



Department  
for Environment  
Food & Rural Affairs

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# **Triennial review of the Marine Management Organisation**

**December 2014**

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PB 14143

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# 1. Executive Summary

1. In April 2011, the Cabinet Office announced that all Non Departmental Public Bodies (NDPBs) would be reviewed at least once every three years.<sup>1</sup>
2. The first Triennial Review of the Marine Management Organisation (MMO) was launched on 10<sup>th</sup> September 2013 and the findings are published in this document.
3. The Review considered both the 'form' (how the organisation is structured and governed) and 'function' (what the organisation does and how it does it) of the MMO. It then considered the governance and control arrangements to ensure that the MMO was operating in accordance with principles of good corporate governance.
4. The Review has been conducted in accordance with the Cabinet Office Guidance on Reviews of NDPBs, recognising the need for the Review to be proportionate to the relatively small size of the organisation.<sup>2</sup>
5. The Review recognises that aspects of the MMO have already been subject to a number of other reviews since its creation in 2010, including the Red Tape Challenge and the Focus on Enforcement Review. This Review sought to reflect and not duplicate the findings of these other reviews, while recognising it is still a relatively new organisation bedding into its role.
6. In addition, the review further recognises that, in respect of its fisheries management regulatory duties, the MMO has inherited many of the responsibilities of the Marine Fisheries Agency. These include managing UK fisheries opportunities, ensuring compliance with EU Common Fisheries Policy (CFP), providing a technical role in assisting Defra policy development, operation of the

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<sup>1</sup> The purpose of a Triennial Reviews is:

- to provide a robust challenge to the continuing need for the NDPB and to check whether its functions and form are appropriate. All NDPBs are assessed against the Government's three tests and must consider alternative delivery models. The Government's three tests are: is this a technical function which needs external expertise to deliver; is this a function which needs to be delivered with absolute political impartiality; is this a function which needs to be delivered independently of Ministers to establish facts or figures with integrity?
- where it is agreed that the body will remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

<sup>2</sup> Cabinet Office Guidance: [http://www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011\\_tcm6-38900.pdf](http://www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf)

fisheries vessel licensing system and ensuring the fisheries industry comply with the relevant legislation in respect of their activity and operations.

7. The Review has found that the functions of the organisation are important; many of its activities are required by law while others are essential for the UK Government's vision for clean, healthy, productive, and biologically diverse oceans and seas. It therefore is necessary that the functions continue. Following analysis using Cabinet Office guidance and tests, the Review has found that it remains appropriate for them to be carried out at arms' length from Government by an NDPB.
8. Overall, the Review has found many positive features of the MMO, which must be retained and built on:
  - it is a flexible and dynamic organisation with a national and local presence;
  - it has highly skilled and committed staff;
  - it has a positive working relationship with Defra;
  - it has improved on service delivery since vesting in 2010.
9. However, the MMO faces some immediate challenges. Its budget decreased in the 2014/15 and will again in 2015/16, and therefore further savings must be found while maintaining the organisation's capability. The longer term funding situation beyond 2015/16 is currently uncertain, although it is anticipated it will not increase, which means the MMO must continue to find efficiency savings. In addition, while the Review notes that the MMO is an efficient and flexible organisation, its capacity and resources are stretched, and it is clear that any increase to existing responsibilities, or the addition of further responsibilities, could affect how the current service is delivered.
10. In the light of the Review, Ministers conclude that efforts to remove unnecessary regulatory duplication should continue to be a high priority for MMO's marine licensing activity, and kept under continued review with interested parties. For instance, where licensable activities are also subject to regulation by a Local Planning Authority or Harbour Authority, there may be scope to streamline decision-making or remove altogether the need for a separate licence from the MMO.
11. In addition, Ministers are concerned to ensure that the licensing system is sufficiently responsive to local situations and to democratically accountable bodies, while taking care to avoid making the system more onerous or leading to unnecessary delays. The MMO is a relatively new organisation, and this review is the first opportunity to consider the terms under which it was set up.
12. Ministers therefore conclude that consideration should be given to the addition of a simple procedure which would strengthen the ability of locally accountable bodies (i.e. local authorities, IFCA's) to seek the recovery by Ministers of marine licensing cases with potentially significant effects. This would balance the need to maintain a simple licensing procedure with the need to improve democratic accountability.

13. Finally, the policy context in which the MMO operates is not static; current policy drivers include the implementation of Common Fisheries Policy reform, the management of Marine Protected Areas, the implementation of Marine Planning, fisheries management and enforcement, together with effective and efficient Marine Licensing. In the longer term the MMO must balance the requirements of the Plan for Growth with those of sustainable development and the environmental protection remit granted through the Marine and Coastal Access Act (2009). In conclusion, Defra and the MMO already work closely to ensure their work is informed by the policy context through the corporate planning process and other means such as the Marine Programme Board.<sup>3</sup> They should continue to work in partnership in addressing the conclusions of this Review, which seek to support the MMO in delivering its functions effectively under the constraints of a reduced budget.

14. The conclusions of this Review are:

**Conclusion 1: The functions of the Marine Management Organisation are necessary and should continue to be delivered by a Non Departmental Public Body. The MMO remains the right body to deliver them.**

**Conclusion 2: The MMO has improved the delivery of its functions since its creation. It currently delivers a wide-ranging service at a national and local level, all with reducing resources.**

**Conclusion 3: The MMO should engage with the development of the new Defra commissioning process, to ensure the process will help it prioritise functions within future budgets.**

**Conclusion 4: As part of Defra's Strategic Alignment Programme, the MMO should continue to seek all opportunities available to reduce the cost of its corporate services by joining up with other Defra bodies through the Future Corporate Services initiative.**

**Conclusion 5: The MMO should continue with its Organisational Development Programme to ensure the necessary efficiencies required now are made, and continue to consider options for cost recovery on services delivered.**

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<sup>3</sup> The Marine Programme Board comprises all senior managers in the Defra Marine Programme together with CEO or director level representation from marine-related Defra network bodies plus two "non-executive" non-marine deputy directors. The Board supports the Marine Director providing strategic level performance and delivery challenge, network level risk management, and identification of opportunities for cooperation and efficiencies.

