



Fair Ferries Manifesto

Executive summary

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March 17, 2022 is a day that will live in infamy in the history of the British maritime industry as the date when 786 dedicated seafarers were sacked and discarded by P&O Ferries without any regard for their livelihoods, their families and their communities. A renowned company saw its reputation shattered in the space of a three-minute Zoom call.

P&O Ferries broke the law by not consulting with unions, but sanctions are limited – the company calculated the cost it would have to pay for refusing to consult and for unfair dismissal cases and factored that into redundancy offers. It sets a very dangerous precedent and not just here in the UK: if you have deep enough pockets, you can pay your way out of complying with the law. The law must be changed to ensure the actions of P&O Ferries can never happen again.

The government said it will strengthen the code of practice on 'fire and rehire', but it will not prevent companies from buying their way out of a tribunal process. Fire and rehire must be outlawed, no dilutions or equivocations.

On 19 August 2022 the Insolvency Service announced it would not be pursuing criminal prosecution of P&O Ferries. This is a deeply disappointing decision that will be met with frustration and anger by those who were sacked and their families. Nautilus research found there is a clear appetite for P&O Ferries to be held accountable

with almost two thirds of the public supporting prosecution. We hope the civil investigation will succeed in holding the company accountable where the criminal investigation has failed.

The government has responded to this mass-sacking by proposing a nine-point plan that includes expansion of the national minimum wage. We support any measure to extend the rights of seafarers but action on minimum wage, simply, is not enough.

Our Fair Ferries Strategy introduces a framework agreement that would require collective bargaining to be concluded with ferry operators on routes to and from UK ports. Employment conditions would be set at levels to encourage the employment of local seafarers, and governments must ensure that these conditions are enforced.

We believe our Fair Ferries Strategy would create a sustainable ferry industry, stopping operators like P&O Ferries and other low cost operators from treating workers as expendable while ensuring a competitive environment for businesses to flourish which delivers for the country.

This would create a true 'level playing field' that encourages a race to the top, rather than a race to the bottom in employment and safety standards. Given the strategic importance of our ferry services to an island nation, it is a goal worth fighting for.



To achieve Fair Ferries we demand:

1. Stronger protections for workers and trade unions
2. End to fire and rehire
3. P&O Ferries to be held accountable through the justice system

Sign to support our Fair Ferries campaign
and help Nautilus, on behalf of the sacked:

www.megaphone.org.uk/petitions/for-the-sacked

Fair Ferries Now!

Mass sackings

At approximately 11:00 hrs on Thursday 17 March, P&O Ferries announced via recorded message, the immediate sacking of 786 British based seafarers without any consultation or notice. The mass-sacking affected seafarers on all routes from the UK to the Netherlands, France and Ireland. Shortly after the shock announcement, P&O Ferries employed restraint trained security personnel to force the sacked seafarers off their vessels after some refused to leave.

Most of the sacked seafarers were then replaced by agency crew recruited from abroad through a Malta-based agency International Ferries Management, founded a month before the mass sacking. The agency crew are employed on what can only be described as exploitative contracts with some being paid significantly below the UK national minimum wage on tours of duty P&O Ferries' own research from 2012 concluded was unsafe. As many as 91 of the sacked seafarers were asked to re-engage with P&O Ferries also employed through International Ferries Management.

Less than a week after this catastrophic sacking, P&O Ferries CEO Peter Hebblethwaite was hauled before a joint select committee of Parliament. During his evidence Hebblethwaite brazenly admitted that P&O Ferries had flouted UK employment law by refusing to consult with the two recognised unions - Nautilus International and the RMT. In another sign of Hebblethwaite's contempt for the rule of law, he stated he would make the same decision again. Since then, Nautilus has been engaged in a multi-faceted campaign to ensure P&O Ferries are held accountable for their appalling actions to ensure this can never happen again.

Safety concerns

Nautilus has consistently raised safety concerns with the sacking of so many high skilled seafarers. It can take months, not weeks, for the most able of crew to properly familiarise themselves with a brand-new vessel, this is not akin to driving a new car, these are complex machines that require proper familiarisation. On the day of the mass-sacking P&O Ferries claimed there would be significant disruption across services "over the next few days" this, in reality, became nearly two months of disruption and chaos.

Following port state inspections the European Causeway, Pride of Kent and Spirit of Britain were detained by the Maritime and Coastguard Agency (MCA) for a series of deficiencies including fire safety concerns, missing certification and lack of emergency preparedness of the crew. The Pride of Kent failed port state inspections on three separate occasions before finally being deemed fit to set sail on 9 May 2022, over seven weeks from the mass sacking. All vessels have now been released from detention.

On 6 April 2022 inexperienced crew members, unfamiliar with engine procedures, damaged an engine on the Spirit of Britain. P&O Ferries claimed the hastily arranged delivery of spares and subsequent repair by contractor Hartman Marine was "regular engineering works... as part of its normal servicing". However, spare parts were not on board at the time, and the vessel had recently completed its annual refit, raising questions over the veracity of the company's claim.

