

Transport Committee & Business, Energy and Industrial Strategy Committee

Oral evidence: [P&O Ferries](#), HC 1231

Thursday 24 March 2022

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Members present:

Transport Committee: Huw Merriman (Chair); Mr Ben Bradshaw; Simon Jupp; Chris Loder; Grahame Morris; Gavin Newlands.

Business, Energy and Industrial Strategy Committee: Darren Jones (Chair); Alan Brown; Ms Nusrat Ghani; Paul Howell; Andy McDonald.

Questions 195–273

Witnesses

[V](#): Paul Scully MP, Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy; Robert Courts MP, Parliamentary Under-Secretary of State, Department for Transport; John Connell, Deputy Director, Maritime Operations, Department for Transport; and Michael Warren, Director of Labour Markets, Department for Business, Energy and Industrial Strategy.

Examination of witnesses

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Witnesses: Paul Scully MP, Robert Courts MP, John Connell and Michael Warren.

[Huw Merriman took the Chair]

Q195 **Chair:** We have our final panel before us: the Ministers and officials. Will you introduce yourselves?

Robert Courts: Robert Courts, the maritime Minister.

Paul Scully: Paul Scully, Minister for labour markets in this regard.

Michael Warren: Mike Warren, the labour market director at BEIS.

John Connell: John Connell, deputy director of maritime operations.

Q196 **Chair:** Good morning to you all. Mr Scully, I will ask you this first because you were sat behind the chief executive of P&O, who said that he decided to wilfully break the law. I was struggling to believe that I was actually in this country. How do you react to what you have heard?

Paul Scully: I was horrified. The expression of anger and frustration we have heard from this House, workers, the unions and, indeed, the public is absolutely right because there is no place in this country for employers not to be treating their workers fairly.

Q197 **Chair:** What do you intend to do? Do you intend to prosecute P&O Ferries for breaching the law?

Paul Scully: The Secretary of State for BEIS and myself wrote to Mr Hebblethwaite in good order to ask him a number of questions and gave him a deadline, which he narrowly met. He answered a lot of the questions that he has reflected on today. We do not just take them at their word and accept the fact that, as they have claimed, they have not broken any laws, because you have absolutely heard that he has.

Chair: Well, he's just told us that. We have moved on from that.

Paul Scully: We have written to the Insolvency Service with a number of questions in order to look deeper into the jurisdiction issues that you were investigating earlier in your previous session with the legal representatives and employment lawyers, because it is a complex set of situations. To Mr Jones's last point, we have also asked the Insolvency Service to look at what we may do in terms of their liabilities as individual directors as well.

Q198 **Chair:** The Insolvency Service told us that they were going to come back on 8 April.

Paul Scully: To be fair, I think that reflects the breadth of the questions that we have been asking them. As you heard from the representative of the Insolvency Service, if they can offer any bits earlier than that, they



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will, because we clearly want those answers as soon as possible, so that we can act as soon as possible.

Q199 Chair: So a chief executive of an enormous company has just been in Parliament and said they decided to break the law. What are you going to do immediately? Quite frankly, they are laughing at Parliament and laughing at the Government. Surely we have to fight fire with fire here, so what are we going to do immediately to bring criminal or civil prosecution? The full force and might—we want to hear what that will be.

Paul Scully: I suppose there are three aspects. In terms of workers' rights, I am sure Minister Courts will say what wider investigation we are doing in terms of recalibrating our relationship with both P&O Ferries and DP World. But in terms of employment practice, there are three things. I talked about looking at what we can do about the directors—whether they are fit and proper, and the liabilities that they individually have. We are looking at the two aspects of law that have been discussed today. Either way, they have broken the law on notification in Cyprus.

Chair: Yes, that became clear.

Paul Scully: We now need to test the UK jurisdiction of that and make sure we get it absolutely right, to see where we go on that. That is one of the things that the Insolvency Service are looking at, but there is also the consultation. We have heard again that they have deliberately and wilfully broken the law on the consultation process. That is typically resolved through the tribunal service, so it will be for workers and their representatives to seek redress through the tribunals.

Q200 Chair: Have you considered an injunction? Basically, they have just told us that they have breached the law. They decided to do that. Have you assessed with Department lawyers whether there are any powers that exist to injunct them to stop them breaking the law?

Paul Scully: It is something that we have obviously talked about and looked at, but I am not sure that we have actually come up with a resolution. I don't know whether Mr Warren can answer that.

Michael Warren: No, I don't think we have discovered any powers to injunct. That is why we have asked the Insolvency Service to take a full look at the legal options available, based on their assessment of what laws have been broken or not.