15. In addition, this Review has identified some areas that both the MMO and Defra should examine to help find further efficiencies and further improve its service.

The Review Team worked closely with the leadership and staff of the MMO throughout and are grateful for the invaluable support and information they have provided.

## 2. Introduction

### 2.1 Background of the Marine Management Organisation

16. The Marine and Coastal Access (MCA) Act 2009 (the Act) established the MMO as a statutory public body to manage the marine area with the objective of contributing towards the achievement of sustainable development.<sup>4</sup> The MMO was formally vested on 1 April 2010, when it incorporated the work of the (now closed) Marine and Fisheries Agency (MFA) with new roles, powers and functions previously associated with the Department of Energy and Climate Change (DECC) and the Department for Transport (DfT).
17. The purpose of creating a single body was to bring marine management activities from across Government into one place, to provide a more integrated approach to fisheries management, marine planning, licensing and conservation.
18. The MMO exists to make a significant contribution to sustainable development in the marine areas and to promote the UK Government's vision for clean, healthy, safe, productive and biologically diverse oceans and seas. It is responsible for the delivery of a number of marine functions including:
  - a. **Marine Planning:** One of the major new functions for the MMO is developing and implementing marine plans for offshore and onshore waters, similar to terrestrial planning. Plans will provide a strategic context for decision making at a local level, taking into account the needs of the economy, society and the environment.
  - b. **Marine Licensing:** The administration of licences for the control of the environmental, navigational, human health and other impacts of construction, deposits and removals in the marine area.
  - c. **Marine Nature Conservation:** Protecting features in the marine environment, particularly those in Marine Protected Areas (including the new Marine Conservation Zones) using a range of management measures, from voluntary agreements to the creation of local byelaws.
  - d. **Marine emergencies (Coastal Operations):** Assisting the Maritime and Coastguard Agency with the co-ordination of response to marine pollution emergencies.
  - e. **Marine Compliance (enforcement):** Management, control, enforcement, advice and delivery of statutory responsibilities under various domestic and

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<sup>4</sup> [www.gov.uk/government/publications/marine-and-coastal-access-act-2009](http://www.gov.uk/government/publications/marine-and-coastal-access-act-2009)



European legislation, including those governing fisheries and marine licensing. Inspections and prosecution where necessary for all sea fishing activity within British fishery limits.

- f. **Fisheries Management (including statistics)** Management and regulation of England's fisheries and complying with the EU's Common Fisheries Policy. In this area in particular the MMO had inherited much of the responsibility of the Marine Fisheries Agency (MFA) who the MMO subsumed. Activities include:
- manage UK fishing opportunities to maximise the economic return, whilst ensuring long-term sustainability of stocks and that the UK does not overfish its allocation and incur penalties from the EU. This is done using tools such as effort and quota management;
  - provide a lead technical role in assisting Defra's fisheries policy development. For example in preparation for the implementation of the new CFP and discards ban. Also managing trials for under ten metre quota management groups;
  - ensuring compliance with all relevant legislation and taking action where appropriate;
  - manage fleet capacity by operating the fishing vessel licensing system that regulates the commercial marine fishing industry in England;
  - assist the fishing industry by ensuring accurate interpretation and compliance with relevant legislation;
  - manage European funding co-ordinating and providing information to both national and foreign bodies, and ensuring compliance with the EU marketing regime;
  - the UK coordinating role for data collection and management.
- g. **Support services:** Delivery of HR, finance, legal, communications, health and safety functions. Management of Board and Executive teams.

19. The MMO has a budget of £22.7m (2014/15) and employs 289 full time equivalents as of March 2014 (to increase to 301 once current priority vacancies are filled). Their operational activities are carried out in the headquarters in Newcastle as well as in London and 14 offices around the English coast.<sup>5</sup> Both the budget and headcount show reductions from the previous year, as part of the MMO's ongoing efficiency measures. Further detail is provided in section 3 of the Review.

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<sup>5</sup> A full break down of the MMO's activities and funding can be found at: [https://consult.defra.gov.uk/triennial-reviews/triennial-review-mmo/supporting\\_documents/Summary%20of%20MMO%20Activities.pdf](https://consult.defra.gov.uk/triennial-reviews/triennial-review-mmo/supporting_documents/Summary%20of%20MMO%20Activities.pdf)

20. The MMO recovers costs for key services delivered, specifically Marine Licensing.<sup>6</sup> In 2012/13 and 2011/12 the MMO recovered costs of just over £2m per year for marine licences under both the Marine and Coastal Access Act (2009) and the Food and Environment Protection Act licence scheme.<sup>7</sup> The licensing income generated by MMO relates directly to the operating activities, with the financial objective of recovering full costs of providing the service; the income received is recognised in the statement of comprehensive net expenditure annually. The Secretary of State delegates certain powers and functions to the MMO as set out in the Act (in general through agreements signed by both Defra and the MMO under Section 14, or Section 55 in the case of marine planning). A summary of the MMO's functions is provided in Annex 3.

## 2.2 Who we consulted

21. During September and October 2013, the Triennial Review Team gathered evidence to support the Review. This included:

- a. Meetings with the MMO Board and senior leadership team;
- b. An open consultation from 10th September until 11th October 2013 for customers, stakeholders, and delivery partners to submit comments on the MMO in response to a questionnaire. Thirty responses were received;
- c. Meetings with the MMO Stakeholder Focus Group;
- d. A consultation with relevant policy teams in Defra and other Government Departments;<sup>8</sup>
- e. An MMO staff survey, which received 22 responses;
- f. Consulting the Environment, Food and Rural Affairs Committee;
- g. Desk based research, functions and form analysis.

22. A summary of stakeholder responses is published alongside this Review.

## 2.3 Strategic Alignment

23. This Triennial Review was undertaken as part of Defra's Strategic Alignment programme, which is a programme of strategic change for Defra and its network (Annex 1 sets out the Terms of Reference for the Review and Annex 2 sets out the approach).

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<sup>6</sup> Licence fees are set with regard to HM Treasury's Fees, Charges and Levies guidance in Managing Public Money.

