

Second Witness Statement of James Driver

Department for Transport

17 April 2025

Witness Name: James Driver

Statement No.: 2

Exhibits: 1 – 21

Dated: 17 April 2025

THE CRANSTON INQUIRY

SECOND 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. I make this statement on behalf of the Department for Transport (“**DfT**”) in response to a second witness evidence request from the Cranston Inquiry (“**the Inquiry**”) dated 1 April 2025. This statement is provided on behalf of DfT and is made further to my first witness statement dated 19 December 2024 [**INQ010337**].
2. 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.
3. The Inquiry’s evidence request asked me to comment on four distinct issues, which I will address in turn.

The outcome of the discussions in July 2019 as to the leadership of the Safety of Life at Sea (“SOLAS”) response by the RNLI/MCA

4. As set out in paragraph 105 of my first witness statement, I attended a cross-Whitehall Joint Maritime Operations Coordination Centre (“**JMOCC**”) meeting on 24 July 2019

[INQ001131] which discussed the 'business as usual' position regarding search and rescue ("SAR") operations should Border Force re-deploy their assets to other tasks. The briefing prepared in advance of this meeting is at [INQ008159].

5. By way of context, as the phenomenon of small boat crossings became better understood, and a more pressing priority for government, the question of the impact of Border Force vessels being deployed in the Channel to respond to small boats, and therefore not being available for tasking on other missions, was frequently considered.
6. Ultimately, throughout the period of interest to the Inquiry, His Majesty's Coastguard ("HMCG") retained primacy for SAR and SOLAS, as the legal responsibility to operate an efficient and adequate SAR service has always lain with HMCG and DfT. I do not understand that any other arrangement was suggested in July 2019, or has been suggested since, and to the best of my knowledge, no changes were taken forward following this discussion. Rather, the discussion in July 2019 considered the prospect of fewer Border Force vessels being tasked to SAR operations by HMCG. This eventuality did not arise. As the Inquiry has seen, Border Force vessels continued and continue to be declared assets available for tasking by HMCG, and in fact are tasked to approximately 90% of small boat SAR operations. However, the Home Office may be better placed to comment on any further discussions that may have taken place internally on this matter.

The MCA Sponsorship Board's consideration of the risk of loss of life

7. The Inquiry has heard that, in November 2021, a further risk was added to the Maritime and Coastguard Agency ("MCA") organisational risk register, namely, that "*HMCG may become overwhelmed due to unquantifiable levels of migrant channel crossing activity occurring during periods of good weather*" [INQ000167]. In my oral evidence, I stated that I was assured that the MCA Sponsorship Board would have considered the new risk added in November 2021¹. I set out the basis for that view here.
8. The quarterly MCA Sponsorship Board is a core part of DfT's oversight of the MCA. Whilst its membership and remit have evolved over the years, it has always provided

¹ Transcript of Day 14, James Driver, Page 59, Lines 9-12

- a high standard of governance and effective assurance processes, in accordance with Cabinet Office guidelines.
9. I observe that the meeting note prepared by DfT [INQ008055] does not explicitly record that the new risk was discussed at the December 2021 meeting. Nonetheless, and although I was not in attendance at that meeting, I am confident that the new risk would have been discussed. This is because the Sponsorship Board always considers new entries on the risk register as a standing item, usually under Agenda Item 2, as part of a discussion regarding delivery against the MCA's targets. This was equally true of the December 2021 meeting [INQ009214]. Under this agenda item, the MCA Chief Executive provided a high-level commentary which included discussion of the new risk and mitigation actions being taken by the MCA [INQ010726]. This reflects the record of the discussion in [INQ008055], which notes that the MCA Sponsorship Board discussed '*Migrant Boat Activity*' and outlines the actions that the MCA was taking to address the growing pressure on SAR resources.
10. This contemporaneous documentation accords with my expectations, based on my previous attendance of Sponsorship Board meetings and knowledge of its work. The discussion of new risks was a reflection of good working practice and took place as part of the Sponsorship Board's discharge of its function, namely, providing assurance of the MCA's work, including risk management.
11. In addition to the Sponsorship Board, I am aware that the MCA Board – the highest decision-making corporate management group in the MCA [INQ000955] – discussed the newly-entered risk at the time. As a standing agenda item, the MCA Board reviews the MCA's risk register and considers what, if any, escalation and support are required: see, for instance, [INQ002736 and INQ003736]. As recorded in the minutes of the MCA Board meeting in November 2021, this included discussion of the newly-entered risk of HMCG becoming overwhelmed by migrant activity [INQ003760 and INQ003737]. This was followed by a 'Deep Dive' discussion in the MCA Board meeting of 8 December 2021 on the risk of HMCG being overwhelmed by migrant activity in the English Channel [INQ003734].