Q201 Chair: So as things stand with our legislation, companies can decide to breach the law and the Government cannot go to the High Court and stop them doing that.

Paul Scully: We have a really different model from those of some other countries. Yes, it is very difficult to make people redundant in some countries, but then you have the inflexibility of coming up to a binary thing—you either fold a company and lose far more jobs, or you go through the court system. We have a tribunal system, so it is for the individuals concerned and their representatives to approach the tribunals.



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Some people may actually be satisfied with the enhanced offer that they have been offered, but that is for them to do.

Q202 Chair: Let's move away from the individuals. I am really interested in Government action. Why wouldn't you go to the High Court, even in circumstances where you may lose? The stakes are so high here. A huge company has just decided to opt out of the law. Surely the reputation of Parliament and the Government requires you to go straight to the High Court and seek some form of injunctive relief.

Paul Scully: If they have breached UK notification law, there are criminal sanctions and unlimited fines.

Q203 Chair: The first panel seemed pretty clear that they had, because they had not done it, even in advance.

Paul Scully: And that's what we're establishing. If that is the prevailing view, we will absolutely be able to put forward a case. But clearly, in the kind of complexity that you heard—you heard three slightly different views from people who also had the caveat that they did not have a full grasp of the facts because they were not their clients and were not instructed by them. These are all the things that we are working through.

Q204 Chair: Have you had sight of these letters that were sent to three different jurisdictions?

Paul Scully: No.

Q205 Chair: Have the Departments?

Paul Scully: Not that I know.

Q206 Chair: Why not? Ultimately, if they have failed, then, as you say, the failure is the criminal sanction. Why would the Department, seven days on, not have?

Paul Scully: No, because the failure to notify Cyprus, for example, will then come under Cypriot employment law.

Q207 Chair: But the failure to notify must therefore be a failure under English and Welsh law—

Paul Scully: Yes, that's what—

Chair—meaning the criminal sanction still remains with us.

Paul Scully: Yes, and that's what we are establishing. We are of the view that, effectively, they did not notify any of them, because we have just heard that it is on the day, isn't it?

Q208 Chair: That is one of your biggest hooks. You have an unlimited fine to issue there. P&O decided to break the law because they felt that money made it the right thing to do. If they were facing an unlimited fine, I daresay using their same motive, they would pull back. Seven days in, you have not seen the letters.



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Paul Scully: But clearly, as I say, we have received an outline from P&O as to what they have done. They have responded. We are not just going to take it at face value. We are probing further and investigating further.

Robert Courts: I may be able to assist on this. We have reached out through the FCDO to those other authorities. My understanding is that a reply has been received—not one I have seen, because it was late yesterday, as I understand, but we will consider it. We have reached out. That is the key point I would make.

Q209 **Chair:** To those three countries?

Robert Courts: As I understand it, yes—from the FCDO.

Q210 **Chair:** But P&O have actually agreed to furnish us with the letters. Why would you not just ask P&O to send copies of what they sent and when? It would be date-stamped.

Robert Courts: It may be that we have. We certainly could, if we haven't.

Q211 **Chair:** Right, okay. Let's also look at the timeline. Let me put it this way: when were Government Ministers or officials first aware that P&O were going to restructure?

Robert Courts: In terms of the detail and what we have seen, it was on the morning of the announcement.

Q212 **Chair:** Which was the 17th?

Robert Courts: Last Thursday, the 17th. But as the Secretary of State outlined in the House earlier in the week, he was made aware of the intention to make redundancies the night before, as were a small group of officials. There was not any of the detail about how that would be done.

Q213 **Chair:** I know it is live, but we heard in the previous panel from the chief executive that discussions had taken place between DP World and the Secretary of State for Transport on 22 November while he was abroad. Do you have any details of that discussion?

Robert Courts: My understanding from that meeting is that there was a discussion about challenges to the business, but not any more than that. What I am keen that the Committee understands is that from my own personal contact, I have held roundtables with the whole sector throughout the whole of the covid crisis, and I have always made it clear that I have an open-door policy: if they want to talk to me, they can talk to me at any time about anything.

In terms of the contact I have had with P&O, I met David Stretch, the then CEO, on 15 December 2020. That would have been an introductory meeting not long after I was appointed to the role. An introductory meeting with Mr Hebblethwaite was planned for me on 22 February 2022. He cancelled that. My private office proposed alternative dates in March, which were not responded to. I then had a new diary secretary, who chased that up twice, and there was no response. The point I am keen to make is that P&O had every opportunity, through the Department and my



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office reaching out proactively, to sit down and tell me whatever it was they wanted to say.