<sup>7</sup> [www.official-documents.gov.uk/document/hc1314/hc05/0548/0548.pdf](http://www.official-documents.gov.uk/document/hc1314/hc05/0548/0548.pdf)

<sup>8</sup> Other Government Departments include the sponsoring departments of DCLG, DECC and DfT

24. The Strategic Alignment Programme seeks to enable Defra and its network organisations to operate as one business by sharing resources and people, aligning structures, systems and processes across the Network to give a better customer experience at a lower cost. 'One Business' is Defra's response to wider civil service reform.

25. Two key reforms of Strategic Alignment have particular relevance for the MMO. Firstly, work on Future Corporate Services, which aims to deliver corporate services in a new, streamlined way, releasing cash by reducing duplication. A second reform is how Defra generates a clear commission for its partners, to ensure work is prioritised effectively to achieve outcomes from network bodies. The Review makes key conclusions in these two areas.

### 3. Stage 1: Assessment of Function and Form

26. The Review has considered both the **function** of the MMO i.e. what the MMO does, and the **form** of the MMO i.e. how the organisation is structured and governed.
27. In considering the functions of the MMO, the Review applied the Cabinet Office's "three tests" to each of the MMO's six major functions, to determine whether they needed to be delivered at arm's length of government.<sup>9,10</sup>
28. It found that all six functions (see page 7) passed at least one of the tests.
29. Many of the functions require technical expertise, such as expert knowledge on environmental impacts on marine ecosystems or detailed knowledge of planning and consenting law, for example, the creation and implementation of marine plans and marine licensing. Similarly, many fisheries management and statistics functions require enforcement, monitoring and data analytical skills and resources, which the MMO has built up expertise in over the past four years.
30. Some aspects of the MMO's work require political impartiality. These functions include some regulatory decisions and provision of enforcement, data collection, data analysis, and advice to the fishing industry on obtaining external funding.
31. In considering the form of the MMO, the Review looked at alternative delivery models as described by the Cabinet Office.<sup>11</sup> The options for an alternative form are considered fully in Annex 4.
32. The Review found that abolishing the body is ruled out by the need for the functions to be undertaken.
33. There is no obvious fit for a merger of the MMO's current functions in other bodies, as although there are some similar skills across the Defra Network, such as in the Environment Agency and Natural England, splitting up the functions of the MMO is

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<sup>9</sup> The "three tests" are: is this a technical function (which needs external expertise to deliver); is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity.

<sup>10</sup> A summary of the MMO's functions can be found in Annex 3.

<sup>11</sup> Cabinet Office Triennial Review guidance [http://www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011\\_tcm6-38900.pdf](http://www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf)

contrary to its purpose; to bring marine management activities from across Government into one place. Indeed, the development of the Coastal Concordat, which has been welcomed within Whitehall as a positive development to enhance delivery, was made possible owing to the MMO's position as an integrated marine management body.

34. Other organisational changes, such as establishing an Executive Agency or moving to the private or voluntary sector, do not currently appear to offer any advantage over the NDPB model, particularly as such a change would require changes to primary legislation and be subject to the costs and risks associated with structural reorganisations. This does not seem justified for a body that has only been in place since April 2010, is delivering its objectives, and over the last four years, has improved its efficiency and service delivery.
35. In addition, evidence from external stakeholders, sponsorship bodies and other relevant policy teams, suggests that they value an integrated marine management body, are positive about its performance, and are keen to see the improvements made over the last three years 'bed-in'.
36. In conclusion, the analysis determined that the MMO's functions are necessary, and should be delivered by a non-departmental public body.
37. Nonetheless, there are areas of delivery in the MMO that can be improved to either save money or improve customer service, and the following chapter describes these.

**Conclusion 1: The functions of the Marine Management Organisation are necessary and should continue to be delivered by a Non Departmental Public Body. The MMO is the right body to do this.**

### 3.1 Improving capability through 'one business'

38. The Review has found the MMO to be efficient and flexible, having already made considerable efficiency savings to cope with its decreasing budget (the MMO's original budget allocation at vesting was £32m. This has been revised year on year; decreasing to £28.6m in 2013/14 and £22.7m in 2014/15.
39. Despite these budget reductions, the MMO has increased the headcount of the organisation from 250 to 301, through scenario planning, cost efficiencies brought through streamlined processes and finding resource efficiencies in operations. Since vesting it has also improved at meeting its performance objectives across a number of functions, for example:
  - a. Licensing: The MMO has consistently surpassed its performance objective of responding to 95% of enquiries within 10 working days, meeting instead 99%, despite an increase in marine licenses being applied for;

- b. Planning: 100% of responses to formal requests under the Planning Act 2008 were provided within agreed deadlines. The MMO validated 89% of applications that are determined within 13 weeks, compared to 76% for 2012/13.
- c. Fisheries management: Since 2013 the MMO has published information on the reduction or closure of fishing opportunities within 24 hours for 100% of cases. It has improved compliance by English scalloping vessels from 54% in 2012 to 95% in 2013.

40. However, it is clear that its capacity and resources are stretched, and that any major increase to existing responsibilities, or the addition of further responsibilities in totally new areas, could reduce the current quality of service and impact on its ability to maintain its national and local presence. Defra staff and stakeholders highlighted the importance of a strong local presence for many of the MMO's functions. For example, licensing work requires a local presence to both advise and check compliance, and this capacity may become strained with the workload increase from April 2014 when some navigational activities become licensable.

41. Additionally, the MMO's planning functions require a strong local presence. The Review recognises the MMO's successful engagement of stakeholders in the development of the East Marine Plans so far. Stakeholders praised the numerous fora for engagement, including workshops, consultations, and the Stakeholder Focus Group, and welcomed the opportunity for engagement.

42. However, we are aware of the complex nature of the forthcoming South marine plans, and the current delay in producing the East marine plans; this raises the risk of the MMO not meeting its targets to produce them at lower cost and in a shorter timescale.

43. Connected with the issue of resource at the local level is the need to have the right skills in place across the organisation, as all of these functions require specific, often specialist, skills. The organisation is still going through a transition of developing staff with a Marine and Fisheries Agency (MFA) focus, who now require wider expertise because of the wider remit of the MMO.

