



National Audit Office

Report

by the Comptroller
and Auditor General

Department for Transport

Investigation into government's response to the collapse of Thomas Cook

On 23 September 2019, Thomas Cook UK confirmed that 26 of its UK companies had stopped trading, leaving an estimated 150,000 Thomas Cook customers overseas in 18 countries. The Secretary of State for Transport instructed the Civil Aviation Authority to repatriate all the estimated 150,000 Thomas Cook customers who were abroad. The government also had to respond to other impacts arising from Thomas Cook's insolvency including support to Thomas Cook's employees, among other things.

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

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Key facts

£83m

estimated total cost to the Department for Transport for repatriating Thomas Cook customers

> £73m

estimated cost to government for responding to other consequences of Thomas Cook's liquidation

14 or more

public bodies involved in responding to the collapse of Thomas Cook

More than 140,000

number of Thomas Cook customers repatriated by the Civil Aviation Authority (CAA)

746

number of flights operated by the CAA to repatriate Thomas Cook customers

54

number of airports the CAA repatriated Thomas Cook customers from with the support of civil servants including the Foreign & Commonwealth Office (FCO)

18

number of countries the CAA repatriated Thomas Cook customers from with the support of civil servants including the FCO

What this investigation is about

1 On 23 September 2019, Thomas Cook UK confirmed that 26 of its companies had stopped trading, including Thomas Cook Airlines. Thomas Cook filed for compulsory liquidation and the Official Receiver was appointed as liquidator of the companies. All Thomas Cook flights and holidays were cancelled, leaving an estimated 150,000 Thomas Cook customers overseas in 18 countries. Since the commencement of the liquidation, around 9,000 Thomas Cook employees have been made redundant.

2 The Air Travel Organiser's Licence (ATOL) scheme, set up in 1973, protects UK consumers when they buy a holiday including a flight. The ATOL scheme protects more than 20 million holidaymakers each year and ensures consumers receive a refund or can return to the UK if their travel company collapses. Travel companies pay £2.50 per traveller into the Air Travel Trust Fund (ATTF), which is used to finance assistance to ATOL-protected customers. The Civil Aviation Authority (CAA) administers the ATOL scheme and the ATTF. If a travel company fails, the CAA, funded by the Air Travel Trust, assists the failed company's ATOL-protected customers, but not those without ATOL protection (**Figure 1** on pages 6 and 7).

3 Following the collapse of Thomas Cook, the Secretary of State for Transport instructed the CAA to repatriate all estimated 150,000 Thomas Cook customers abroad, including those without ATOL protection (Figure 1). The Department for Transport is reimbursing the ATTF for any costs related to repatriating non-ATOL-protected customers. Between 23 September and 7 October 2019, the CAA, working with the government, repatriated customers from 54 locations.

