executive were sufficient to ensure joined-up working across DfT and the MCA. To my knowledge, none of the 'Contact Group' meetings or discussions during this period focussed on small boats, and no documents associated with 'Contact Group' meetings of any relevance to small boats have been identified by DfT.

The Agency Sponsor and the Chief Executive

194. The Agency Sponsor holds regular one-to-one meetings with the Chief Executive to ensure a steady flow of information between MCA and DfT, and that there is alignment to support and enable a 'single maritime voice'. Records of such meetings are not routinely kept, and I can confirm that no documents from these meetings have been identified that are relevant to the topic of small boats.

The Finance Sponsor and MCA officials

195. The Senior Finance Business Partner within DfT 'Group Finance, Finance Business Partners' is nominated as the Finance Sponsor within DfT. They are responsible for the oversight of the MCA's finances. This includes, but is not limited to, monitoring in-year spending, advising the Agency Owner on any issues to do with in-year financial management and associated business planning and scrutinising the MCA's long-term spending and efficiency plans. They also advise the Permanent Secretary and Director General on any issues to do with the MCA's accounts. The working relationship between the MCA and DfT's Finance Team is described in further detail in paragraphs [33]-[39].

196. The Finance Sponsor liaises regularly with MCA officials to review financial performance against plans and expenditure against its Departmental Expenditure Limits and Annually Managed Expenditure allocations. This includes within the formal mechanism of the Audit and Risk Assurance Committee.
197. The Audit and Risk Assurance Committee approves the internal audit and programme of work, and considers the main issues arising from the work of independent auditors. The Committee is chaired by a Non-Executive Director of the MCA and its formal membership includes other Non-Executive Directors of the MCA and other members such as DfT's Arms' Length Body Finance Business Partner, as the Chair considers appropriate.
198. All relevant documents identified by DfT concerning reviews, audits and other oversight provided by the Finance Sponsor over the MCA have been disclosed to the Inquiry: see, for instance **[INQ008149, INQ008177, INQ008152 and INQ008153]**.
199. For completeness, and prior to the time period of interest to the Inquiry, DfT and the MCA also convened within the Maritime Strategy Board ("**MSB**"). The MSB, as referred to in documents such as **[INQ000955]**, was a group comprising representatives of the UK Maritime Administration including the MCA, MAIB and other maritime interests within DfT. It was chaired by the Director General of the International, Security and Environment Group and met every quarter to provide strategic direction on maritime policy development **[INQ000955]**. The MSB was disbanded in, or around, July 2018. DfT does not hold any documents such as meeting agendas or minutes that are relevant to small boats within the relevant period.

DfT's relationships with other stakeholders on the small boats issue

The Home Office

200. The development of DfT's working relationship with the Home Office, for instance through CCTC, during the period of interest to the Inquiry is set out above.
201. For completeness, since November 2022, the Small Boat Operational Command within Border Force ("**Border Force**") has led the Home Office's operational response, which includes intelligence and landside operations. In this latter period, there have been no regular or formal forums for engagement between DfT and Home Office officials on the small boats issue. However, DfT officials have continued semi-regular *ad hoc* engagement with Home Office and Border Force colleagues. The nature of this *ad hoc* engagement has varied depending on political and operational developments.

Foreign, Commonwealth and Development Office

202. The FCDO is responsible for coordinating the promotion of British interests and development overseas. The FCDO has overall responsibility for the interpretation and implementation of UNCLOS across government. It is responsible for negotiating the maritime boundaries of the UK, Overseas Territories and Crown Dependencies and is responsible for representing the UK in bilateral and multilateral discussions on UNCLOS, including at the United Nations. However, the FCDO has no direct role in SAR operational activity.
203. DfT and the FCDO regularly cooperate on areas of shared interest around maritime and maritime security but have had limited engagement on small boats issues. Any engagement on small boats has largely occurred on an *ad hoc* basis, for example, on shared interests. on UNCLOS and SOLAS in responding to Home Office immigration policy initiatives such as the Nationality and Borders Act, or supporting FCDO ministerial briefings [INQ003841]. DfT has also periodically engaged with the British Embassy in Paris on issues such

as supporting the UK Marine Accident Investigation Branch (“**MAIB**”) to seek information from the French authorities.