**Conclusion 2: The MMO has improved the delivery of its functions since its creation. It currently delivers a wide-ranging service at a national and local level, all with reduced resources.**

44. This is a difficult situation to rectify with a decreasing budget, because it is essentially about having enough skilled staff on the ground to do the work required.

45. Nonetheless, the MMO faces some immediate challenges: its budget will decrease in the 2014/15 and 2015/16 financial years, and therefore savings must be found while continuing to deliver its corporate plan and statutory remit. The longer term funding situation is currently uncertain, although it is anticipated it won't increase.

46. While budget reductions made by Defra to its network can be absorbed by 'salami slicing' each function (reducing how much is done rather than stopping functions) or through efficiency savings, there comes a point when this might affect the effective delivery of its functions.
47. This Review does not examine or draw a conclusion on when the MMO might reach that point, but further reductions in budget may require prioritisation from central Government.
48. Those prioritisation decisions need to be taken by Ministers, informed by Defra officials, the MMO and its Board. However, the Defra Strategic One Business initiative has recognised that there is not currently a clear process to achieve effective prioritisation. Therefore a new commissioning process is being developed and piloted with the Environment Agency and Natural England, which aims to improve how Defra prioritises its 'ask' of its network, how delivery of that ask is negotiated and how outcomes are reported.

**Conclusion 3: The MMO should engage with the development of the new Defra commissioning process, to ensure the process will help it prioritise functions within future budgets.**

## **Corporate Services**

49. Corporate services cover HR, Finance, Governance, Legal, Communications, Strategic Development, Estates and Health & Safety, Board and Executive Services, Evidence Data and Knowledge Management and IT activities.
50. Although the MMO's spending on corporate services may at first appear high as a proportion of its overall budget (see Annex 3), the Review has found that this is a result of the organisation being comparatively small in terms of staff yet having both a national and local presence, restricting options for achieving economies of scale. Indeed, the fact that the MMO does maintain this local and national presence, with such a wide remit, with a relatively small number of staff is to be commended.
51. Nonetheless, if the quality and scope of services is to be maintained, the corporate services budget must come under scrutiny when seeking savings.
52. The MMO is already doing this by delivering an Organisational Development Programme (see box below) and working closely with the Defra Strategic Alignment programme, which has a workstream dedicated to Future Corporate Services.
53. The Future Corporate Services workstream is consolidating estates, procurement, ICT and communications across the wider Defra network, to bring about greater standardisation and streamlining of services.

### **MMO's Organisational Development Programme (ODP)**

The ODP is the MMO's change programme, and was launched in June 2013. It aimed to achieve savings in order to meet anticipated budget cuts for 2014/15 and 2015/16. It is closely aligned with wider drives to achieve efficiencies in the public sector, including Defra's Strategic Alignment programme.

The first phase of the ODP has workstreams on: Communications, stakeholder relations and strategic development; evidence, data and knowledge management; IT and the programme management office; executive and senior leadership team. Through a recruitment pause, a review of key external contracts, and a review of support services, the MMO aims to meet the savings targets.

54. In addition, given the ongoing financial pressures, it is useful for the MMO to consider options for greater cost recovery on the services delivered building on current practice. For example, the MMO already charge for pre-application advice but could charge more for the option of tailored advice. A further opportunity that the MMO could explore is learning from the experience of the Health and Safety Executive's (HSE) 'Fee for Intervention' cost recovery scheme, where the HSE charges a fee for the time and effort it spends in investigating, taking enforcement actions and helping those it regulates to correct any breaches. But of course any such opportunities will be dependent on current HMT rules and legislative constraints.

**Conclusion 4: As part of Defra's Strategic Alignment Programme, the MMO should continue to seek all opportunities available to reduce the cost of its corporate services by joining up with other Defra bodies through the Future Corporate Services initiative.**

**Conclusion 5: The MMO should continue with its Organisational Development Programme to ensure the necessary efficiencies required now are made, and continue to consider options for cost recovery on services delivered.**

## **3.2 Other Findings of the Review**

55. The MMO is not in stasis and has made many improvements since its formation. However the Review has identified a number of themes where further improvements could, or are beginning to, be made, and has provided recommendations to support these.



## Local Capability and Working with other Bodies

56. The MMO's coastal teams work from 14 local offices situated around the coast whose staff are organised into 4 marine area teams (see map below). Coastal staff are trained to assist customers on all marine matters and also support the delivery of local operational functions undertaken by teams based in the Newcastle headquarters and London, for example by providing local assistance and support to access European funding and undertaking marine licence inspections.



57. The Review has found that the small number of local staff coupled with the wide remit of the organisation and broad geographic spread means that there is not always the right set of skills in the right place at the point of delivery.

58. However, the Review has seen some best practice in resource sharing between some local MMO staff and Inshore Fisheries and Conservation Authorities (IFCAs).

59. IFCAs are either a committee or joint committees of the local authorities that fall within an inshore fisheries and conservation district. There are ten of them which each manage a district that covers part of the English coast out to 6 nautical miles.

60. The Review considers that a strong working relationship with the IFCAs is integral to improving local level capability, and that the history of joint working should be built upon.

61. For example, fisheries management measures are needed to promote sustainable fisheries in the network of Marine Protected Areas and to enforce the reformed Common Fisheries Policy (CFP). The MMO and the IFCAs will be key to delivering

these measures and to helping the industry adapt to the challenge of complying with them.