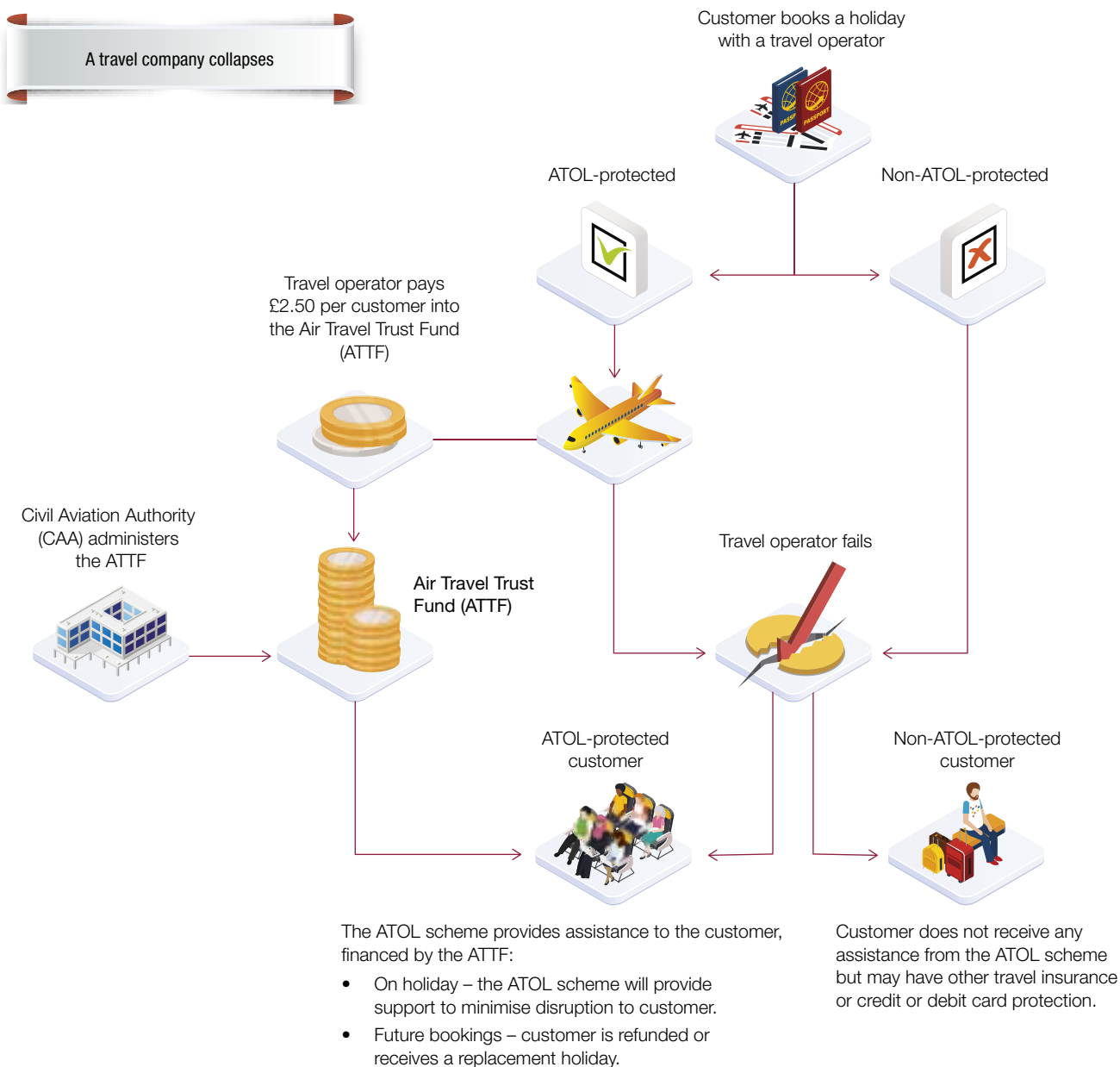
4 Following the collapse of Monarch Airlines Group (Monarch) in October 2017, the Department for Transport also instructed the CAA to repatriate around 84,000 customers, whether they were ATOL-protected or not. The Department for Transport paid £45 million to the CAA towards repatriating Monarch customers.

5 Besides its role in repatriation, the government also had to respond to other impacts resulting from Thomas Cook's insolvency. These impacts included making redundancy and related payments to former Thomas Cook employees and covering the costs of the Official Receiver. In addition, in November 2019 the government announced that it would set up a scheme for Thomas Cook customers with outstanding personal injury claims.