Q214 Chair: Going back to the meeting of 22 November, I understand that was with the Secretary of State for Transport—so not yourselves—but was that meeting minuted at all, given that there were discussions about P&O's fragile state?

Robert Courts: I wasn't there, so it is not a meeting I know about, but it will have been minuted, yes.

Chair: It will have been?

Robert Courts: It will have been, yes.

Chair: Will it be possible to send the Committees a copy of that minuted meeting?

Robert Courts: I am sure it will be, yes.

Q215 Chair: Okay, we look forward to that. You obviously have people all over the maritime sector in the Department. While this has been announced very violently, we know that P&O must have been hatching this for some time. Was anybody in the Department aware of what was going on? People talk; people discuss things. Was there no one in the Department who came to the Ministers or others and said, "We believe this is going on"?

Robert Courts: Not that I have any knowledge of. You are quite right; this will have been thought about for some time. It is worth noting the absolute fury with which this has been greeted by the entire country, and I echo and agree with everything Minister Scully has just said about the view we take of this. I have made absolutely plain my disgust at the way P&O has behaved—both privately to Mr Hebblethwaite on the day, and in the House in the afternoon. He has had that in public; he has had it from both Secretaries of State. We have encouraged P&O to treat its employees decently and return to the table—to talk to people, to consult, to talk to the unions—and they haven't. You've heard their attitude today. They seem to be hellbent on this anyway.

Q216 Chair: They are. They told us, "No regrets." They are not going to change their mind. Mr Scully heard it; he was sat behind the witnesses. On that basis, do you not feel that you should be off to the High Court immediately with this and hitting them with notice of what you're about to do, both criminally and from a commercial-civil perspective?

Robert Courts: We are considering any options that are open to us, which is why we have asked the Insolvency Service to look at this. We obviously have to act within the law, so we have to investigate properly and understand what the position is and what our legal powers are. Then, if there is something open to us, we will look to do it.

Q217 Chair: Minister Courts, you are a barrister. I was a barrister, too. We used to go to court on a same-day basis when we felt we needed to do. We may



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not have always succeeded, but the whole idea of going to court was to persuade the judge that we should. Do you not feel that this situation is so appalling, given what we have been told today—that a big company has just decided to opt out of the laws of this country—that it warrants immediate action? Not consideration, not the Insolvency Service having a think until 8 April—immediate action today.

Robert Courts: We have heard a lot more today than we have heard thus far. I have been listening to this, as have you, Chair. We will be considering whether there is anything we can do on the back of what we have heard today.

Chair: Okay. Let me bring in some other colleagues. I'll start with Paul Howell.

Q218 **Paul Howell:** Just as an immediate reaction to follow up on that, Minister Courts, do you think there is anything you will be doing today?

Robert Courts: I am reluctant to speculate at this stage. It is right to look at something and reflect—I'm not talking about for a long time, but we need to reflect before making commitments and not do so live in a Committee. We will look at everything we have heard today, and if there is anything else we can do in the light of the investigations that we are undertaking, we will look to see if there is anything else we can do in the short term. In the longer term, we are also looking to see what we can do to prevent this situation from occurring again—you heard the Prime Minister make a very clear statement about that yesterday. We will come to Parliament next week with a package of proposals.

Q219 **Paul Howell:** That is the direction of travel I was just about to go down—looking at what you think is next. We have heard from various witnesses today. Andrew Burns suggested that there is a gap between UK and international law on the determination of employee rights and things like that for people on the seas. I would expect you to consider how you can get better control of that—rather than it just sitting in case law, for want of a better word. Do you think that is an area that should be looked at, in terms of where business is managed—thinking about the safety aspects from the MCA—rather than it being micromanaged on each individual ship? Should there be a more global context in the way the business is operating? When a business has disregard for the law in terms of civil, what makes you think it is following all safety regulations? I don't know how you would legalise that in terms of safety, but do you think we should be trying to do something about that?

Robert Courts: There are a number of different points in that question; there is the safety aspect and the wider business behaviour aspect. I have just referred to the wider business behaviour aspect—we are considering what steps we can take at the moment, and we will come to Parliament and lay out a package of proposed measures next week. I can't go into that any further at the moment, because this is a complicated area, as you have heard from the lawyers this morning; it's not straightforward. So we will consider that, and come and explain proposals in due course. The Prime Minister, of course, gave a clear direction of travel yesterday.



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With regard to safety, I am happy to get into this a little bit more. I think probably the reason why it is seen—if I understood your question correctly—on a ship-by-ship basis is that clearly, the situation that exists on any particular ship is relevant to whether that ship is safe. There are clearly overarching requirements, internationally and nationally, that are enforced by the MCA.

Q220 Paul Howell: I appreciate that. I just think that there may be a view that should be taken of the way a business is managing itself, in terms of whether it is acting in the right way, that you could possibly factor in at some point when you are looking at that.

The one final point I would like to come to is this. It appears that there has been a mechanism, or at least the company feel that they have been able to, for want of a better phrase, buy themselves around the law, in terms of assessing what they think the financial impact is of the things that are there, yet at the same time we are hearing about unlimited fines and that sort of thing, so there seems to be a disconnect between what they think is the strategy they have followed and what the actual legal position is. I think they come through two slightly different channels. In terms of the one they have followed, where they are effectively paying things off, is it worth looking at the law, in future, from that particular angle as well, to make sure that it is an unlimited situation, and that there is a route for Government or whoever to get at these and really bite at them, whichever way they do things, because what they have done to their employees is just incomprehensible?

Robert Courts: Your feelings about that, we would all agree with. We can't have a situation in which some people decide that the law doesn't apply or they're not going to comply with it; we clearly can't have that. We will have to look at the enforcement measures you have rightly touched upon, and we will have to look at any clarification or change, as required, to ensure that people are protected, which is what we want to see. We are as horrified by the behaviour of P&O that we have seen over the course of the last week as everybody in this room is. It is perhaps more for Minister Scully to talk on the wider employment law aspects.

Paul Scully: Yes. There are clearly some gaps that were caused by the EU directive that came in in, I think, 2018, and now that we are able to get back to looking at it ourselves, as a UK sovereign state, that is definitely something that we can look at: how we can plug the gap. I know there have been considerations; that's from speaking to the unions, other Members and concerned people. They are worried about what comes next—what happens with other ferry services and similar services. If there are gaps, we clearly need to plug those. We do not want to be encouraging anybody else to take such a rash and callous decision as P&O Ferries have taken.

Q221 Paul Howell: I would say that, if anything, you should be actively discouraging rather than risking encouraging—

Paul Scully: Absolutely—totally.



Paul Howell: Thanks for that.

Q222 Gavin Newlands: This is a question for Minister Scully. You and I have had many discussions and debates about the issue of fire and rehire. It was brought up with the first panel this morning, and I think Professor Bogg described this as essentially “fire and rehire on steroids”; I think that was how he described it. Do you think that the Government’s inaction—whether that relates to my Bill or the hon. Member for Brent North’s Bill—has set a tone in the workplaces of the United Kingdom that makes this sort of thing more likely?

Paul Scully: No, I don’t think it does. I know it’s easy to look at either of the Bills and say, “Okay, fine, that would have avoided it.” I’m not sure it would have done, because I don’t think certainly the clauses within the hon. Member for Brent North’s Bill would have been workable, to be honest, because we were only looking at the Bill at the first stage, rather than what it might have ended up being, had it gone through its parliamentary process. I’m not sure where the witness talked about fire and rehire on steroids. There was no option for rehire for those 800 people. These people were, as we heard, pivoting to a different model—*[Interruption.]*

Chair: I think we heard, actually, they are looking at bringing some of them back. That came out today.

Gavin Newlands: I think 78—

Alan Brown: Ninety-one.

Q223 Gavin Newlands: Or 91 Nautilus members were perhaps asked to re-engage. So is this something you are going to look at again, and this time are you going to bring back actual measures, rather than asking ACAS to change guidance?

There are things we can do in order to have a more robust approach to fire and rehire as part of negotiations, because that is when it is wrong, when it is used as—

Q224 Gavin Newlands: A threat.

Paul Scully: A threat, exactly as you say. I have always described as bully-boy tactics. However, there are examples—you heard it again this morning—where fire and rehire, when it is used through proper consultation and a proper, reasonable approach, has actually saved jobs, albeit on different conditions, by allowing a business to become viable. It is about getting the balance right—having a flexible workforce but, clearly, protecting the rights. This, frankly, was a callous mass sacking.

Gavin Newlands: I don’t think I would describe fire and rehire as reasonable in any case, but thanks, Chair.

Chair: That’s all right—thank Alan Brown.

Q225 Alan Brown: Minister Scully, you previously said that it was the EU



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directive from 2018 that allowed this to happen, and that it is deficient and will be remedied. We have heard quite clearly from the unions that it is much more difficult to do this type of mass sacking in the Netherlands or in France, so why are you saying that it was the deficiency in EU employment law that allowed P&O to do this?

Paul Scully: No, the EU directive was talking about notification. I am specifically talking about the notification.

Alan Brown: The reason why it is harder to do such a mass sacking elsewhere—

Paul Scully: What I am saying is that the EU directive throws up a level of confusion; we know that on a Cypriot-flagged boat, they have to notify the Cypriot authorities.

Q226 **Andy McDonald:** And that is an offence in law.

Paul Scully: And I think we've agreed that. It is how that works through UK law—remaining an offence, indeed, but it is what the sanctions are that we can apply after that. That is what we are testing. None the less, after we have worked through that, if there are gaps—if it is not an unlimited fine and criminal sanctions—we can plug those afterwards, because we no longer have to work specifically through that EU directive.

On your wider point about how we work compared to other countries, whether we were in the European Union or not, we have always worked on a tribunal system, rather than, say, a German system; they tend to work through the courts at an earlier stage. That is far more prescriptive and less flexible.

Q227 **Alan Brown:** So you prefer the flexible method, then, rather than the restrictive German method?

Paul Scully: To be fair, what a flexible labour market has allowed us to do is—

Alan Brown: It has allowed 800 workers to get sacked.

Paul Scully: The point is that over a wider landscape, over the last 12 years and certainly after the financial crash, we were able to create more jobs in this country than the whole of the rest of the European Union put together, so I think that is part of a dynamic, flexible workforce.

Q228 **Alan Brown:** There is no point if people are going to get sacked, and then other people come in on lower wages. There is no point having more jobs.

Paul Scully: That is part of the dynamic, flexible workplace that makes people want to invest in this country. None the less, clearly, we all agree that we want a high-skilled, highly productive, high-wage economy, and that is absolutely—

Q229 **Alan Brown:** If you are going to retain this flexibility, we will not get that high-skilled, high-wage economy, because other countries are seeing what is happening. The unions expressed their concern that this could lead to



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the end of the UK seafaring industry. If you look at the Stranraer-Northern Ireland routes, or Cairnryan, you've got two companies there. If P&O are successful in this, they are undercutting Stena. Stena then have a decision to make: do they follow the P&O model or not? They are getting undercut. What is the Government going to do to stop the contagion and stop other companies feeling they have to follow suit?

Paul Scully: As I say, that is partly what we have charged the Insolvency Service with looking into, but it is also what Mr Courts was talking about—the package of measures that we will bring forward to the House next week.

Q230 **Alan Brown:** Does that not mean you might have to look at being less flexible and having more restrictive employment law, à la Germany or France?

Paul Scully: I cannot speculate on what we are going to put forward next week, but we will come to the House and address that. We will absolutely make sure that we remind employers that P&O have broken existing law.

Q231 **Alan Brown:** Isn't it the case that they have done that because of the tribunal system? You said it is up to individuals to take a company to a tribunal. P&O has calculated this, by blackmailing with an NDA, and giving people limited time to sign for an enhanced package. P&O have worked their way around the law, using money and blackmail. What's to stop that happening again?

Paul Scully: On the consultation side of it—I talked about notification and about consultation—some of those 800 people will undoubtedly say, "That is a generous enough package for me as an individual."

Q232 **Alan Brown:** So it is a calculation?

Paul Scully: Absolutely it is. They have clearly bought themselves out of the way of the law. There is no doubt about that. Some will accept that; others will not. I would recommend that they get advice from ACAS, go to a tribunal situation—that is the case with any employee. Should they have gone through the consultation process and still not been happy, that would have been the approach then as well.

Q233 **Chair:** Minister, do you not think it is the responsibility of the Government to take action if the law is being broken, rather than saying to the individual, "You will have to deal with it now"? There is a Queen's Speech coming up. Surely that is one specific—

Paul Scully: That is quite a fundamental change of UK labour market law because, essentially, the entire UK labour market law has the employment tribunal as its spine.

Q234 **Chair:** It does, but the QC told us at the start that they could not think of any examples of this being done before, because it is such an extraordinary thing for a company to do. Once they throw the gauntlet down and say, "We are going to do this," is it not the duty of Government to plug that hole so they can't?



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Paul Scully: I think the bigger hole that will actually stop them from doing it is when they realise that the criminal sanctions kick in with unlimited fines. That is what will stop them from doing it. You heard from Mr Hebblethwaite that he has a viable business; if you have unlimited fines, you will not have a viable business.

Q235 **Mr Bradshaw:** Why have you not already issued an interim injunction? These guys were here admitting to knowingly and deliberately breaking the law. They did it a week ago, so what are you waiting for? Will you leave this meeting and seek, through your lawyers, an interim injunction?

Paul Scully: As I say, we have charged the Insolvency Service with looking into this. What I am not going to do—

Mr Bradshaw: But they are not going to look until 8 April.

Paul Scully: I am not going to pre-empt the Insolvency Service. I understand—

Mr Bradshaw: That is in two more weeks.

Paul Scully: I was here when you were asking the representative of the Insolvency Service about that, and I saw your reaction. What I have also explained, as did he, is that there are many things that we have charged them with doing, so we want to give them space to look at the whole comprehensive package—

Q236 **Andy McDonald:** They are not getting the urgency.

Paul Scully:—and the liability of directors. None the less, they do get the urgency. We are absolutely speaking to them daily. The bits that they can report quickly, I expect them to report quickly, because we absolutely want quick action.

Q237 **Mr Bradshaw:** From what level of legal officer in Government did you get the advice not to seek an injunction, which you are relying on?

Paul Scully: Michael, can I pass that question about the lawyers we have been speaking to in Government to you?

Michael Warren: Senior BEIS lawyers.

Q238 **Mr Bradshaw:** What has the top Government lawyer—the chief lawyer and legal adviser to the Cabinet Office—said about this?

Chair: The Attorney General. *[Interruption.]* No, that's the previous Attorney General.

Michael Warren: We have not consulted.

Q239 **Mr Bradshaw:** You have not consulted the Government's most senior law officers?

Michael Warren: No.

Mr Bradshaw: You were here in the room. You heard it.



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Q240 **Chair:** Ben, can I just put that question, for the record? Will you now consult with the Attorney General's office and say, "We have just heard a company chief executive say that they are breaking the law because it makes commercial sense for them"?

Paul Scully: We have had new information—absolutely.

Q241 **Mr Bradshaw:** On the remedies, we heard from the legal experts at the beginning of this session that the problem here, as Alan Brown outlined a moment ago, is that this company has broken the law because it knows that it can get away with it, as the legal remedies are capped. Will you do something about that in the package that you say are bringing to Parliament next week?

Robert Courts: We will have to discuss, between our Departments and more widely, what those will be. We are looking to bring forward a package that will avoid this situation happening, to make sure not only that people are treated with respect, but that they are given the protection they deserve. I cannot go into the detail of exactly what that might be at the moment, but we will look at all options.

Q242 **Mr Bradshaw:** On the wider issue of labour law, why do you think that the company has not treated the Dutch and French staff in the same way?

Robert Courts: Is that question to me?

Mr Bradshaw: To either of you.

Robert Courts: I am afraid, Mr Bradshaw, that it would be speculating, because the systems are just different—

Mr Bradshaw: Oh, come on!

Robert Courts: There are different legal systems and there different laws apply. Was your question about why—

Q243 **Mr Bradshaw:** The Dutch and the French staff have not been summarily dismissed in the same way as the UK staff.

Robert Courts: These workers?

Mr Bradshaw: Yes.

Robert Courts: There will be a disproportionately larger number of British workers because of the nature of—

Q244 **Mr Bradshaw:** That wasn't my question. It was the difference in treatment. It is about our labour laws. Why don't you just admit that it is about our labour laws? If you are going to change the labour laws, admit that we have a problem now.

Robert Courts: We are in the course of reviewing how the laws apply in these particular circumstances, where you are dealing with a very complicated labour market and sometimes international issues—and the international issue in this case is a significant one, as you heard from the lawyers this morning. It is very clear, on hearing from those three highly



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eminent lawyers, that the position is complicated. In fact, they are not 100% clear about how the law applies, so we will review that and look to see whether there are any changes that we need to make.

Q245 Mr Bradshaw: One of our legal experts was quite clear that this has not happened to the French and the Dutch because they have better labour protections.

Paul Scully: That was one out of three people. If there are discrimination issues—I think that was raised earlier—there are also the legal ramifications of discrimination that we can look at. It is difficult to speculate, because I do not know the staff mix and where each of the people, and people of different nationalities, are working in the system. I do not understand their operating model because I am not a maritime person; I am looking at it specifically from the labour market angle. There are a lot of things in the mix; none the less, nothing is off the table. We do not want to speculate, but we will come back to the House to say more.

Q246 Chair: When are you going to do that?

Robert Courts: Next week.

Q247 Mr Bradshaw: Mr Courts, what was Mr Shapps doing in Dubai at the Expo?

Robert Courts: I don't know what he was doing there. I would be speculating, but I anticipate that he was visiting the Expo for a number of purposes, as Ministers do.