62. There are already memoranda of understanding between the MMO and IFCA, setting out where they can work together. The MMO has identified a number of proposals for 2014 and beyond that could maintain and develop this MoU to improve their capacity and ability to work together:
- a. working with IFCA, the MMO will produce plans that describe how control will be established over sea fisheries, marine nature conservation (including marine protected areas management) and marine consents licensing responsibilities, allowing for seamless compliance and enforcement in English Territorial waters;
  - b. the use of IFCA patrol vessels by MMO officers to conduct local fishing vessels inspections at sea to monitor compliance with specific aspects of sea fisheries legislation;
  - c. an intention to formalise at sea enforcement co-operation further through the development of a framework call-off agreement between the MMO and the IFCA. This will enable the MMO to utilise IFCA assets in a more cost effective and planned manner.
63. The Review supports this initiative, but **recommends the timetable for agreeing joint plans (by the end of 2015) should be brought forward with specific IFCA where possible, to build momentum and maximise efficiencies that can be gained from joint working.**
64. In addition to IFCA, there are several other bodies responsible for aspects of the marine environment that the MMO must work with at the national and local level. The Marine Coastal Concordat, launched in November 2013, provides an effective way to achieve this for the MMO's licensing function.<sup>12</sup>
65. The Concordat is an agreement between Defra, Department for Communities and Local Government, Department for Transport, the Environment Agency, Natural England, MMO, Local Government Association's Coastal Special Interest Group, and National Parks England. It sets out the principles according to which the regulatory and advisory bodies propose to work with local planning authorities to enable sustainable growth in the coastal zone and reduce the cost and delay for businesses.

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<sup>12</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/256234/coastal-concordat-20131111.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256234/coastal-concordat-20131111.pdf)

66. Under the Concordat, applicants are now provided with a single point of entry into the regulatory system. Regulators must agree a single lead authority for coordinating the requirements, should provide coordinated advice to applicants, and where appropriate should dispense or defer regulatory responsibilities, and agree evidence requirements at the pre-application stage.
67. Defra, MMO and Natural England are working with local authorities and developers who have had an involvement with the concordat to assess the impact of implementation and consider the need for any further measures to increase take-up or improve delivery.

## **Cultural capability**

68. Many stakeholders commented on the skills and experience of the staff in the MMO. While the need for specialist skills is recognised, and appreciated, it is clear that stakeholders have seen a period of development by staff as they bed into the new organisation.
69. The Review found that this, at least in part, stems from the time of its original formation, when the remit of some roles was increased as the responsibilities of the Marine Fisheries Agency (MFA) were subsumed by the MMO to cover the wider scope of the organisation. In addition, many of the staff were newly recruited to the organisation.
70. Complicating this is the time needed to develop the specialist skills required and the resulting limited flexibility between roles.
71. There is therefore a 'lead time' associated with reaching full complement and capability, and a risk that knowledge is lost in staff turnover.
72. To help address this issue, since vesting the MMO has worked hard to embed a 'one organisation' culture bringing together the culture of staff who transferred to the MMO from the MFA. They are implementing a number of measures, including a Cultural Action Plan which delivers cultural development on leadership; the MMO People Plan; undertaking staff surveys; and the MMO Promote training which gives tools to staff to confidently advocate the MMO's work with external stakeholders and customers. Based on improvements already made, and the measures it is undertaking, the Review is confident that the MMO will develop the cultural capability it requires.
73. There are of course other sources of expertise, and the MMO should continue to ensure they make best use of them where appropriate, such as specialist non-government organisations, several of which offered their services in responding to the stakeholder consultation. For example, the Review notes that the MMO has a memorandum of understanding with English Heritage to provide evidence on

marine heritage. To facilitate this relationship, the MMO have identified 2-3 heritage champions who have undergone detailed technical training with English Heritage.

## Customer Experience

74. Several stakeholders commented that customer experience is affected by uncertainty about application processing times, delays, and sometimes onerous licensing requirements. Particular mention was made of the need to ease the licensing process for small applications, routine work, or work with small environmental impact.
75. The MMO has committed to complying with the recommendations of the Penfold review, most importantly that licensing decisions are made within 13 weeks.<sup>13</sup> Under the Marine and Fisheries Agency, approximately 60% of licences were determined within 13 weeks up to 2011. Owing to improvements in the process and streamlining of regulations, the MMO are now determining 88% of licences within 13 weeks of receipt during the 12 month period between April 2013 and March 2014, compared to 76% for the same time period last year. This is 2% below their current Key Performance Indicator.
76. In addition, the Review recognises other initiatives are being implemented and need time to take effect, such as the Coastal Concordat and the outcome of two regulatory reviews.<sup>14</sup>
77. The Red Tape challenge on marine legislation generated a number of suggestions to improve customer experience and save businesses time and money. The Red Tape Challenge was augmented by a Focus on Enforcement Review of coastal development led by the Better Regulation Executive.<sup>15</sup>
78. A recently updated Defra implementation plan responded to the findings from both exercises and a number of proposals have been made, including creation of further exemptions, fast track licences, longer licences, staff training on balancing sustainable development with growth, and enhanced coordination with other

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<sup>13</sup> [www.gov.uk/government/publications/penfold-review-of-non-planning-consents](http://www.gov.uk/government/publications/penfold-review-of-non-planning-consents)

<sup>14</sup> The Red Tape Challenge was an initiative that invited the public, businesses, and the voluntary and community sectors, to give their views on what regulations should stay, be changed, or be abolished. The Challenge for marine related legislation ran during February-April 2012. [www.redtapechallenge.cabinetoffice.gov.uk/themehome/water-and-marine/](http://www.redtapechallenge.cabinetoffice.gov.uk/themehome/water-and-marine/)

<sup>15</sup> The Focus on Enforcement Review examined how regulation is delivered [www.gov.uk/government/publications/coastal-projects-and-investments-focus-on-enforcement-review](http://www.gov.uk/government/publications/coastal-projects-and-investments-focus-on-enforcement-review)

regulators.<sup>16,17</sup> These have mostly been implemented, and should improve customer experience.