Figure 1

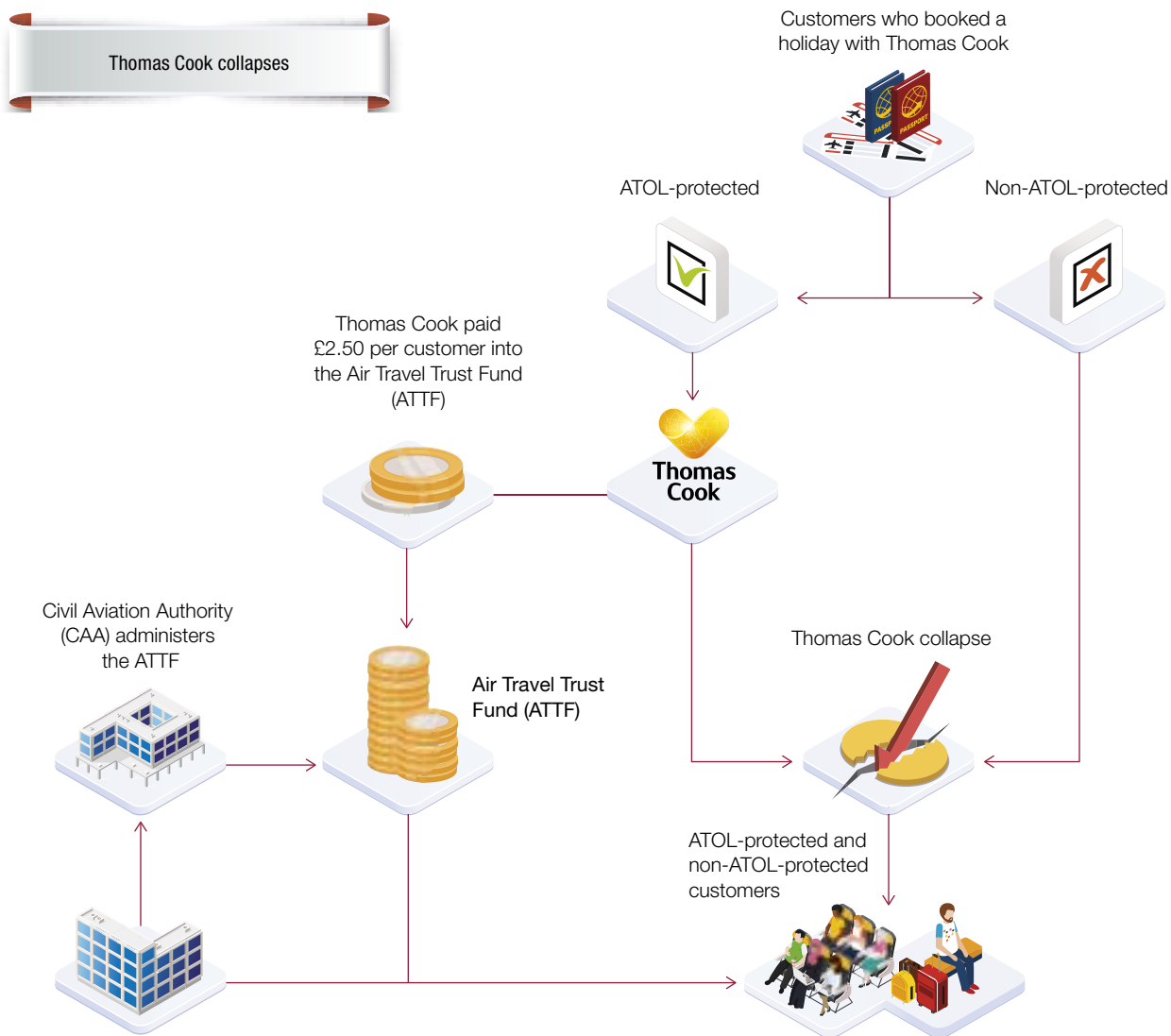
How customers are normally protected when a travel company collapses and what happened when Thomas Cook collapsed

The Air Travel Organiser's Licence (ATOL) scheme assists the failed company's ATOL-protected customers only. In the case of Thomas Cook, government intervened to also assist non-ATOL-protected customers



Notes

- 1 Customers not ATOL-protected by Thomas Cook include those who received their ATOL protection from third parties. Customers with third party ATOL protection are eligible for refunds on future bookings from where they booked their holiday.
- 2 In locations where a Civil Aviation Authority flight was not provided, all customers, including those without ATOL protection, were encouraged to pay for their own flights and claim the costs from their travel insurance or credit cards.



The Department for Transport instructed the Civil Aviation Authority to repatriate all customers, regardless of their ATOL protection. The Department for Transport is paying for the costs of repatriating non-ATOL-protected customers.

ATOL-protected:

- On holiday – customers could return using a CAA flight during 23 September and 7 October 2019 or claim a refund where they had to make their own travel arrangements.
- Future bookings – customers could claim a refund or receive a replacement holiday.

Non-ATOL-protected:

- On holiday – customers could return on a CAA flight between 23 September 2019 and 7 October 2019.
- Future bookings – customers did not receive a refund unless protected by another insurance scheme.

6 In response to media and Parliamentary interest about the role of the government and the costs to the taxpayer following Thomas Cook's collapse, we undertook an investigation into the government's overall response to the collapse. This report covers:

- the actual and potential cost to the taxpayer arising from the repatriation of Thomas Cook customers and the insolvency of Thomas Cook;
- how the government and the CAA planned and carried out the repatriation; and
- how prepared the government was before the collapse of Thomas Cook.

7 Before its collapse, Thomas Cook had written to the Department for Transport on 18 September 2019 seeking government support, including a proposal for the government to guarantee £150 million to £250 million of loans to Thomas Cook's lenders. On 22 September 2019, the Department for Transport told Thomas Cook that it could not provide the support. This report does not assess the government's decision not to provide this financial support to Thomas Cook.