The European Causeway, two weeks after being deemed fit to set sail, was left drifting without power in the Irish sea for more than two hours. Sources familiar with the incident informed Nautilus it was caused by inexperienced crew failing to follow correct procedure for changing over generators. As a result, several crew members were refusing to sail on the vessel over concerns for their safety. This incident could very well have ended in tragedy had it occurred closer to shore, in heavy traffic or in inclement weather.

On 1 and 2 August 2022, Maritime and Coastguard Agency (MCA) inspectors surveyed P&O Ferries' vessel Spirit of France and found 17 separate deficiencies relating to safety failures with fire doors and fire extinguishers and an invalid safety management certificate. Labour conditions were also deficient on the vessel with crew contracts improperly filed and some seafarer's medical fitness 'not as required'. It once again highlights a breath-taking lack of safety ambition from a company that consistently puts profit over people.

As P&O Ferries has now returned to regular operations, Nautilus continues to be concerned over potential safety matters. The agency crewing model P&O Ferries has introduced will require more regular crew changes with yet more crew unfamiliar with the vessel coming aboard. Despite P&O Ferries' vessels having been



deemed fit to sail, safety concerns have not abated. Nautilus has made it clear to the MCA that it must ensure these vessels are prevented from sailing if there is any detrimental change in crew familiarity.

The legal situation

The actions of P&O Ferries have, quite rightly, raised significant legal questions, particularly as CEO Peter Hebblethwaite admitted to breaking the law before Parliament yet has not faced his day in court. The following is not an extensive exploration of every legal issue but an overview of the main points.

Prior to the mass sacking, P&O Ferries "chose" to not consult the two recognised unions - Nautilus International and RMT. This action was in direct contravention of the Trade Union Labour Relations Consolidation Act 1992 (TULRCA) which places a duty on any company to consult before making twenty or more employees redundant.

So how did P&O Ferries get away with it?

The penalty for failing to consult, as outlined in TULRCA, is limited to an individual employee affected being awarded a 'protective award' capped at 90 days' salary. P&O Ferries simply decided to factor in the cost of not consulting when sacking the 786 seafarers. The law, in this regard, is not strong enough. No company should be able to buy its way out of consulting with their workforce ahead of making mass redundancies.

In addition, it is our belief, that Section 193A of TULRCA placed a duty on the company to notify the competent authorities in the flag states of the vessels affected, in this case Bermuda, Bahamas and Cyprus - P&O Ferries did not do this. We contend that failure to notify the flag states is a criminal offence under Section 194 of TULRCA that can carry an unlimited fine.

Despite P&O Ferries' blatant disregard for the rule of law, there is no legal provision that would allow a trade union to apply for an injunction. The simple point is this; if a trade union failed to follow the law when

taking industrial action, the employer would apply for an injunction immediately, the action would be stopped and the union's work suspended. Why is it one rule for employers and another for trade unions? This legal imbalance between employer and worker must be addressed.

Nautilus welcomed the Insolvency Service pursuing both a criminal and civil investigation, though we are disappointed that they decided not to pursue a criminal prosecution. As outlined above, P&O Ferries broke the law by failing to notify the competent authorities of the flag states which, we believe, is a criminal offence. While this outcome will be met with frustration and anger by the sacked seafarers, we hope the civil investigation will ensure P&O Ferries are held accountable through the judicial system and justice can be achieved.

P&O Ferries' actions have exposed significant frailties in UK employment law. The law is currently weighted in favour of employers, particularly those like P&O Ferries who are big enough to buy their way out of compliance. The law must be rebalanced with stronger protections for employees and their representatives in the trade unions.

Nautilus's response

Nautilus wrote directly to the Secretary of State for Transport to outline our immediate concerns with P&O Ferries, including the safety of the vessels. We called for the Secretary of State to ensure the Maritime Coastguard Agency inspected every P&O Ferry vessel before it set sail, this was acted upon and led to three P&O Ferries vessels being detained. We also called for government to end all public contracts with P&O Ferries.

Nautilus general secretary, Mark Dickinson, subsequently gave oral evidence to a joint Transport/Business select committee hearing and we engaged in extensive lobbying of all political parties to ensure cross-party consensus that P&O Ferries should be accountable for flagrant breaches of the law. This led to a successful opposition day motion and condemnation from members of the cabinet, including the Prime Minister Boris Johnson.

Alongside colleagues in the RMT, European Transport Workers Federation (ETF) and International Transport Workers Federation (ITF), Nautilus attended protests and rallies in Dover, Liverpool, Cairnryan, Hull, Larne and outside the offices of DP World in London.



Nautilus worked with the extended trade union family to lobby government and support workers, and wishes to give sincere thanks to all the unions, branches, trades councils, and the TUC for the support to our members.

Government response – 9 point plan

On Wednesday 30 March, Transport Secretary Grant Shapps announced his 9 point plan to "force P&O Ferries to rethink and ensure this can never happen again". Unfortunately, this plan does not go far enough and certainly did not meet the desired ambition of forcing P&O Ferries to rethink their reprehensible actions.

The flagship policy within the government's 9 point plan is extension of the minimum wage through the Seafarers Wages Bill. Nautilus supports any effort seeking to harmonise the rights of seafarers with those of shore-based workers. However, the legislation in its current form leaves open several loopholes that would simply allow shipping companies to avoid having to pay their crew national minimum wage. One of the legislation's main faults is that it places a duty on Harbour Authorities to ensure shipping companies operating in their ports comply with the legislation, enforced through a surcharge. Harbour Authorities are not the appropriate body to carry out this function, not least as some shipping companies also operate as Harbour Authorities leading to the absurd situation where some companies

would effectively be 'marking their own homework' and receiving their own surcharge payments.

Minimum wage is not the only issue P&O Ferries exposed. Nautilus and RMT members benefitted from union negotiated rates of pay and conditions through a collective bargaining agreement the company unilaterally undermined. Action on the national minimum wage, though welcome, would not force P&O Ferries to rethink. That's why we have put forward our Fair Ferries proposal which is a comprehensive plan that would create pay and conditions for seafarers reflective of local conditions, not international minimums.



Public support

Throughout the campaign, Nautilus has received outpourings of public support for the sacked seafarers including a banner raised at Anfield football stadium by Liverpool FC fans that read "Seafarers are not a bank balance: United we stand".

A joint Nautilus International and RMT petition published in the immediate aftermath of the sacking has received over 46,000 signatures.

In August 2022, Nautilus surveyed 2,000 members of the British public to determine their views of P&O Ferries.

The results showed:

- Almost two thirds of respondents (64%) believe that P&O Ferries' CEO and directors should face prosecution for unlawfully dismissing seafarers from their jobs
- 59% are now less likely to travel with the company than they were prior to March 2022
- Almost two thirds of people (63%) now have a worse opinion of P&O Ferries than before March 2022
- Three quarters of respondents believe P&O Ferries treated workers unfairly when they were unlawfully dismissed from their jobs in March 2022
- Over two-thirds of respondents believe that 'fire and rehire' of workers on lower wages should be illegal
- Nearly 80% believe that companies such as P&O Ferries should not be allowed to hire agency crews to replace unlawfully dismissed seafarers in the UK

- 94% of those giving an opinion believe that seafarers working in the ferry industry – regardless of where they live – should receive the same UK wages and employment conditions as other workers
- 85% of those giving an opinion believe that seafarers working in the UK should have equal employment rights as shore-based workers

With the support of the UK population, the government must take action to ensure that the P&O Ferries scandal of March 2022 is not repeated. The public also support strong action to outlaw fire and rehire.

The public also clearly believe that companies like P&O Ferries shouldn't be allowed to hire agency crew to replace unlawfully dismissed seafarers in the UK and that seafarers should be entitled to the same pay and conditions of workers on shore. This is exactly what our Fair Ferries Strategy is seeking to achieve, and the public are with us.

Nautilus International has created a Fair Ferries Strategy which aims to build a genuine level playing field across the ferries sector by raising standards, ending the race to the bottom and promoting decent work for all.

Supported in legislation, the strategy would require ferry companies to adhere to minimum safety, employment and social standards across the ferry sector on the two following principles.

Next steps: **Fair Ferries now!**

Safety:

Ensuring safe, reliable and quality ferry services for passengers and freight

P&O Ferries new exploitative crewing model employs seafarers on roster patterns their own research from 2012 concluded was unsafe. Fatigue is a real and present danger for maritime professionals, particularly on busy routes such as Dover to Calais. The Fair Ferries Strategy would ensure seafarers are employed on roster patterns that are safe and allow for proper rest time. It would also include action to ensure appropriate staffing levels, not just minimum level staffing, proper record keeping of hours worked and minimum and consistent standards in safety training for staff.

Employment:

Protecting the hard-won rights and competitiveness of UK resident seafarers in the ferries sector

Our Fair Ferries Strategy would implement UK-based wage scales agreed for Ratings and Officers respectively, which would serve as

the baseline for pay scales for all seafarers, underpinned by relevant national minimum wage applicability as a starting point. Where the minimum wage differs between ferry destinations, the higher conditions would apply.

Forcing P&O Ferries to rethink its disastrous crewing strategy and ensuring that no other operator can do likewise requires bold action. Our Fair Ferries Strategy is a comprehensive plan that would send a clear message that the actions of P&O Ferries and others will not be tolerated. It will signal a new deal for workers in the ferry industry.

Our message is clear: **This can never happen again. We need Fair Ferries implemented NOW!**

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2. End to fire and rehire
3. P&O Ferries held accountable through the justice system

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About Nautilus International

Nautilus International is an independent, influential, global trade union and professional organisation, committed to organising and campaigning for maritime and shipping professionals, delivering high quality services to members, and maritime welfare support

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