79. Indeed, since inception the MMO has undertaken an annual customer satisfaction survey, the results of which are used to benchmark each of our operational activities by customer group and to monitor improvements year on year. All areas improved in 2013 survey against 2012 survey results. Satisfaction with overall customer service in 2014 dropped slightly to 65% from the 70% reported in 2013, which was the highest ever achieved by the MMO. The MMO customer satisfaction survey and the principle of benchmarking operations with a score for annual monitoring was cited as an example of good practice in the BRE focus on enforcement 2012 report. In 2014 the MMO will undertake Customer Journey Mapping for all fisheries management operations, licensing and European Grant Funding , to utilise customer insight to streamline and enhance processes. These are the functions with the biggest number of customers.MMO are also engaged with the Smarter Environmental Regulation Review (SERR) project, which aims to simplify environmental guidance into a standard format, reduce out of date guidance, and rationalise all data collection where possible. They are currently completing a revision of all guidance on their website to comply with this.
80. The increased pressure on the MMO budget should lead to a further review of the areas where licences are currently required. For instance, where issues have already been considered as part of a Local Authority Planning application or where a Harbour Master has given consent to certain activities taking place, there may be scope to streamline decision-making or remove altogether the need for a separate licence from the MMO.
81. Further, Ministers are concerned to ensure that the licensing system is sufficiently responsive to local situations and to democratically accountable bodies, while taking care to avoid making the system more onerous or leading to unnecessary delays.
82. Ministers therefore conclude consideration should be given to the addition of a simple procedure which would strengthen the ability of locally accountable bodies (i.e. local authorities, IFCA's) to seek the recovery of marine licensing cases with potentially significant effects by Ministers. This would balance the need to maintain a simple licensing procedure with the need to improve democratic accountability.

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<sup>16</sup> [www.gov.uk/government/publications/red-tape-challenge-water-and-marine-theme-implementation-plan](http://www.gov.uk/government/publications/red-tape-challenge-water-and-marine-theme-implementation-plan)

<sup>17</sup> <http://discuss.bis.gov.uk/focusonenforcement/files/2013/02/Defra-Response-to-Coastal-Projects-Review.pdf>

83. Stakeholder responses also flagged that access to EU Funding has been a problem, specifically they felt that the MMO provided little assistance or guidance on obtaining funding.
84. The MMO has been working on lessons learned from beneficiaries accessing European Fisheries Fund (EFF) funds and continues to seek feedback from customers of EFF funding in order to inform the delivery approach, including developing local sources of support, for the new European Maritime and Fisheries Fund (EMFF).
85. The Review notes that this is an improving picture, as recognised in successive positive compliance audits conducted by the UK Audit Authority on behalf of the European Commission.
86. The key lessons that the MMO will take forward from their experience of delivering EFF funding centre on continuously improving the customer experience, reducing the burden of administration and ensuring robust governance and control mechanisms are in place.
87. In summary, this Review recognises the progress made by the MMO in improving customer service. There are several initiatives that are being developed and implemented and these should be given a chance to bed-in. The responses received to this Review have been anonymised and shared with the MMO to assist with this work.

## **Use of Evidence**

88. The sharing of marine data emerged as an issue for several stakeholders. IFCAs commented the MMO need a less risk averse approach to data sharing with the Defra family, while still respecting legal concerns over data protection. They highlighted the need for an improved national intelligence system to share information effectively between MMO and IFCAs. Other stakeholders commented that the MMO wasn't making use of the body of marine evidence that currently exists, relying too heavily on advice from Cefas in some areas.
89. The MMO are well integrated to the Strategic Alignment Evidence workstream, which aims to achieve a step change improvement in the delivery of Defra's evidence functions resulting in quality, resilience and value for money, against a backdrop of declining resources. It will identify and realise savings through better join-up and streamlining of monitoring activities across the network. The Review Team have therefore shared these views on evidence for consideration by the MMO under this workstream. The MMO has committed to the principle of "gather once, use many times" in its latest annual report.

## 4. Stage Two: Governance

90. Having concluded that MMO should remain an executive NDPB, the second stage of the TR process involved an assessment of performance against the principles of good corporate governance.
91. A cross-Government Sponsorship Group provides oversight of the governance arrangements between HMG and MMO, and provides challenge to the MMO Chair. Ministers are informed about matters relating to the sponsorship of the MMO through the departmental representatives on the Cross-Government Sponsorship Group. The sponsorship group comprises a member from four departments with the closest interest in MMO's activities: DCLG, DECC, Defra and DfT. The group is chaired by the Defra Marine Director and supported by the Defra Marine sponsorship team.
92. In summary, the MMO is performing well in delivering across its range of corporate plan performance indicators and has good governance systems in place. These meet the financial accountability and performance monitoring requirements of Defra from its NDPBs.
93. A detailed assessment of governance performance has been published alongside this Review.

## 5. Conclusion

94. This Review has found that the current functions of the MMO are still necessary, and that they should be delivered by an NDPB. The MMO is the right body to deliver the functions. However, in order to continue to provide a good service with a decreasing budget, there are improvements that can be made to the way its functions are delivered (identified in section 3.2) and efficiency opportunities to be gained from the developing Defra One Business operational model.
95. The MMO should publish a short action plan responding to the conclusions and recommendations set out in this Review. This should be written jointly with the Defra Sponsorship Team, Defra Strategic Alignment Team and other partners as necessary, to ensure shared ownership of the risks and solutions these conclusions are attempting to address.
96. Progress will be reviewed by the Defra sponsorship team for the MMO at their six monthly governance meetings.



## Annex 1: Terms of Reference

The purpose of Triennial Reviews is to ensure that non-Departmental Public Bodies are still needed and comply with principles of good corporate governance.

The Review will follow two stages:

**Stage 1:** The Review will assess the functions and form of the MMO to confirm that they remain appropriate. It will take a proportionate approach to examine:

- the MMO's main objectives and how the organisation structures its functions, people and resources to deliver them;
- the nature of the functions and whether they are appropriate;
- alternative models to assess whether delivery of MMO's functions through an NDPB continues to be the most appropriate delivery model;

In reaching conclusions on Stage 1, the Review will take into account the conclusions drawn from relevant recent reviews, such as the Red Tape Challenge, the Focus on Enforcement Review, and the marine considerations taken into account in the recent Triennial Reviews of the Environment Agency and Natural England, and of the Joint Nature Conservation Committee.

**Stage 2:** If it is agreed that the MMO should remain as an NDPB, the Review will assess the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

The Review will be undertaken by Defra Civil Servants. It will be conducted in an open and inclusive way, working closely with the MMO, other Government Departments, and Parliament, and will take into account views from the full range of the MMO's customers. Anyone with an interest will be able to contribute.

The Review was launched on 10 September 2013 and is expected to publish conclusions early in 2014.