8 The report also does not assess the value for money of the repatriation, or the role and performance of Thomas Cook's directors or its auditors. The Official Receiver was appointed liquidator of Thomas Cook and has a duty to investigate the reasons for the failure of Thomas Cook. The Official Receiver reported to creditors in December 2019 on the causes for failure, but its report on the conduct of Thomas Cook directors will not be made public.

9 This report covers the CAA's role and responsibilities in relation to the collapse of Thomas Cook. The CAA is a public corporation sponsored by the Department for Transport. The CAA is not subject to audit by the National Audit Office, unlike other government departments and other public bodies covered in this report, and its auditing arrangements are set out in statute.

10 On 5 March 2020, another UK airline, Flybe, entered administration and ceased trading with immediate effect. All flights were grounded and around 2,400 employees were made redundant. The government was notified about the financial difficulties of Flybe in January 2020. In the same month, the government announced that it would carry out a regional connectivity review and a review of Air Passenger Duty to look at how regional connectivity can best be supported, alongside net zero principles.¹ Flybe also separately issued a statement in which they noted that they had agreed a standard Time to Pay arrangement with HM Revenue & Customs for a debt of less than £10 million. This report does not cover the government's response to Flybe's financial situation.

¹ 'Net-zero' emissions mean that the total of active removals from the atmosphere offsets any remaining emissions from the rest of the economy. The UK legislated in June 2019 to reach net zero greenhouse gas emissions by 2050.

11 We conducted our investigation between November 2019 and March 2020 and interviewed government departments and other bodies that had been involved in responding to the Thomas Cook collapse. The data and information in this report are up to date as of 1 March 2020, unless otherwise stated.

Summary

Key findings

12 At least 14 public organisations, including at least nine government departments, responded to Thomas Cook's collapse. The government responded to the collapse in two main ways by:

- supporting the repatriation of Thomas Cook customers from overseas. The Civil Aviation Authority (CAA) organised and carried out the repatriation with the Department for Transport leading cross-government support including from the Foreign & Commonwealth Office; and
- dealing with the insolvency of Thomas Cook and its impacts. For example, the Department for Business, Energy & Industrial Strategy and the Department for Work & Pensions supported the Thomas Cook staff who were made redundant (paragraphs 1.2, 2.2, and 3.2 and Figure 2).

The actual and potential costs to government

13 The Department for Transport is covering the costs of repatriating non-ATOL-protected customers and the costs of the Official Receiver. Only those customers who were protected by the Air Travel Organiser's Licence (ATOL) scheme are eligible for assistance from the scheme, which is administered by the CAA, in the event a travel company fails. The Department for Transport is meeting the costs of repatriating non-ATOL-protected customers. The Department for Transport also provided an indemnity to the Official Receiver, agreeing to meet any shortfall in the Official Receiver's costs and against any liabilities arising from any claims brought against him as liquidator. This is because the Official Receiver had to keep parts of Thomas Cook running to support the repatriation. This is not part of the usual liquidation process (paragraphs 1.6, 2.8 and 2.13).

14 The total cost to the government of Thomas Cook's collapse is estimated and the final cost may not be known for some time. The total cost is currently estimated because:

- in relation to the total repatriation costs, the CAA is still receiving invoices for leasing planes, ground-handling charges, and other services, and will do so for some months (paragraph 1.11);
- the Department for Transport agreed to meet any shortfall in the Official Receiver's costs and the costs of liquidation will not be known until the Official Receiver finishes his work (paragraph 2.13); and

- the time spent by civil servants working on the response to the collapse is unlikely to be accounted for in full (paragraph 1.4).

15 We estimate the known cost to the government for the repatriation of Thomas Cook customers and the insolvency of Thomas Cook could be at least £156 million.

- **The Department for Transport is paying an estimated £83 million towards the costs of repatriation.** The Department for Transport is expecting to contribute £83 million (55%) towards the estimated £152 million total cost of repatriation (paragraph 1.8 and Figure 4).
- **Other parts of government could face costs of at least £73 million as a consequence of the insolvency of Thomas Cook.** These include:
 - at least £58 million of redundancy and related payments to Thomas Cook's former employees to be paid out of the National Insurance Fund, which is administered by the Insolvency Service; and
 - between £15 million and £23 million of costs to the Official Receiver, which are being met by the Department for Transport (paragraph 1.22).

16 Government is paying a larger share of the repatriation costs than originally estimated. In September 2019, the Department for Transport instructed the CAA to repatriate all customers and is paying the cost for those without ATOL protection. Immediately prior to the failure of Thomas Cook, the company provided the CAA with details of the estimated 150,000 customers due to return to the UK. The CAA used these data to plan the repatriation and estimated that 40% of customers did not have ATOL protection. In January 2020, the CAA received actual booking data from Thomas Cook and concluded that 55% of the 150,000 customers abroad at the time were not ATOL-protected. The Department for Transport became aware of this change in February 2020 and is now expecting to pay an extra £22 million (paragraph 1.9).

17 The Department for Business, Energy & Industrial Strategy has announced that, subject to legislation, it plans to set up a scheme to make ex-gratia payments to Thomas Cook personal injury claimants, although the cost of the scheme is uncertain. Payments will be made to those facing the most serious hardship as a result of injuries or illness. Thomas Cook had not insured itself against these claims. Although the cost to government of the scheme is uncertain, figures reported by Thomas Cook since 2016 provide an indication of the scale of claims on its books at the time of its collapse. In 2016, Thomas Cook recorded exposure of £83 million to illness claims, and made provisions of £19.9 million for such claims. In 2017 and 2018, the company made provisions for illness claims of £24.4 million and £18 million respectively, although it did not report its exposure (paragraph 1.23).

18 The government could face further costs if another travel company collapses in the near future. Government has agreed to stand behind the Air Travel Trust Fund (ATTF) in the event of a shortfall if any other ATOL holder collapses. In the five years from 2013-14 to 2017-18 the average annual call on the ATTF's resources has been £10 million, the call on the ATTF's resources following the collapse of Thomas Cook is estimated to be £481 million. In January 2020 the CAA announced that the ATTF had paid out £310 million so far. Although the CAA currently expects the ATTF to remain in surplus, there will be relatively limited resources left in the ATTF (paragraphs 1.18 to 1.21).

19 The Department for Transport is seeking to recover some of its estimated costs for repatriation. In the absence of government intervention, other bodies such as credit and debit card providers and travel insurers would have been liable for costs associated with their obligations to Thomas Cook customers. In October 2019, the Department for Transport wrote to UK Finance, the Association of British Travel Agents (ABTA) and the Association of British Insurers (ABI) to seek contributions from their members. When Monarch Airlines Group (Monarch) collapsed in 2017, the government recovered £2.3 million of the £45 million it paid out (paragraphs 1.14 to 1.16).

The repatriation

20 Before Thomas Cook collapsed the government considered a number of options, in case of a collapse, to repatriate Thomas Cook's customers, should they need to. The three main options considered were (paragraph 2.3):

- **Do nothing.** There was no legal requirement for the government to intervene. Thomas Cook customers would self-repatriate using commercial flights, and ATOL-protected customers could claim refunds later. Customers not protected by ATOL could seek refunds from credit card providers and travel insurers.
- **A managed repatriation of all Thomas Cook's customers using a mix of commercial aircraft and self-repatriation.** The CAA could repatriate customers using a mix of chartered non-Thomas Cook aircraft combined with self-repatriation using commercial flights.
- **Keep the fleet flying.** The CAA could use the Thomas Cook fleet of aircraft for repatriation. This decision would have required the agreement of the Official Receiver, while acting as liquidator, to maintain additional key elements of Thomas Cook operations to keep its planes flying.

The Department for Transport's preferred option was to repatriate all Thomas Cook customers using a mix of chartered non-Thomas Cook aircraft and commercial flights. On 17 September 2019, HM Treasury and the Prime Minister approved this option (paragraph 2.3).

21 The Department for Transport's decision to intervene was based on its assessment that Thomas Cook customers were at risk of significant disruption and cost in returning to the UK. The Department for Transport's analysis showed that without intervention by the government, there was not enough commercial capacity on Thomas Cook routes to allow Thomas Cook customers to book tickets independently to return to the UK in a reasonable timeframe. The Department for Transport also concluded, based on CAA advice, that it would be difficult to discriminate between ATOL and non-ATOL customers at overseas airports so a repatriation of ATOL customers only was not possible. Given the number of customers in some locations, the government considered there were also security and safety risks for some UK citizens (paragraphs 2.5 and 2.11).

22 While planning for the repatriation, more than 120,000 customers were expected to need repatriating, but the exact number and locations of customers was not known until close to the collapse of Thomas Cook. Thomas Cook had been unwilling to provide access to its systems until close to the date of insolvency, so the Department for Transport and the CAA had to conduct the initial stages of planning for the potential repatriation using historical data, estimating that between 120,000 and 175,000 people could need repatriating (paragraphs 2.5 and 2.6).

23 In advance of Thomas Cook's collapse, it was not certain that enough commercial aircraft would be available to repatriate customers given the number required and the time of year. Initially, as it was peak holiday season and the Boeing 737 MAX fleet had been grounded for safety reasons since March 2019, availability of suitable aircraft for the repatriation was likely to be limited. The Department for Transport explored using the Ministry of Defence's Voyager aircraft that would have been suitable for the repatriation. However, the Department for Transport was advised by the Ministry of Defence that it would cost approximately £27 million for three aircraft for one month. This figure did not include additional costs that may be incurred, such as fuelling, pilots and landing costs. The Department for Transport concluded that this option was not cost-effective and pursued alternative options. When the CAA went to secure aircraft from the market it was able to secure 150 aircraft from 50 partners through a combination of existing call-off contracts and the open market (paragraphs 2.5, 2.7, 2.9 and 2.12).

24 Between 23 September and 7 October 2019, the Department for Transport and the CAA estimate that 94% of customers flew back to the UK on their original scheduled date. The CAA completed 746 flights repatriating more than 140,000 customers from 54 airports in 18 countries. As well as repatriating Thomas Cook customers, the government also agreed to repatriate some Thomas Cook staff where spare seats were available on repatriation flights. Civil servants from the Foreign & Commonwealth Office and the government's Surge and Rapid Response Team provided support alongside the CAA's contracted passenger handlers to Thomas Cook passengers at overseas airports, for example, by providing information on flights. The Department for Transport also provided a travel booking company to assist passengers with information requests (paragraphs 2.15 and 2.16, and Figure 5).

The government's preparedness for the Thomas Cook collapse

25 The government had not had time to implement any recommendations from the Airline Insolvency Review, which followed the collapse of Monarch. However, the Department for Transport told us the government and the CAA used their experience of the Monarch repatriation and the recommendations of the Airline Insolvency Review to plan for the collapse of Thomas Cook. Following Monarch's collapse in October 2017, the Secretary of State for Transport set up the Airline Insolvency Review to look at consumer protection in the event of an airline or travel company becoming insolvent. The review published its final report in May 2019 and recommended a flight protection scheme to cover the cost of future collapses and to create a legal route to allow failed airlines to "Keep the Fleet Flying" long enough to bring people home. The review noted that the recommendations could take five years to implement fully. Thomas Cook collapsed before the recommendations could be implemented given the requirements for consultation and primary legislation (paragraphs 2.10, 3.4 and 3.5).

26 In October 2019 the government announced plans for new legislation to address airline insolvency. These plans were reconfirmed by the Queen's Speech in December 2019. The legislation will, among other things, aim to introduce a special administration regime for airlines to support passengers' needs post-insolvency and to keep their aircraft fleet flying long enough for passengers to be repatriated. The legislation also aims to improve protection for consumers and the interests of the taxpayer (paragraph 3.6).

27 From September 2018, the CAA had started to monitor Thomas Cook closely. The CAA routinely monitors the financial health of ATOL holders and in September 2018 enhanced its monitoring of Thomas Cook due to its worsening financial performance. By June 2019 the CAA was in close contact with the company. Several government bodies were also separately monitoring Thomas Cook including the Department for Transport, Department for Business, Energy & Industrial Strategy, UK Government Investments and The Pensions Regulator (paragraph 3.1 and Figure 6).

28 The Department for Transport started contingency planning with the CAA in April 2019. Due to increasing concerns about Thomas Cook, from April 2019 the Department for Transport began to work with the CAA and UK Government Investments on identifying potential trigger points for Thomas Cook's collapse and contingency planning for such an event. Due to the sensitive nature of the issue, before July 2019, departments were working on their own plans either for repatriation or for the impacts of insolvency but were not working across government. In July 2019, the Department for Transport began to engage with other government departments and set up a cross-government steering board focused on preparations for repatriation. This board included the Cabinet Office, HM Treasury, UK Government Investments and the Foreign & Commonwealth Office, with a cross-government ministerial coordination meeting held on 17 September 2019 (paragraph 3.1 and Figure 6).