Q248 Mr Bradshaw: When were you first aware that there was a conversation with the parent company while he was there?

Robert Courts: When was I personally aware?

Mr Bradshaw: Yes.

Robert Courts: I personally was aware today, when it was mentioned today. There is no reason why I would have known earlier.

Q249 Mr Bradshaw: And have there been any contacts at all with the Dubai Government since this saga unfolded a week ago—with the ultimate owners of the company?

Robert Courts: We have written to them.

Q250 Mr Bradshaw: Can we see a copy of that letter?

Robert Courts: You can. I cannot repeat it chapter and verse, but yes, you can see it.

Q251 Mr Bradshaw: Are you going to cancel all of their involvement in the UK's freeport scheme?

Robert Courts: As we said in the House last week, we are reviewing our involvement with P&O across government. Those are major schemes. They obviously have a ramification—



Q252 **Andy McDonald:** At DP World?

Robert Courts: Yes, at DP World. They have a ramification far beyond Transport. There is a big Treasury input in that, as well as a Department for Levelling Up, Housing and Communities input, so we will look at that. There is also, of course, as the Prime Minister made clear yesterday, an important point around inward investment, which we need to protect as well.

Chair: Ben, thank you. A few colleagues want to come in. Darren, would you like to come in?

Darren Jones: I've had plenty of time; I will let others come in.

Chair: That's very good of you. Chris Loder next, then Grahame Morris. Briefly if we can.

Q253 **Chris Loder:** Robert, I have a question for you. When I questioned the chief executive of P&O, I asked him specifically about whether he signed off a safety risk assessment for this enormous organisational change. In my mind, the only thing that can happen that is worse than what we have seen today is passengers losing their life in an emergency. I was personally shocked to hear that the chief executive had not signed off that risk assessment.

I also have some doubts about what we heard earlier from the Maritime and Coastguard Agency. Would you take away that feedback from today, and commit to making sure that the safety implications of this enormous change are properly considered and absolutely spot on before you endorse any further changes? It is a considerable concern of mine, and I think it is shared by other members of this Committee, that safety has not been the first consideration of P&O in this change.

Robert Courts: From P&O's perspective, that may or may not be the case, but from the Maritime and Coastguard Agency's perspective and the Department for Transport's perspective, safety is paramount. I made it quite clear when I came to the House the other day. I forget my exact words, but I said words to the effect that it was non-negotiable. We have to have safety.

The safety measures are not being disappplied. Before these ships sail, the MCA have to see them, inspect them and certify that they are okay to sail. They see all sorts of things—various drills. That happens and that will happen. If the MCA are not happy, and it isn't safe, they will not sail. I have made it quite clear—as has the Secretary of State—that from our perspective we have underlined that that must be done.

Q254 **Chris Loder:** The point that I am trying to make here is about the licence condition for them to operate. In order to maintain that licence, one of the conditions, typically, is that enormous changes have to be properly validated and safety-risk assessed. We have asked for that to be brought forward. I wanted to make sure that you will personally make sure that you see those documents and that you are comfortable that they have been undertaken properly.



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Robert Courts: Yes, I will take away any suggestions that the Committee has. If I can do anything to underline the seriousness with which I take the safety issue, I absolutely will. I have to stress that I am not a safety regulator; I have to rely on the experts.

Q255 **Chris Loder:** But the MCA is your agency.

Robert Courts: I am responsible for the MCA—I am not disputing that for a second. But I am not a safety regulator; I have to defer to the experts who do those inspections.

Q256 **Grahame Morris:** I wonder if I might ask Minister Courts a question to begin with. The revelation for us on the Committee, and I understand that this has been communicated to you, was that the Secretary of State for Transport was advised of some organisational changes at a high-level meeting with the parent company on 22 November in Dubai. You have told the Committee and Parliament that you were not aware of the detail of the changes until Thursday 17 March—St Patrick’s day—when we all found out about it on the news. Is it correct that officials from your Department were made aware of more detail the day before, on the Wednesday?

Can I ask you about the Kent Resilience Forum? Whether it was by the Department for Transport, your officials or the Cabinet Office, the Kent Resilience Forum was being convened to manage anticipated disruption caused by the suspension of ferry services. It must have been major organisational and crew changes to anticipate such disruption and to convene a meeting of the Kent Resilience Forum. When were you aware of that?

Robert Courts: It does not take long to convene the Kent Resilience Forum. These are well-practised and well-rehearsed routines that are there to deal with disruption in Kent. That happens relatively regularly, for a number of reasons.

Q257 **Grahame Morris:** Would you be notified of that as a matter of course, or would that be something that your officials would instigate?