## **Annex 2: Approach to Review**

The Review was undertaken by a Triennial Review team within Defra, overseen by a project Working Group. The Working Group included the MMO leadership team, Defra sponsorship team for the MMO, and the Triennial Review team. Throughout the process the Review team worked closely with the MMO.

The Review was carried out by existing Civil Servants within Defra. Civil Servants in Defra's Marine Planning and Sustainable Fisheries Team were also consulted and provided challenge and advice. No additional costs were incurred as part of the Review.

# Annex 3: Summary of MMO's Functions

A full size version of this diagram can be found at:

[https://consult.defra.gov.uk/triennial-reviews/triennial-review-mmo/supporting\\_documents/Summary%20of%20MMO%20Activities.pdf](https://consult.defra.gov.uk/triennial-reviews/triennial-review-mmo/supporting_documents/Summary%20of%20MMO%20Activities.pdf)

| Marine Management Organisation 2013/14 |   |   |  |  |  |   | High-level summary of MMO activities  |   |  |   |   |                |          | September 2013         |                        |                  |           |
|--|---|---|--|--|--|---|---|---|--|---|---|----------------|----------|------------------------|------------------------|------------------|-----------|
| Primary Functions                      | Marine Planning   | Marine Licensing  | Marine Nature Conservation   | Coastal Operations   | Marine Compliance  | Statistics and Fisheries Management   | Managing European Funding   | Support Services  | Marine Emergencies   | Operations Directorate  | Business Relations  | Business Areas | Funding* | Resources (actual FTE) | Lead Government Body** | Key ALB Partners | Customers |
|  | <p><b>Planner:</b> Develop marine plans which provide a strategic context for marine management decisions and take account of the needs of the wider society and the environment.</p> <ul style="list-style-type: none"> <li>Introduce a new planning regime for England's marine area.</li> <li>Implement a system of plan-led marine management to contribute to the achievement of sustainable development, as required by the plans for England by 2022.</li> <li>Deliver marine plans in line with the requirements of the Marine and Coastal Access Act, Marine Policy Statement and Statements of Public Participation.</li> </ul> | <p><b>Regulator/Adviser:</b> Administer statutory controls in English/Welsh/Northern Irish offshore waters that apply to the regulated Coastal Access Act 2009. Statutory consultees under the Planning Act 2008.</p> <ul style="list-style-type: none"> <li>Provide a proportionate approach to regulation to reduce burden on businesses</li> <li>Improved marine licensing processes, to deliver enhanced customer experience.</li> <li>Reduce time taken from concept to consent for sustainable marine development</li> <li>Proportionate, risk-based and timely enforcement of licensed activities.</li> <li>Provide an efficient and effective service to customers to enable sustainable development in the marine area.</li> </ul> | <p><b>Regulator/Adviser:</b> Control, enforcement, advice and delivery of statutory responsibilities under various domestic and European legislation ensuring that the marine environment is protected for current and future generations.</p> <ul style="list-style-type: none"> <li>Carry out risk-based and timely management in marine protected areas &amp; in the wider marine area (bylaws &amp; voluntary measures).</li> <li>Review ICAs bylaws and work with ICAs to support local decision making.</li> <li>Issue and ensure compliance with wildlife licences.</li> <li>Provide guidance and assist coastal operators on marine and wildlife licence</li> <li>Develop and custom guidance for marine protected spaces and licensing requirements.</li> <li>Administer the UK approval of oil spill treatment products.</li> <li>Marine pollution response coordination with Coastal Operations.</li> </ul> | <p><b>Regulator/Adviser:</b> Control, enforcement, advice and delivery of statutory responsibilities under various domestic and European legislation ensuring that the marine environment is protected for current and future generations.</p> <ul style="list-style-type: none"> <li>Collection and recording of sea fishing activity data</li> <li>Administration of commercial sea fishing vessel licensing</li> <li>Engage with ICAs, MCA, and various authorities including ICAs, MCA, Environment Agency, Police and UK Border Force</li> <li>Inspections and enforcement of compliance with those (licence and conditions)</li> <li>Inspections on marine works under marine licensing and any relevant enforcement action.</li> <li>Provide local intelligence to MMO HQ and partner</li> <li>Support the UK approval of oil spill treatment products.</li> <li>Marine pollution response coordination with Coastal Operations.</li> </ul> | <p><b>Regulator/Adviser:</b> Control, enforcement, advice and delivery of statutory responsibilities under various domestic and European legislation ensuring that the marine environment is protected for current and future generations.</p> <ul style="list-style-type: none"> <li>Design and develop, with the industry, future fishing methods which reduce regulatory burden on the industry whilst ensuring marine conservation objectives.</li> <li>Monitor and administer the management systems (ERS) for the UK.</li> <li>Educate and support the fishing industry in the use of ERS and their compliance with management measures</li> <li>Work with ICAs and Defra to explore the use of CP and use of ERS.</li> <li>Support Defra policy development in preparation for the implementation of CP and the introduction of a return where ERS will contribute</li> </ul> | <p><b>Adviser/Regulator/Manager:</b> Provides advice to industry on compliance. Manage sustainable fisheries to ensure stocks are not overfished and ensuring compliance with fisheries legislation.</p> <ul style="list-style-type: none"> <li>Collate information on fish landed and sold ensuring the UK's compliance with European reporting requirements.</li> <li>Robust, statistical analyses of the allocation and management of UK fishing opportunities.</li> <li>Manage UK fishing opportunities to maximise sustainable fisheries whilst ensuring long-term sustainability of stocks.</li> <li>Provide lead technical role in assessing Defra's fisheries policy development supporting the requirements of the European Commission (EC).</li> <li>Support Defra in the shaping of the EMFF to benefit coastal communities</li> </ul> | <p><b>Manager/Adviser/Funder:</b> European funding to bring sustainable benefits to the fishing industry and coastal communities.</p> <ul style="list-style-type: none"> <li>Delivering the new European and Maritime Fisheries Fund (EMFF) to enable the fisheries sector to achieve a profitable and sustainable future.</li> <li>Supporting the industry in adapting to Common Fisheries Policy (CFP) reform through delivery of the European Fisheries Fund (EFF) in England and the managing authority for the UK.</li> <li>Responsible for ensuring that funds issued across the UK are used in line with the requirements of the European Commission (EC).</li> <li>Support Defra in the shaping of the EMFF to benefit coastal communities</li> </ul> | <p><b>Support Services</b></p> <ul style="list-style-type: none"> <li>Support Services across all areas of the organisation</li> <li>Strategic Overview Role</li> <li>Provides support infrastructure and guidance to delivery functions to enable the MMO to be a highly effective public body.</li> <li>Both internal delivery and support and external work directly with people with an interest in MMO activities</li> </ul> | <p><b>HR, Finance, Governance, Legal, Communications, Strategic Development, Health &amp; Safety, Board &amp; Executive services, Evidence Data and Knowledge Management, FOI, CIO</b></p> | <p><b>Operations Directorate</b></p> <p>£4,973m</p> <p>£4,454m</p> <p>£1,167m</p> <p>£4,454m</p> <p>£871,000</p> <p>£5,287m</p> <p>£1,676m</p> <p>N/A</p> <p>17 FTE</p> <p>Defra, DECC, DfT, DCLG, BIS, MOD and Devolved Administrations</p> <p>Natural England, Environment Agency, Joint Nature Conservation Committee, Crown Estate, Harbour and Port Authorities, MCA, ICAs and local authorities</p> <p>Marine industries: ports, harbours, aggregates, offshore nuclear, recreational users, scientific bodies &amp; coastal communities.</p> | <p>£11,496m</p> <p>-£25,000</p> <p>76.95 FTE in total</p> <p>6.2 FTE Executive</p> <p>All lead government bodies across functions including sponsor depts.</p> <p>All ALB partners across functions and specialised partnerships such as HR with HRSA, and ICAs, Finance with FSA, and Local Audit with Local Audit Offices, Comms with Parliamentary and Health Service Ombudsman etc...</p> <p>All customers across functions, the public and MMO Staff.</p> <p>Internal – MMO, Defra, BIS, HMT, Cabinet Office</p> |                |          |                        |                        |                  |           |