12. Finally, and for completeness, although I understand that November 2021 was the first time that this particular risk was entered onto the MCA's risk register, it is important to note that DfT was apprised of the issue long before the formal entry of the risk. DfT's engagement with the MCA and HMCG, including through the formal mechanisms discussed above, weekly 'huddles' on small boats and regular informal engagement, provided frequent and meaningful opportunities to review organisational risks.

Government Internal Audit Agency ("GIAA") inspections relevant to (a) search and rescue; (b) small boats policy; or (c) the Department's relationship with the MCA.

13. The Government Internal Audit Agency ("**GIAA**") is an executive agency that provides objective insight to central government departments and their arm's-length bodies, including both DfT and the MCA. For a GIAA review to take place, a department or arm's-length body must commission the agency, specify the organisational areas of interest, support them in the audit process and then pay for services provided.
14. The Department has not commissioned any GIAA reviews on behalf of the MCA, on any topic, as it is the responsibility of all executive agencies to commission and fund their own audits. We are aware that the MCA commissioned an audit on governance in December 2023 and is in the process of commissioning an audit in 2025 on the Second-Generation UK Search and Rescue Aviation Programme ("**UKSAR2G**"). The MCA would be best placed to provide further information regarding the progress and outcomes of these audits, or any others they have commissioned on SAR operations.
15. Assurances of audit reviews are provided to the Department through the Group Audit and Risk Assurance Committee ("**GARAC**"), a sub-committee of the DfT Board. It supports the Principal Accounting Officer (the Permanent Secretary) and the Board in carrying out its oversight responsibilities in relation to financial and internal control, risk and governance, financial reporting, internal audit and assurance programme and external audit. The role of GARAC is considered in further detail in paragraphs [196]-[197] of my First Witness Statement.

IMO III Code Audit

16. The Inquiry has requested any material relating to Departmental support of the MCA through the IMO III Code Audit. I can confirm that all such documents held by DfT have been disclosed: see, for instance, [INQ010773, INQ010763 and INQ008172].
17. By way of context, 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**”). The audit was an external review of the MCA’s competency against key IMO regulatory indicators and duties. DfT, alongside other stakeholders from across government, was represented at the opening meeting of the audit, and both Petra Wilkinson, the then Maritime Director at DfT, and Stephen Benzies, the then Deputy Director for Maritime Operations, were engaged in the audit process. DfT had the opportunity to comment on the Draft Interim Report of the audit [INQ010759] and received periodic updates on the audit process as it progressed [INQ010760].
18. However, beyond this limited involvement, it was the MCA which was the lead and the owner of the process from a UK perspective. This is due to the remit of the Audit Scheme. As I explained in [177]-[178] of my First Witness Statement, the purpose of the Audit Scheme is to assess the extent to which IMO Member States are compliant with their obligations under the various IMO instruments to which they are parties. The IMO Instruments Implementation (III) Code (resolution A.1070(28)) provides the standard framework for these audits. While this includes assessing Member States’ compliance with SOLAS, it is a technical process, driven by regulatory experts, meaning that the expert civil servants within the MCA were best placed to lead the process. Moreover, under the IMO’s regulations, the MCA is the UK’s lead for Flag State, Port State and Coastal State, and is responsible for the majority of III Code implementation [INQ010773]. As such, while DfT supported the MCA and was represented at the opening meeting, it was the MCA that led on the audit process and the implementation of recommendations. DfT was, and remains, assured that it was appropriate for the MCA to do so.
19. DfT’s confidence in the MCA’s competency in this regard is exemplified by the result of the UK’s most recent IMO III Code audit, which found that the UK had complied with the vast majority of its III Code requirements [INQ008173]. Indeed, the UK is the

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highest-performing Member State under the III Code, with the fewest findings of any Member State audited by the IMO [INQ010766]. The Inquiry should note, however, that the reports of audits under the III Code are not routinely published.

Statement of Truth

I believe the content of this statement to be true.

Personal Data

Signed: _____

Dated: 17 April 2025