The Ministry of Defence

204. As with the Home Office and the FCDO, DfT engages regularly with the Ministry of Defence (“**MoD**”) on matters relating to maritime security through forums such as the National Maritime Security Committee (Officials). The MoD also contributes to the sponsorship of the Joint Maritime Security Centre (“**JMSC**”) by provision of accommodation and IT to the organisation.
205. Engagement between DfT and the MoD on the small boats issue has largely focused on Operation Isotrope, discussed in further detail in paragraphs [94]-[104] above. From the end of December 2021, the Prime Minister had tasked departments to develop a plan for the MoD to assume military primacy over all aspects of HMG’s operational response to small boats illegal migration. Military primacy refers to the enacting of command and control over maritime counter-migration operations. This was to include operations at sea, prevention of beach landings, the triaging of arrivals, and looking at other possible interventions using innovative capabilities.
206. Following the Prime Minister’s announcement, DfT engaged with the MoD and colleagues in the Cabinet Office to discuss issues arising in connection with the MoD assuming military primacy, and to support the Prime Minister’s ambition generally. The MoD assumed military primacy on 14 April 2022 [INQ000010]. Under Operation Isotrope, the MoD assumed control of all maritime assets, personnel and capabilities within its scope. However, HMCG retained responsibility for SAR operations, including asset selection and tasking as well as coordinating SAR in the Channel [INQ004124].
207. Once the MoU was in place, engagement between DfT and the MoD decreased significantly. Engagement occurred on an *ad hoc* basis, e.g. around

departmental roles on incident reporting and communications handling, culminating in the agreement of the *“HMG Standard Operating Procedure: Small Boats Critical Incident – Initial Communications and Parliamentary Handling”* [INQ004303], which was jointly owned by DfT, the Home Office and the MoD.

208. Operation Isotrope came to an end in January 2023 with a transfer of primacy from the MoD back to the Home Office [INQ004234]. Since then, the MoD has not, to the best of DfT’s knowledge and awareness, had any involvement in the policy response to small boats and, as such, DfT has had no engagement with MoD on this issue since the end of Operation Isotrope.

No. 10 Downing Street

209. Most of the engagement between DfT and the Cabinet Office (on behalf of the Office of the Prime Minister) on the small boats issue was under the remit of the IMTF, established in November 2021, regarding the establishment of Operation Isotrope. The purpose and function of the IMTF are set out in further detail in paragraphs [76]-[79] above.
210. There has been very limited direct engagement between DfT and the Office of the Prime Minister and/or No. 10 Downing Street. As outlined above, such engagement has largely occurred on an *ad hoc* basis or via the Home Office as the owner of small boats policy and lead department on migration policy and has occurred under the auspices of the workstreams outlined above.

DfT’s engagement with other government departments generally

211. For completeness, DfT also collaborated with the MoD, the FCDO, the Department for Environment, Food and Rural Affairs and the Home Office to update and maintain the previous government’s UK National Strategy for Maritime Security (“**NSMS**”) during its most recent round of updates in 2021 [INQ001932]. The NSMS set the strategic framework for maritime security work

across HMG. Although the scope of the NSMS covers governance arrangements for maritime security in the UK generally, it briefly addresses HMG's response to small boats at a high level in the context of illegal migration and the threat from transnational organised crime [INQ008171].

212. I am further asked to provide any policies, procedures, memoranda of understanding and/or written agreements governing the relative responsibilities and relationships between DfT and other stakeholders. Apart from the MCA Framework that was in force as at 23-24 November 2021, there were no other such agreements in place. DfT is aware that operational protocols and Standard Operating Procedures were in place between HMCG and Border Force at the time of the incident, on which the MCA will be best placed to assist the Inquiry.

Relationships with ministers

213. The practical working relationship between DfT and other government departments including the Home Office, MoD, FCDO and the Cabinet Office is set out above. In the time period of interest to the Inquiry, there were numerous regular and *ad hoc* fora for engagement and inter-departmental working between Ministers or Secretaries of State within DfT and within other government departments. I can confirm that all documents associated with identified meetings convened for the purpose of discussing small boats have been disclosed to the Inquiry, or are disclosed with this Statement: see, for instance, [INQ008165, INQ001933, INQ001929, INQ009136, INQ001053, INQ004279 and INQ004294].

Relationship with French authorities

214. The MCA leads on the UK's relationship with the French Coastguard on matters of SAR, including the operational SAR response to small boats in the Channel. SAR operations between the UK and France are governed under the Mancheplan, and HMCG conducts regular engagement with its counterparts at

an operational and a strategic level. The Home Office owns the wider relationship with French authorities on the issue of small boats, including in relation to operations to prevent crossings, with DfT providing input and expertise when requested. Any arrangements in place for facilitating communication with French authorities on these matters would, therefore, be owned and maintained by the MCA and the Home Office, rather than by DfT.

215. DfT undertakes *ad hoc* bilateral engagement with France at a senior and ministerial level, where small boats may be discussed. For example, DfT's engagement with the French authorities when attempting to secure evidence to assist the MAIB's investigation was raised in a ministerial bilateral.

216. By way of further example, DfT attended a meeting of the Working Group established between UK and French officials to discuss and coordinate responses to the small boats issue [INQ004287]. It was chaired and convened by Border Force officials, with other attendees in the UK delegation including the Home Office, the British Embassy in Paris, JMSC and DfT. I can confirm that all identified documents relating to the Small Boats Working Group meetings within the relevant period that are held by DfT have been disclosed to the Inquiry [INQ005337].

217. In terms of systems and protocols in place for facilitating the aforesaid engagement, while DfT maintains systems for engaging with French authorities in the Dover Strait in relation to other parts of its departmental portfolio, such as freight flows and entry/exit requirements, no such documents or systems are in place in relation to small boats. I can confirm that there are no other protocols, policies, procedures or memoranda held or produced by DfT that fall within the scope of the Inquiry's work and that have not been disclosed to date.

Cross-Whitehall engagement

218. I have been asked about a number of cross-Whitehall meeting forums which were not primarily convened for the purposes of small boats but where small boats was on occasion discussed. These included:

The Maritime Security Ministerial Small Group

219. The Maritime Security Ministerial Small Group (“**MSMSG**”) met for the first time in November 2020 [INQ009101]. MSMSG was formed in order to provide ministerial oversight across a number of maritime security issues, including, but not limited to, the protection of UK waters at the end of the EU exit transition period, the small boats issue and the outcomes of the Integrated Review and Spending Review [INQ009104]. It was formed in light of an increase in high-profile risks to maritime security and a need to provide a regular forum for cross-departmental working in an established group that could be convened to address time-sensitive issues. MSMSG also provided strategic direction for longer term initiatives, such as the previous government’s NSMS (discussed in further detail in paragraph [216]), and oversight of cross-Government maritime security work led by the National Maritime Security Committee (Officials), which is discussed in further detail in paragraphs [226]-[228] below.

220. The MSMSG fulfilled its purpose by undertaking the following:

- a. Providing oversight of the delivery of cross-Government maritime security workstreams, including providing direction on prioritisation as well as a challenge function to workstreams in ensuring that they remain on course to deliver to time, cost and quality;
- b. Resolving disputes where Departmental and Agency policies on cross-Government maritime security are in conflict;
- c. Reviewing and approving significant changes to maritime security policy workstreams; and
- d. Maintaining effective liaison with the Ministerial Working Group on Maritime Security (“**MWGMS**”) to be aware of EU and international

developments that may impact upon cross-government maritime security interests.

221. The MSMSG was chaired by the DfT Minister for Maritime and administered by the DfT, which hosted the secretariat function. However, neither the Minister nor DfT were responsible for the delivery of cross-Government maritime security workstreams unless DfT was the lead department for the workstream in question. MSMSG comprised junior ministers from each of its member departments: Cabinet Office, Department for Environment, Food and Rural Affairs (“**Defra**”), FCDO, Home Office, MoD and DfT. Formal meetings of the MSMSG took place as necessary according to key maritime security matters or as requested by a member, but generally not less than twice per year.
222. While small boats did not fall within the primary remit of MSMSG, as the number of crossings and general cross-Government workstreams in response increased, the small boats issue did arise. The minutes, agendas and other associated documentation of any such meetings identified within this period have been disclosed to the Inquiry: see, for instance [INQ008087].

The National Maritime Security Committee (Officials) (‘NMSC(O)’)

223. During this period, the DfT Maritime Director chaired the National Maritime Security Committee (Officials) (“**NMSC(O)**”), which provided a forum for officials from the Home Office, MoD, DfT and FCDO to coordinate cross-cutting maritime security work priorities [INQ001053]. NMSC(O) coordinated activity across Government to ensure that HMG’s programme of maritime security reflected the current risk profile presented to UK interests, both in UK waters and internationally [INQ001932].

224. NMSC(O)'s responsibilities included:

- a. Maintaining an overview of maritime security risks, commissioning updates from departments and agencies on a biennial basis and identifying and informing departments and agencies where there are gaps or where further mitigation/capability may be needed;
- b. Maintaining an overview of, and co-ordinating and challenging the delivery of cross-government maritime security workstreams in order to implement the future work programme set out by the Ministerial Working Group on Maritime Security and, previously, as set out in the NSMS;
- c. Communicating maritime security priorities to the National Maritime Security Committee (Industry) and ensuring there is effective co-ordination of government and industry maritime security workstreams;
- d. Commissioning and coordinating updates from departments and agencies to the NSMS, ensuring that cross-government maritime security activity is coherent with the NSMS [INQ009079].

225. Meetings of the NMSC(O) took place at least three times per year, chaired by the DfT Maritime Director [INQ008117]. All identified documents arising from such meetings at which the small boats issue was discussed are disclosed with this statement: see, for instance [INQ009068 and INQ009109].

The National Maritime Security Committee (Industry) ('NMSC(I)')

226. NMSC(I) was an industry-chaired meeting which provided an opportunity for government and industry to engage on the measures and policies being taken to provide a secure maritime domain for UK maritime interests domestically and internationally; be that UK ports, the ports of Crown Dependencies and British Overseas Territories, British-flagged ships and UK seafarers.

227. NMSC(I) provided a forum for senior industry figures to report on current threats and risks from their perspective and provide constructive feedback to

government. NMSC(I) met approximately twice a year, with the Secretariat provided by DfT.

228. No meetings of the NMSC(I) taking place during this period were of relevance to small boats or the policy response to small boats.

National Security Council

229. The National Security Council (“**NSC**”) was the main forum for collective discussion of the Government’s objectives for national security and how best to deliver them. The purpose of the NSC was to provide a forum for ministers to consider matters relating to national security, foreign policy, defence, trade strategy, international relations, development, resilience and resource security. The NSC’s work was supported by several National Security Council Sub-Committees, such as the NSC Illegal Migration Strategy Delivery Board.

230. As the NSC is convened by the Cabinet Office, that Department will be better placed to advise on NSC or NSC-linked meetings and discussions relating to small boats. The NSC is not routinely attended by ministers from DfT, although Cabinet Ministers who are not permanent members of the NSC may be invited to attend NSC meetings as required and as dependent on the agenda items to be discussed.³ However, as the Inquiry will appreciate, documents considered by the NSC are classified and permission from the Cabinet Office is required for their onward disclosure to the Inquiry.

231. Where DfT has identified that it holds any non-classified documents relating to meetings of the NSC or its sub-committees where small boats were discussed, those documents are disclosed with this Witness Statement: see, for instance **[INQ009126 and INQ009123]**.

³ The full membership of the NSC can be viewed here:
<https://www.gov.uk/government/publications/the-cabinet-committees-system-and-list-of-cabinet-committees/list-of-cabinet-committees-and-their-membership>

232. The NSC's work is supported by the Joint Intelligence Organisation ("JSC"). The JIO produced a Strategic Assessment of Maritime Security (dated September 2019) and a review in July 2020. However, as the Inquiry will appreciate, these documents are classified and permission from the Joint Intelligence Organisation ("JIO") is required for their onward disclosure to the Inquiry.

Ministerial Working Group on Maritime

233. The Ministerial Working Group on Maritime Security was established in 2014. It was the forerunner to MSMSG (the Maritime Security Ministerial Small Group). It was attended by junior ministers from the FCDO, Home Office, MoD and DfT, and chaired by FCDO [INQ008162]. Similarly to MSMSG, it was the ministerial counterpart of the NMSC(O) [INQ009079]. It was administered by FCDO and met on an *ad hoc* basis to consider specific maritime security topics, though largely with an international focus [INQ009104], and in particular, piracy being a key focus at the time of it operating. To the best of my records and recollection, the Working Group met on only three occasions, with the last meeting in autumn 2018. MSMSG replaced it and first met in November 2020.

234. As the Working Group was convened by FCDO, DfT holds limited papers, and given the timing of when this group met, the topic of small boats did not feature significantly. I can confirm that any relevant material identified has been disclosed with this Witness Statement: see, for instance, [INQ009128 and INQ009127].

Cross-Whitehall Small Boats meetings

235. Cross-Whitehall Small Boats meetings took place in summer 2019 as concern grew across Government regarding the number of small boats crossings being attempted in the Channel. I was invited to attend cross-Whitehall meetings in

July 2019 organised by the National Security Secretariat in the Cabinet Office and Chaired by the National Security Strategy Director [INQ008137]. These were convened by the Home Office with the aim of developing a cross-Government plan to tackle small boats crossings, and provided a forum for discussion of the current operational and policy responses [INQ008159]. Key areas of focus were:

- a. Identifying technological capabilities held across Whitehall that might assist in surveillance and detection of attempted Channel crossings;
- b. Availability of cross-Whitehall funds for contingency funding that could be unlocked in order to access such technologies;
- c. Responsibilities and long-term strategy for search and rescue operations in UK waters; and
- d. Assessment of maritime responsibilities and preparedness [INQ008160].

236. The meetings were attended by representatives from stakeholders including: Border Force, the National Crime Agency, DfT and the MCA [INQ004161]. From my recollection, DfT participated in only a small number of these meetings in 2019. I can confirm that all identified documents relating to those meetings attended by DfT in this period have been disclosed: see, for instance, [INQ009099, INQ001119 and INQ004161].

237. I have also been asked about the following specific meetings:

‘Small Boats – Planning Group’ meetings

238. The Small Boats Planning Group was a group convened and chaired by JMOCC in 2019, with representatives from departments and organisations including Border Force, the Home Office, MCGA, MoD and DfT. Its purpose was to set out what transitioning into “business as usual” would look like in the event that Border Force Maritime re-tasked its vessels to cover other, non-SAR, work away from the English Channel, and therefore aimed to investigate other

operational planning options. I believe the group only met a small number of times. I can confirm that all identified documents relevant to the Small Boats Planning Group that are held by DfT have been disclosed: see, for instance, [INQ001952 and INQ001131].

All 12 'Deep Dive' meetings

239. I have been asked to provide information about the 'Deep Dive' meetings referred to in [INQ002209]. The 'Deep Dive' meetings arose from a JMSC meeting in which it was announced that Number 10 had established a new 12-point plan to address the issues of clandestine entry and small boats [INQ002339]. The work on the plan was to be led by [Name] Director General of the Home Office, and co-ordinated through a series of 12 'Deep Dive' meetings [INQ002209].

240. As far as I am aware, and to the best of my recollection, the 12 'Deep Dive' meetings in question did not take place, although the Home Office may be better placed to provide further information. DfT has not identified any documents such as agendas, read-outs or minutes from any such meetings.

Permanent Secretary engagement

241. In addition to the meetings outlined above, engagement at the Permanent Secretary level continued. DfT's Permanent Secretary, Bernadette Kelly, met with the Home Office Permanent Secretary [Name] on 28 April 2020. The purpose of the meeting was for [Name] to outline the level of ambition between the Home Office ministerial team to develop responses to small boat arrivals, with a particular focus on developing returns at sea [INQ008117].

242. There was further engagement at Permanent Secretary level on the issue of small boats (led by DfT's Second Permanent Secretary at the time, Gareth Davies; previously, and at the time of the incident, Director General for Aviation, Maritime and Security), in February 2022 and in the run-up to Operation Isotrope, with the HO, DfT and MoD Permanent Secretaries in contact during the process of agreeing the final terms of the Memorandum of Understanding [INQ009095]. This culminated in the inter-departmental MoU signed by the Permanent Secretaries of MoD, the Home Office and DfT, as set out in paragraph [97].
243. To the best of my knowledge and recollection, no further engagement between Permanent Secretaries occurred on the issue of small boats during this period. I can confirm that all identified briefing documents and annexes associated with this engagement have been disclosed to the Inquiry. For the Inquiry's ease of reference, this includes the following documents [INQ001947, INQ004332, INQ004893, INQ001932, INQ007947, INQ008071, INQ004897, INQ004916, INQ004306, INQ004292, INQ004307, and INQ001955].

Other engagement

244. During the time period of interest to the Inquiry, officials within DfT also engaged with their counterparts in other government departments through the fora and working groups identified by the Inquiry and on an *ad hoc* basis to discuss cross-cutting issues. I can confirm that the Inquiry has been provided with the documents, including briefings, associated with those relevant meetings identified: see, for instance [INQ001947, INQ001048, INQ004212, INQ009098, INQ004175 and INQ001937].
245. I can confirm that I have not identified any other meetings or fora relating to small boats aside from those which have been described in other sections, and

that all identified documents relating to any internal or cross-departmental meetings relating to small boats at which DfT officials, Ministers or Secretaries of State were present have been provided.

The incident

246. As outlined above, DfT does not have an operational function in relation to SAR. However, TSOC would usually play a role in disseminating HMCG incident reporting, as outlined in paragraphs [41]-[44] above, for the purposes of assisting with media and parliamentary enquiries.

247. HMCG's system of notifying TSOC of live incidents, providing incident reporting to DfT, and issuing 'WAA' notifications was in place in November 2021. However, as far as records indicate, the incident was not formally reported to DfT by HMCG, and therefore no WAA notification was issued. This is due to the fact that awareness of the incident reporting came about because of bodies spotted and recovered from the water – rather than as an ongoing incident – and that they were found in French waters and recovery was led by the French authorities.

248. A WAA notification could be utilised once it becomes clear that there have been fatalities, even following a delay in that information becoming available, however an alternative method of notifying ministers and Senior Civil Servants could also be utilised if deemed more appropriate.

249. This being the first incident of its type, the notification pathways have since been further developed. Since 2021, improved procedures, including via WAA, have been put in place to formalise reporting around serious small boat incidents. Now, it is standard to receive reporting from HMCG, and to issue WAA notifications, for any small boat incident anywhere in the Channel

involving potential fatalities, if HMCG has been involved in the response. Within DfT, this ensures that ministers and Senior Civil Servants are well sighted should such an event happen again. WAA reporting does not affect the operational response carried out by HMCG in response to incidents, as it is for information purposes only.

250. As a result, neither TSOC nor DfT received or issued formal reporting on the incident whilst it was ongoing. From reviewing records and the best recollections of those in post at the time of the incident, I do not believe that DfT was aware of the incident prior to the initial media reporting on 24 November 2021 [INQ008146].

251. DfT's first substantive engagement on the incident occurred in relation to media handling from 28 November 2021, where DfT's Press Office was included in discussions between the Home Office and the MCA press teams to agree media lines. Policy officials were brought into the discussion on 30 November 2021. Discussions focused in particular on the degree of certainty held around the location of the small boat at the time of the incident. In keeping with its role as HMCG's parent department, DfT was concerned to ensure that HMCG's view was accurately represented in all communications regarding the incident [INQ000876 and INQ008108].

252. On 29 November 2021, DfT received a Parliamentary Question from

Name

 MP (Linlithgow and East Falkirk, Scottish National Party) [INQ004761]. The question was as follows:

'To ask the Secretary of State for Transport, whether the Maritime and Coastguard Agency received a call for help from any person aboard the boat carrying migrants that sank in the English Channel on 24 November 2021.'

253. On 1 December 2021, following a request from the DfT Minister's Private Office, a briefing note was provided by the MCA to Minister Robert Courts, then Parliamentary Under-Secretary in DfT, which outlined the MCA's initial analysis of the incident [INQ002336] Minister Courts responded to the Parliamentary Question on 2 December 2021 [INQ004761].

254. The full facts of the incident took some time to be established over the following weeks and months, with considerable initial uncertainty as to whether the vessel in question was in UK waters at any point during the incident. On 20 January 2022, the MAIB confirmed to DfT Ministers that they would be conducting a full investigation into the incident. This investigation, which examined the facts of the incident, concluded in 2023, with the report being published on 8 November 2023.

255. I can confirm that the Inquiry has been provided with all of the following:

- a. All communications between DfT and other agencies or stakeholders regarding the SAR operation 23-24 November 2021;
- b. All internal communications within DfT regarding the SAR operation on 23-24 November 2021; and
- c. All relevant documents contemporaneous with the SAR operation on 23-24 November 2021.

For the Inquiry's ease of reference, DfT has identified the following documents as falling within the scope of these questions: [INQ008106; INQ008107; INQ008108; INQ000876; INQ004761, INQ008146 and INQ002334].

Review and lessons learnt

Lessons learned and review during policy development

256. I am asked to comment on any reviews or lesson-learning concerning DfT's role in small boats and how this may have influenced policy development. DfT's direct involvement in the policy and operational response to small boats is

limited, as explained above. To my knowledge, there were therefore no inspections, reviews, or lesson-learning reports dated between November 2018 and November 2021 that touched on DfT's role in relation to small boats. DfT does not hold copies of any such reports.

257. Similarly, DfT's response to small boats has not readily been informed by the experiences of Australia or the Mediterranean countries. As DfT does not have an operational role, lessons learned from the perspective of SAR would be better addressed by HMCG; whilst those pertaining to immigration enforcement should be directed to the Home Office.

258. DfT is aware of, and has supported, previous work by the Home Office to understand the applicability to the Channel of models utilised in other regions; in particular Australia. As in all DfT and MCA engagement, DfT has ensured that our international obligations on safety of life at sea and SAR under the SAR Convention, SOLAS and UNCLOS are understood and maintained in any consideration of new tactics to respond to the issue of small boats.

Lessons learned and review on a departmental level

259. In light of the division of responsibilities between DfT and the MCA, following the events of 23-24 November 2021, DfT did not itself conduct an independent review of the incident, but did have assurance that appropriate lessons-learning processes were taking place at HMCG. It was most appropriate for HMCG to undertake the lessons learned exercise itself, rather than DfT, because HMCG was the body operationally involved in the incident and with responsibility for UK SAR. HMCG has specialist operational expertise which meant that it was better placed to investigate the incident internally, reach conclusions and reflect on lessons learned, prior to making recommendations and implementing any changes to its operations. It is understood that HMCG conducted a detailed internal review, which involved listening to 75,000 calls, reviewing 99 incident logs, and interviewing 17 staff and responders. In addition, it is understood that

HMCG's internal review was peer-reviewed by the US Coast Guard, providing external validation of HMCG's findings by an organisation which is internationally respected for its SAR operational expertise. DfT does not ordinarily receive copies of HMCG's internal incident reviews; these are technical in nature and are part of the wider systems of operational learning which the MCA has in place, and upon which DfT is assured of at a systems level. However DfT, including Ministers, has seen previous drafts of HMCG's internal report on this incident given the high level of interest on it; I understand it is currently at final draft stage.

260. As referenced above, DfT received confirmation on 20 January 2022 that the MAIB would be conducting its own safety investigation into the incident. The MAIB is an independent unit within DfT. A protocol entitled "*Protocol governing the relationship between the Department for Transport and the accident investigation branches*" explains how the MAIB's independence is safeguarded and sets out the relationship between the MAIB (and the other accident investigation branches) and DfT.⁴ The MAIB is one of the world's leading safety investigation organisations and it is responsible for carrying out investigations to determine the causes of accidents at sea.⁵ The MAIB published its report on the incident in November 2023.⁶

261. Section 4 of the MAIB's report details the actions taken by the MCA, and other agencies, between the incident and the publication of the report. This includes measures such as: the introduction of an operational performance board;

⁴ Protocol governing the relationship between the Department for Transport and the accident investigation branches (updated 21 May 2020) <https://www.gov.uk/government/publications/protocol-the-role-of-air-marine-and-rail-accident-investigation-branches-and-their-relationship-with-the-department-for-transport/protocol-governing-the-relationship-between-the-department-for-transport-and-the-accident-investigation-branches#introduction>

⁵ Marine Accident Investigation Branch (MAIB), 'About Us' (webpage)

<https://www.gov.uk/government/organisations/marine-accident-investigation-branch/about>

⁶ Report on the investigation into the flooding and partial sinking of an inflatable migrant boat resulting in the loss of at least 27 lives in the Dover Strait on 24 November 2022 (Report No 7/2023) <https://assets.publishing.service.gov.uk/media/654b77e8e70413000dfc49f0/2023-07-MigrantBoatReport.pdf>

additional staff and adjusted operational structures, and updating standard operating procedures; including processes for incident references and mergers.

262. The MAIB report made two recommendations, namely:

- a. The MCA was recommended to *“Build on existing liaison with French authorities to devise a tracking and identification system that, to the greatest extent possible, removes the possibility of confusion and error when compiling an overview of small boats attempting the crossing”*;
- b. The MCA and UK Border Force were recommended to *“Develop procedures for achieving, as far as is practicable, an overview picture of migrant boat activity during periods when aerial surveillance is limited to rotary wing aircraft or is unavailable.”*

263. Both recommendations were accepted by the MCA, with a number of additional actions taken to address each; including undertaking additional engagement with the French Coast Guard and implementing measures to improve communication and situational awareness such as the ICU system. I understand that both recommendations have now been closed by the MAIB, following those actions by the MCA.

264. In light of the MAIB’s investigation and the nature of the division of responsibilities between DfT, the MCA and HMCG, DfT did not consider that it was necessary nor appropriate to conduct a further exercise which would, in effect, duplicate the work already undertaken. This was particularly so where DfT had (and continues to have) an ongoing working relationship with the MCA and HMCG, with systems in place to inspect and review their arrangements for responding to small boats attempting to cross the Dover Strait. Through regular and ongoing engagement with senior HMCG staff, DfT were able to maintain an overview and were satisfied that the MCA and HMCG were undertaking their

respective responsibilities competently, and that recommendations had been adequately addressed.

265. In addition, DfT was aware that HMCG were developing and improving their handling of small boat operations in the period following the incident, including by increasing staffing numbers, developing training, and improving their ability to identify the location of small boats in distress through phone calls and operational communications with France. Furthermore, in early 2022, DfT was aware that, as part of cross-government work around the development of Operation Isotrope, HMCG were in discussion with the MoD and Border Force to ensure that HMCG's SAR requirements were understood and operations were improved where possible, for example with the procurement and use of the CTVs.