\*Agreed budget for 2013/14

\*\*Government bodies in bold are part of the MMO Cross-Government Sponsorship.

## Annex 4: Assessment of Alternative Delivery Models

|                                       |  |
|---------------------------------------|--|
| <p>Abolish</p>                        | <p>The MMO has a wide range of responsibilities, including marine planning, marine regulation and licensing, fisheries management, monitoring and enforcement, marine nature conservation, all of which are necessary for the promotion of the UK Government's vision for clean, healthy, productive, and biologically diverse oceans and seas.</p> <p>Many of the activities it undertakes are required by law, including the Common Fisheries Policy, Harbours Act, Marine and Coastal Access Act and the Localism Act.</p> <p>Not delivering the functions would mean non-compliance with these laws at national and EU level. Poor quality decisions would be vulnerable to appeal, legal challenge or infraction action by the European Commission. To maintain confidence in decision making, it is vital they follow a robust process based on the objective assessment of evidence, much of which requires expertise to synthesise (such as the determination process for licensing).</p> <p>It is therefore essential that a body remains with sufficient expertise to deliver these functions.</p> |
| <p>Move out of central government</p> | <p>Government must retain oversight of its functions, to protect standards.</p> <p>Creating a new independent body would require sourcing a suitable contractor (private or voluntary) to continue the same high level of service, and creating some form of watchdog.</p> <p>The cost of achieving this would not be proportionate given that the MMO is already delivering its functions effectively.</p>  |
| <p>Bring in-house</p>                 | <p>The Review applied the Cabinet Office's three tests to its activities, to determine whether they could be brought in-house.<sup>18</sup></p> <p>Many of the MMO's functions require absolute political impartiality, to stop perceived influence or gain. In addition, while the MMO reports primarily to Defra, it works with other government departments, including DfT, CLG and DECC. Remaining independent of an individual department enables it to function impartially.</p>   |

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<sup>18</sup> The "three tests" are: is this a technical function (which needs external expertise to deliver); is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity.

|                                    |   |
|------------------------------------|---|
| Merge with another body            | <p>The potential benefits of re-housing the MMO's functions, either in whole or in part, into another body are:</p> <ul style="list-style-type: none"> <li>• economies of scale are generated by sharing overhead costs and any reporting/governance requirements;</li> <li>• reduced number of actors in the marine environment, potentially creating a less confusing customer experience;</li> <li>• strengthened local area teams as able to access existing staff.</li> </ul> <p>The MMO has some overlap in responsibilities with other actors in the Defra network and the marine delivery landscape. Other actors conduct similar processes but in the terrestrial environment. For instance the Environment Agency holds planning and licensing expertise, which could be extended to include marine work; Natural England has specialism in conservation which could extend to marine conservation and marine emergencies; and Local Authorities already engage with IFCA's and on planning matters.</p> <p>However, there is no obvious simple fit for all the MMO's functions into other bodies. In addition, and most significantly, to redistribute the MMO's functions across other bodies defeats the purpose of its original remit: to bring together marine management activities from across Government into one entity.</p> |
| Delivery by a new Executive Agency | <p>The Review applied the Cabinet Office's three tests to its activities, to determine whether they were required to be conducted as an NDPB.<sup>19</sup> Many of the MMO's functions require absolute political impartiality, to stop perceived influence or gain.</p> <p>In addition, setting up another body would encompass significant expense and require change to primary legislation, which is not warranted given that the MMO is currently delivering its functions effectively and improving.</p>  |
| Continued delivery by a NDPB       | <p>Evidence from external stakeholders, sponsorship bodies and other relevant policy teams, suggests that they overwhelmingly support retaining the MMO in its current form. The consensus of opinion cited the MMO's young age and the need for it to settle into its responsibilities before making significant changes. Stakeholders value an integrated marine management body and are positive about its performance.</p> <p>Part of the rationale for the MMO's creation was to ensure an integrated approach to marine delivery; it incorporated the work of the Marine and Fisheries Agency with several new functions. This justification is still relevant three years on, and it is necessary to give the MMO sufficient time to develop and bed in their skills and expertise.</p>  |

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<sup>19</sup> The "three tests" are: is this a technical function (which needs external expertise to deliver); is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity.