

## **A Response to Admiral Gower's assertion that UK Trident will only be used as a 'Last Resort' and that the Military are not involved in a decision to carry out an attack**

I am a former Royal Navy (RN) submarine officer who commanded conventional and nuclear submarines, served in the Polaris Force as 2nd in command and in command and was Commanding Officer of the rigorous UK submarine captain's training course known as ['The Perisher'](#). In recent years, alarmed by the effect that the cost of Trident and its replacement are having on the RN in both financial and operational terms, I have studied Government (HMG) policy closely to identify the rationale for retention of the 'Deterrent' so long after the Cold War ended, with the consequences that UK Trident missiles have not been targeted since 1994, and for over 20 years have been at ["several days' notice to fire"](#). In the process I have found that the Government and MoD are being less than straightforward in their response to any who question continuing with Trident for a further 40 years at a lifetime cost in excess of £150Bn. This is exhibited [by an article published by Admiral John Gower](#) (formerly Mod Nuclear Policy Department) on the [Nautilus Institute website](#). His article gives a re-assuring air of good management and control and states, inter alia, that "...the military has no formal role in the advice or decision upon whether to launch UK SLBM." - an assertion I challenge.

Admiral Gower refers to the use of Trident as a 'Last Resort': a phrase HMG also uses frequently in almost every debate on or in reference to Trident. However, the meaning of 'Last Resort' is not defined anywhere and so the public, many MPs and the media take it to mean what it did in my Polaris days: that is, if the Soviets launched a nuclear attack on UK or NATO, then the UK would have retaliated with - in the Last Resort - a counter (second) strike of such magnitude that it would deter the Soviets from attacking in the first place - the aptly named policy of MAD - [Mutually Assured Destruction](#). We knew our missiles were targeted to take out Moscow - the so called ['Moscow Criterion'](#) - and that this would cause appallingly disproportionate and indiscriminate deaths to millions of the civilian population by blast and fire immediately and, for decades to come, through radiation. No other use for Polaris was envisaged. This meant that, when a Polaris submarine deployed on patrol, the CO and his 2nd in command knew exactly what they might be called upon to do: namely, to turn the Captain's key and authorise the launch of their missiles. There was no need for a ['Letter of Last Resort'](#), which came in in later years. We knew that a Second Strike like this would be well outside any accepted international humanitarian law but, if it prevented the end of the world as we knew it, then we had to be prepared to fire. Incidentally, we also agreed that we would not fire unless we had positive

indications that UK was under attack. We would not carry out a First Strike. Neither of us wanted the responsibility of being instigators of Armageddon.

I left the Navy in 1981 to work in industry and, like many people, continued to believe that this remained the meaning of Last Resort. However, when I began my search for facts in 2015 prior to the Main Gate decision to build the 'Successor' to the Vanguard class, I was seriously disturbed by what I found. HMG policy had unobtrusively changed (no press release or public statement that I could find) to one which one might describe as non-strategic within the existing policy of flexible response – which I term NSFR. This now included an option to [launch a pre-emptive strike with a single missile with a single low yield](#) (under 10Kt) nuclear war head into a Foreign State which was threatening UK troops in the field with chemical or biological weapons, should all other conventional measures had failed. This was a big shift in policy which remains in place today. There now seems to be a perverse circle of logic: retain Trident to protect the homeland against nuclear attack; however, as the cost of retaining it is so high that we cannot sustain adequate conventional forces to protect our homeland or our forces overseas, change the rules to use nuclear weapons to offset the lack of conventional forces. In this way the nuclear threshold bar of Last Resort becomes Next Resort.

This policy places the CO of a Trident submarine in an impossible position. Admiral Gower states it is the Prime Minister (PM) who makes the final decision to fire and "...the military has no formal role in the advice or decision upon whether to launch UK SLBM" i.e. the CO merely has to authenticate that the order has emanated from the PM; but he is wrong to say that. [Nuremberg Principle IV](#) states "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law..." i.e. unquestioning obedience to a superior's order is not enough. The [UK Joint Service Manual of the Law of Armed Conflict on Military Law](#) (JSP383) itself states that military commanders "... have a responsibility to cancel or suspend the attack if it turns out that the object to be attacked is going to be such that the proportionality rule would be breached.". So it is the CO himself who must make a considered and informed decision as to whether he should obey the order. The process of authenticating that the order to fire genuinely comes from the Prime Minister is undoubtedly as important as Admiral Gower states, but an even more important question for the CO is whether he is in a position to make that judgement? On patrol he has no opportunity to discuss and ask relevant questions about the justification for a First Strike on targets - the details of which he may be unaware of - or know whether his nuclear warhead(s) will have a disproportionate effect on civilian populations.

In a presumed attempt to relieve the CO of legal responsibility, the same military law manual states “...the rules do not have any effect on and do not regulate or prohibit the use of nuclear weapons.” \* I questioned the MoD as to how they could justify this statement. [In a letter to myself dated 3 October 2018](#) the MoD responded that the Conference at which AP1 was negotiated did not proscribe nuclear weapons. This is correct because AP1 focuses on the rules, not what might breach them, but this does not mean the Conference agreed they were exempt.

HMG lawyers are therefore relying upon a very contentious interpretation which flies in the face of the spirit of the Protocol. Nor does the military law manual mention the 1996 Advisory Opinion given by the International Court of Justice (ICJ) that the threat or use of nuclear weapons in any circumstances other than an existential nuclear threat to the homeland (not troops overseas) would generally be unlawful. Even then the International Court of Justice (ICJ) emphasised in its [1996 Advisory Opinion on the Threat or Use of Nuclear Weapons](#), all States are bound by the rules in AP1 which are merely the expression of pre-existing customary law.

That brings me to my final point. As previously referred to in the opening paragraph, Trident has not been targeted and has been at several days’ notice to fire for over 20 years. For all this time Trident submarines have been on patrol 24/7 ready to react to a ‘bolt from the blue attack’. Yet they are not well placed to do this if they are stood down. It also begs the question as to whether Parliament should be consulted if it is ever decided to re-target Trident missiles. It is now the convention, learned from mistakes in the lead-up to the 2003 US-UK Iraq invasion, to seek prior authorisation from the House of Commons before taking military action, subject to certain exceptions where public debate before military action would not be possible or appropriate. While the threat of use of Trident to deter nuclear attack may be political, the use of Trident to support troops deployed overseas - or in a range of other first use scenarios in which low yield war heads might be used - would be military warfighting.

**In summary**, there are many aspects of UK possession of the Trident nuclear weapon system that are a cause for concern; nearly all of which stem from a policy which includes First Use. This is not clearly understood by the British public, media or even within Parliament. Clear answers to these questions are needed beyond re-assurance that the process of checking the authority of the PM’s order is

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\* [Additional Protocol 1 to the Geneva Conventions](#) contains specific provisions for protection of civilians from disproportionate and indiscriminate attacks. Articles 51, 54 & 57 are relevant.

reliable. Specifically, in light of the UK's Non-Strategic Flexible Response policy, HMG needs to define what is meant by 'Last Resort'.

More importantly for the RN Submarine Service, current UK nuclear weapon policy which includes First Use could place the command team of the deployed Trident submarine in legal jeopardy if ordered to launch their missiles. This requires urgent review by the UK Government and MoD.

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