266. It is extremely dangerous to cross the Dover Strait in a small boat. In 2021, HMCG coordinated the rescue of 28,526 people who were crossing the Dover Strait in 1034 small boats. In that year, in the UK Search and Rescue Region ("UKSRR"), this incident was the only one in which fatalities were recorded. Since this incident (up to 19 September 2024), 106,584 people have crossed the Dover Strait by small boat. In this time, there has been one other serious incident in the UKSRR, which resulted in at least 8 fatalities (the 14 December 2022 incident). Every death in the Dover Strait is a serious tragedy. However, given the very dangerous nature of the crossing and the significant numbers of people crossing the Dover Strait by small boat, it is fortunate not to have seen more fatal incidents, which is testament to the SAR work done by HMCG.

267. In relation to the 14 December 2022 incident, the MAIB also conducted an investigation and published a report in August 2024.⁷ Within that report, the

⁷ Marine Investigation Branch(MAIB) (Report No 9/2024)
<https://assets.publishing.service.gov.uk/media/66b9f847ce1fd0da7b593614/2024-9-Migrant2.pdf>

MAIB concluded (on page 11) that there were no further recommendations to be made following that incident, in light of the recommendations already made by the MAIB regarding the 24 November 2021 incident, which had been subsequently actioned by the MCA and Border Force, as well as the wider improvements in Channel operations implemented during Operation Isotrope. This reinforced DfT's view that HMCG were undertaking their respective responsibilities competently.

268. The MAIB investigation made no recommendations about DfT's role in relation to the events of 23-24 November. However, DfT is always looking to identify areas for improvement.
269. For example, in July 2021, prior to the incident, as previously noted, it was identified that a weekly exchange and information sharing exercise in relation to small boats with HMCG could improve information flow between DfT and HMCG. Accordingly, weekly huddles between HMCG and DfT were set up. These meetings were chaired and attended by a Senior Civil Servant from each organisation (for further details on the weekly HMCG/DfT huddles see paragraphs [163]-[164]).
270. In addition, following the incident, DfT's TSOC engaged with the MCA and HMCG to ensure that the parameters of when TSOC should be contacted to activate its WAA system were clearly understood. During Operation Isotrope, DfT also went on to formalise central government roles on incident reporting and communications into a Standard Operating Procedure ("**SOP**") entitled "*Small Boats Critical Incident – Initial Communications and Parliamentary Handling*" [INQ004303]. This ensured that HMCG reporting on a SAR incident, as the lead agency, was used as the single version of the truth by departments, and crystalised responsibilities and processes for communications handling. In addition, TSOC created an action card to enable DfT staff working on call overnight, at weekends and on bank holidays, to reliably fulfil TSOC's function [INQ008138]. It is important to note, however, that any reporting provided by

DfT is purely for senior officials and ministers to provide information to inform media and stakeholder management. As previously noted, WAA reporting does not affect the operational response carried out by HMCG in response to live incidents.

271. In addition to the material already disclosed to the Inquiry, such as **[INQ000017]**, *DfT has identified further material, such as correspondence and formal responses*, which fall within the scope of this question. However, I have been advised by the MAIB that some of this material is considered to come within the ambit of regulation 13(2)(e) of the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 and must not be disclosed to the Inquiry in the absence of a court order. DfT would be grateful if the Inquiry could request this material directly from the MAIB.

Staff wellbeing

272. Whilst DfT staff are not directly involved in operational matters, DfT fully recognises the importance of safeguarding staff, especially those in the TSOC who are involved in incident reporting. The wellbeing of our staff is a priority throughout any response, with additional consideration given to scenarios involving fatalities. DfT takes a layered approach to staff support; from informal line manager conversations in the immediate aftermath of an incident to identify any concerns to, on occasion, offering (security cleared) group counselling sessions. Staff are signposted towards DfT's central wellbeing offers, including the Employee Assistance Programme ("**EAP**"), a 24/7 service which offers counselling, information and support for all types of work and personal related issues.

273. The challenges faced by HMCG staff working on small boats are not underestimated, both in responding to incidents with fatalities, as well as dealing with public sentiment around illegal migration. This issue has been discussed periodically at weekly small boat huddle meetings between DfT and HMCG, as well as at the 2 December 2021 inter-agency table top meeting [INQ004203], and was highlighted to DfT Ministers (for example, in the 14 December 2021 submission [INQ000846]).

Conclusion

274. I would like to reiterate DfT's commitment to assisting the Inquiry. I can confirm that all the matters covered in the Request are addressed in this Witness Statement and that there are no other matters that I consider of relevance to the Inquiry that I would like to draw to the attention of the Chair.

Statement of Truth

I believe the content of this statement to be true.

Signed Personal Data

Dated: __19/12/24__