

## **Written evidence submitted by Professor Tim Edmunds and Dr Scott Edwards, University of Bristol and SafeSeas**

### **Reinventing the wheel? Evidence on role of the military in countering migrant crossings**

#### **About the authors**

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SafeSeas is a Non-Governmental Organisation registered in Denmark, that brings together academic researchers who investigate maritime security. More information can be found at [www.safeseas.net](http://www.safeseas.net)

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#### **1. Summary**

- 1.1. The Royal Navy (RN) is unlikely to be able to play a significantly transformative role in addressing small boat migration in the English Channel. Its role should be to continue to provide facilitating capacities and assistance to Border Force and Maritime and Coastguard Agency (MCA) operations, in the context of UK maritime security architectures more generally. This may include assisting with monitoring the Channel through its Maritime Domain Awareness (MDA) capabilities and information sharing with other agencies.
- 1.2. We reach this conclusion for three reasons. First, there are capacity constraints given the RN's other extant and potential operational commitments; second, there are operational limitations brought about by legal obligations under the UN Convention on the Law of the Sea (UNCLOS) and other maritime conventions, and ethical considerations regarding the treatment of migrant/refugee boats in the Channel; finally, any command-and-control function risks at best 'reinventing the wheel' due to the current clarity and effectiveness of existing UK maritime security architectures, in which the RN already plays an essential role.

#### **2. Context**

- 2.1. The number of migrants attempting to cross the English Channel in small boats tripled in 2021.<sup>1</sup> The UK has invested considerable efforts to slow or stem this flow, to prevent onward (undocumented) migration into the UK, to tackle the organised people smuggling networks that facilitate it, and to conduct search and rescue operations at sea. Well over 90 per cent of small boat migrants are intercepted (or rescued) at sea or on arrival at UK beaches.<sup>2</sup>
- 2.2. Small boat migration is part of a wider series of maritime security challenges currently facing the UK.<sup>3</sup> These include various serious organised criminal activities – such as the trafficking of people, drugs or firearms; the threat of maritime terrorism and piracy; the protection of fisheries, trade, and critical infrastructure such as submarine data cables; as well as so called ‘grey zone’ operations by hostile states.<sup>4</sup>

### **3. Capacity**

- 3.1. On paper, the RN has the potential to bring significant additional capacity to Border Force operations in the Channel. Border Force currently operates five cutters and six coastal patrol vessels, whereas the RN has many more ships suited to maritime security tasks.<sup>5</sup> These include 16 Archer class fast patrol boats,<sup>6</sup> two scimitar class fast patrol boats,<sup>7</sup> and eight of the larger and more capable River class offshore patrol vessels.<sup>8</sup>
- 3.2. Yet all these vessels are already in high demand for maritime security tasks elsewhere. Two of the Rivers – HMS Tamar and HMS Spey – are forward deployed to the Indo-Pacific region. The others are assigned to areas of longstanding UK interest, such as the Caribbean and the Falklands, or now patrol the UK’s fishing waters following Brexit. Likewise, two of the Archers are deployed to the Gibraltar Squadron (alongside the two Scimitars), another two are assigned to security duties at HMNB Clyde, while the others play important roles with University Royal Naval Units.
- 3.3. These commitments are only likely to multiply in future. The Indo-Pacific is of growing importance to the UK and RN, as the deployment of HMS Tamar and Spey as well as the despatch of a Carrier Strike Group to the region in 2021 demonstrate. Plenty of other maritime hotspots demand attention too: the North Atlantic, Black Sea and Gulf of Aden in particular. In that context, it seems unlikely the RN could commit additional vessels to the channel without this having a significant impact on important defence commitments elsewhere. If RN vessels are to be committed to the Channel, the government needs to be clear as to what existing commitments will be sacrificed to allow this to happen.

### **4. Operations**

- 4.1. Even if capacity can be found, it is unclear that naval involvement would be able to have a dramatic impact on the operational situation in the Channel. The Home Office’s ambition has been to “push back” small boats – that is using ships to prevent access to British waters and waiting for the French coastguard to return the vessels.<sup>9</sup> With Border

Force's union having threatened strikes if pushbacks are implemented,<sup>10</sup> it may be the hope that RN involvement will help strengthen this policy in practice.

- 4.2. Any such hope is likely to be in vain. Minister for the Armed Forces James Heapey has stated his expectation that the RN will not be engaged in pushback itself but will order Border Force to do so under naval command. Such an order would derive from an 'ongoing military estimate' and will be directed by the RN Commander.<sup>11</sup> The rules of engagement for such operations have not yet been specified beyond an assumption of trust in the RN's professional judgement.<sup>12</sup> It is not clear how or why this would differ from the current judgements made by Border Force Commanders.
- 4.3. Migrants attempting to cross to the UK via the Channel – one of the busiest shipping lanes in the world - do so in circumstances of extreme vulnerability and danger. In such circumstances, the primary duty of any ship's master is the safety of life at sea (SOLAS). This duty is enshrined in Article 98 of the United Nations Convention of the Law of the Sea and elsewhere.<sup>13</sup> The RN is just as bound by the law of the sea as Border Force.
- 4.4. Indeed, saving lives at sea is deeply rooted in the ethos and operational history of the RN. The RN (with the RAF) played a key role in UK maritime search and rescue until 2015 and humanitarian assistance remains one of its core missions. During wartime, RN ships regularly rescued the stricken crews of sunken enemy warships where operational circumstance allowed.<sup>14</sup>
- 4.5. When Navies have undertaken pushbacks, they have done so only at the expense of significant operational and reputational risk. Thailand's Royal Navy, for example, has been excoriated for its policy of pushing back Rohingya refugees,<sup>15</sup> where hundreds are thought to have died.<sup>16</sup>

## **5. Command, control, and coordination**

- 5.1. If the RN is unable to commit significant additional material or operational capacity to the Channel, then might it be able to have a transformative impact at the level of command and control? This too seems unlikely. Indeed, it is perhaps a surprising question to ask, given the effort the UK has invested in creating an integrated maritime security structure in recent years.
- 5.2. Small boat migration, like other maritime security challenges, is a radically multi-agency problem. A migrant boat might be identified by the RN, passed over to the National Maritime Information Centre (NMIC) for analysis, then to Border force or the MCA to respond depending on circumstances, before handing over to Immigration Enforcement officers or the police on land. Communication, coordination of action, and trust between departments is thus critical if such operations are to be effective. Such relationships take time to build. Different agencies have different organisational and operational priorities and may even be in competition with each other over resources or jurisdiction.

- 5.3. In the UK, this problem has been addressed by the establishment in 2020 of the Joint Maritime Security Centre (JMSC). The JMSC's role is to provide the UK with one dedicated 'centre of excellence' for maritime security.<sup>17</sup> It incorporates NMIC (an MDA hub for UK maritime security) and the Joint Maritime Operations Coordination Centre, which coordinates maritime security operations and assets between agencies.<sup>18</sup> The JMSC is hosted at a RN facility in Portsdown and is not 'owned' by a single ministry. Instead, it is jointly funded and staffed across Whitehall departments and agencies.
- 5.4. These existing structures are already well placed to coordinate operations in the Channel. They work across civil-military boundaries and governmental departments, have a clear chain of command and reporting arrangements, and are widely understood to provide the UK with a world-leading maritime security capability. The JMSC's first director was appointed as Clandestine Channel Threat Commander in August 2020 to work specifically on the small boats issue, including disrupting people smuggling gangs in the UK, France, and Belgium.
- 5.5. The JMSC has been able to play such a critical coordinating role in UK maritime security in part because of its independent status and focus on operational concerns. It is not 'owned' by a single department, nor is it beholden to one. This has allowed it to navigate potential tensions between agencies and tasks, for example between Border Force's emphasis on border protection and the MCA's focus on SOLAS. This has been possible due to a long-term process of trust building and shared working between agencies, underpinned by political commitment and the substantive delivery of effect.
- 5.6. If the RN is to assume command and control of the small boats problem, it will likely need to take on – or take over – some of the functions of the JMSC in this area. It may face significant opportunity costs in doing so. At a minimum, there is a risk of 'reinventing the wheel', with the RN simply duplicating the already effective structures and processes currently in place. Perhaps more seriously, it will need to work hard and over time to sustain trust and organisational buy-in from partner agencies such as Border Force or the MCA if its coordinating role is to be effective. These may be uncomfortable about being subordinated to their larger and more powerful military counterpart for the purposes of what are fundamentally civilian policing or SOLAS tasks.

## **6. Recommendations**

- 6.1. The UK currently has a world leading maritime security architecture that facilitates interagency working and joined up responses to a range of maritime security challenges. Government should prioritise this existing architecture as the most appropriate framework for tackling the small boat problem in the Channel. If the RN is to be brought into the problem in a more visible way, then this should happen in a manner that is aligned with existing structures rather than in tension or in parallel with them.
- 6.2. Consideration should be given as to how this architecture can be further strengthened in future, in line with the ambitions of the 2022 NSMS. Examples might include more

consistent and predictable funding cycles for the JMSC and easier access to ‘force multiplying’ capacities such as aerial surveillance or coastal radar.<sup>19</sup>

- 6.3. Government should recognise that policing at sea can only address symptoms rather than causes of the small boats problem. The UK should continue to focus on addressing the land-based networks which facilitate the crossings. While migrants themselves are the most visible people in this situation, their movements are often facilitated by organised criminal groups in the UK, Belgium and France. The National Crime Agency leads Project INVIGOR to tackle this problem, in cooperation with authorities in Belgium, the Netherlands, and France. These efforts should continue, and every effort be made to strengthen cooperation with our European partners in this area. The activity of criminal networks is better curtailed on land before migrants are put into life-threatening situations at sea
- 6.4. Likewise, maritime security responses alone cannot substitute for sustainable migration policy.<sup>20</sup> The increase in small boat migration in the channel is a consequence of a series of disruptions to the established routes, both legal and illegal, by which refugees and asylum seekers have sought to enter the UK.<sup>21</sup> Of those who do make it to the UK in this manner, the Home Office’s own data shows that 61 per cent are likely to be recognised as being in need of protection at the initial (asylum application) decision stage.<sup>22</sup>
- 6.5. In the absence of legal options for entering the UK, desperate people will continue to do desperate things and adaptive criminal networks will help them to do so. A long-term solution requires the reestablishment of humane and accessible refugee and migration routes into the UK.

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## Endnotes

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- <sup>1</sup> Dearden, L. (2022) Channel boat crossings tripled in 2021 as government's 'chaotic approach' to asylum seekers blamed, *The Independent* [Online] <https://www.independent.co.uk/news/uk/home-news/channel-crossings-2021-record-patel-b1986041.html>
- <sup>2</sup> Authors' interview, Joint Maritime Security Centre, Portsdown, 6 October 2021.
- <sup>3</sup> The UK's maritime security priorities are outlined in the 2014 UK National Strategy for Maritime Security (NSMS). The NSMS has been undergoing a 'refresh' in 2021, with an updated strategy to be published early this year. The 2014 Strategy is available to view here: <https://www.gov.uk/government/publications/national-strategy-for-maritime-security>
- <sup>4</sup> Edmunds, T. and Edwards, S. (2019), 'Delivering Maritime Security after Brexit: time for a joined-up approach', *PolicyBristol Policy Report 57*, March, [https://www.bristol.ac.uk/media-library/sites/policybristol/briefings-and-reports-pdfs/SafeSeas%20report\\_v5.pdf](https://www.bristol.ac.uk/media-library/sites/policybristol/briefings-and-reports-pdfs/SafeSeas%20report_v5.pdf); Bueger, C. Edmunds, T. and Edwards, S. (2021) 'Innovation and New Strategic Choices: Refreshing the UK's National Strategy for Maritime Security', *RUSI Journal*, Vol. 166(4)
- <sup>5</sup> Border Force (n.d.) Our Fleet of Cutters, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200683/Our\\_fleet\\_of\\_cutters.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/200683/Our_fleet_of_cutters.pdf)
- <sup>6</sup> Royal Navy (n.d.) Archer Class, <https://www.royalnavy.mod.uk/the-equipment/ships/patrol-and-minehunters/archer-class>
- <sup>7</sup> Royal Navy (n.d.) Scimitar Class, <https://www.royalnavy.mod.uk/the-equipment/ships/patrol-and-minehunters/scimitar-class>
- <sup>8</sup> Royal Navy (n.d.) River Class, <https://www.royalnavy.mod.uk/the-equipment/ships/patrol-and-minehunters/river-class>
- <sup>9</sup> Patel, P. (2022), 'Small boat Channel crossings', *UK Parliament Oral Answers to Questions*, <https://hansard.parliament.uk/commons/2022-01-17/debates/9AF48D5C-8072-4E3D-878A-1FC94A349FA9/SmallBoatChannelCrossings>
- <sup>10</sup> Slawson, N. (2022), 'UK Border Force could strike over Channel refugee "pushback" plan', *The Guardian*, <https://www.theguardian.com/uk-news/2022/jan/05/uk-border-force-could-strike-over-channel-pushback-plan>
- <sup>11</sup> Heapey, J. (2022) 'Migrant crossings: role of the military', *UK Parliament Commons Chamber* <https://hansard.parliament.uk/commons/2022-01-18/debates/9C47DEA3-8E6E-4952-9A44-E1495186E108/MigrantCrossingsRoleOfTheMilitary>
- <sup>12</sup> Ibid.
- <sup>13</sup> UN, *United Nations Convention on the Law of the Sea* (1982), Article 98 [https://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf); IMO, *Safety of Life at Sea Convention* (1960), <https://www.imo.org/en/KnowledgeCentre/ConferencesMeetings/Pages/SOLAS.aspx>.
- <sup>14</sup> Sara Malm (2018), 'Newly uncovered photos...', *Daily Mail*, 4 April, <https://www.dailymail.co.uk/news/article-5577205/Newly-uncovered-photos-German-sailors-sinking-German-battleship-Bismarck.html>
- <sup>15</sup> Phasuk, S. (2017) 'Thailand needs to stop inhumane navy "push-backs"', *Human Rights Watch*, <https://www.hrw.org/news/2017/09/22/thailand-needs-stop-inhumane-navy-push-backs>
- <sup>16</sup> Belford, A. (2015) 'No word on hundreds of Asian "boat people" pushed back to sea', *Reuters*, <https://www.reuters.com/article/us-asia-migrants-boat-idUSKBN0031SH20150518>
- <sup>17</sup> Bueger, C. Edmunds, T. and Edwards, S. (2021) Innovation and New Strategic Choices: Refreshing the UK's National Strategy for Maritime Security, *RUSI Journal*, Vol. 166(4).
- <sup>18</sup> Multiple agencies are co-located with the JMSC at Portsdown. They include Border Force's Maritime Command and the RN's UK Maritime Trade Organisation (UK-MTO) information sharing capability. Staff from the RN, Foreign, Common and Development Office (FCDO), Department for Transport (DfT), Marine Management Organisation (MMO) and National Crime Agency (NCA), amongst others, work alongside each other in a large, shared office in the NMIC facility.
- <sup>19</sup> Edmunds, T. and Ryan, B. (2018), 'Brexit's challenge to maritime security', *Oxford University Press Blog*, 18 October, <https://blog.oup.com/2019/10/brexit-challenge-maritime-security/>.

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<sup>20</sup> Edwards, S. and Edmunds, T. (2020), ‘Why are more small boats crossing the English Channel and why are border forces struggling to stop them?’, *The Conversation*, 14 August, [https://theconversation.com/why-are-more-small-boats-crossing-the-english-channel-and-why-are-border-forces-struggling-to-stop-them-144466#comment\\_2306486](https://theconversation.com/why-are-more-small-boats-crossing-the-english-channel-and-why-are-border-forces-struggling-to-stop-them-144466#comment_2306486).

<sup>21</sup> Ibid.

<sup>22</sup> Refugee Council (2021), ‘An analysis of Channel crossings & asylum outcomes’, November, p. 5, <https://media.refugeecouncil.org.uk/wp-content/uploads/2021/11/16095953/Channel-crossings-and-asylum-outcomes-November-2021.pdf>