Robert Courts: I would expect to be notified of it. Whether it would be imminent is a different matter. I would have to understand what you are referring to before I gave any further detail.

Q258 **Grahame Morris:** Apparently it happened on Wednesday 16th—I wondered if you were aware of it?

Robert Courts: I cannot comment. I would have to understand what you were referring to before I commented on anything from KRF.

Grahame Morris: Okay, maybe you can check.

Chair: Briefly, Grahame, because I want to bring Andy McDonald in.

Q259 **Grahame Morris:** You may recall that you gave evidence on a previous occasion when we were talking more broadly about the issues that were firmly identified by the representatives from the trade unions. In September 2020, you told the Transport Committee, “I can be quite clear:



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what I want to see is that those who operate in and around UK waters use a UK workforce wherever possible. I welcome some of the commitments that P&O have made...I will also consider whether there is any policy intervention that it might be appropriate for the Department to make at some stage. Perhaps you will forgive me if I do not go into any more detail at this stage, but it is something I have started thinking about already." Can you tell us the conclusion of your thought processes?

Robert Courts: Mr Morris, I think I had been Minister for about half a day, at that point.

Chair: You had; that is absolutely right.

Robert Courts: If I am thinking of the right meeting. So, I was giving an aspirational view that I would like to see more British seafarers in work operating in British waters and that is absolutely a view that I am 100% committed to now.

We have, of course, the Maritime 2050 package, which is an ambitious package to make the British marine an even better place to live and to work, and to add its value into the UK.

As I have said, coming out of this we will be coming forward with a package of proposals that will address some of the issues we have seen here.

Q260 **Grahame Morris:** Minister, without being disrespectful, those are admirable aims and objectives but what we have seen from P&O means that, unless there is some definite action, we will see the complete demise of the merchant fleet of British-based seafarers—

Robert Courts: There are two points here. There is the wider point—you are quite right in talking about it; perhaps I will come back and talk about this in due course—around what we have done under Maritime 2050 about growing the maritime sector. Then I can talk about things like tonnage tax reform. I can talk about all of the things like UK SHORE—

Q261 **Chair:** You can come back to talk to us about that, because we have a Maritime 2050 inquiry launched—

Robert Courts: You are doing a session on that, so I will do that. I can talk about things like Maritime 2050, tonnage tax, UK SHORE—all of that stuff in terms of growing the sector.

With this particular thing, as I said—

Chair: Right. I am going to bring Andy McDonald in now, because we are on time.

Q262 **Andy McDonald:** Just on the issue of urgency, we are talking here about a vital piece of UK infrastructure, in P&O, not functioning. We have heard today concerns about safety but also concerns about their commercial viability. So, will Ministers consider stepping in here, sequestering these ships and having that as one of the options—to step in as the operator of



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last resort—because this company has clearly demonstrated they are not fit? And I would ask officials to look at section 172 of the Companies Act 2006. P&O have not acted in the best interests of their company; they certainly have not acted in the interests of their employees. And what this legislation tells us is that it is completely ineffective—there are no sanctions that will bite here. So we need some very urgent action.

Therefore I ask Ministers to ensure that those options remain on the table and additionally that the Government send out a message that they will overreach the non-disclosure agreements, or NDAs, when we are seeking prosecutions, and that those members of staff can come forward and give evidence, and the Government will override any sanctions that these rogue criminal organisations are trying to impose upon them.

Robert Courts: On sequestering ships, first, that would have some practical impacts on connectivity—on supply chains. We do need to keep traffic moving. So that would have an impact; let us be quite clear about that. That is the first thing.

Secondly, however much we disapprove of what P&O have done, and let me be absolutely clear that it is disgusting—we have no time for it whatsoever; I cannot be strong enough in my condemnation of the way that they have behaved and we will be looking at what we can do. But we have to act within the law. The fact that they may not have done so does not mean—

Q263 **Andy McDonald:** This is the law factory; we can make the law. We can get into Parliament next week and make the law—

Robert Courts: But Mr McDonald, what you are pressing for is for us to sequester ships now. So, my point—

Q264 **Andy McDonald:** You can step in as the operator of last resort.

Robert Courts: My point, which I don't think is particularly unreasonable, is that we act within the law. It applies to Governments. And the fact that P&O may not have done does not mean that Government shouldn't.

Q265 **Andy McDonald:** Well, let's make the law next week, shall we?

Robert Courts: As I said, we will be looking at what we can do arising from this and we will be coming back with some proposals next week.

Q266 **Ms Ghani:** Minister Scully, you talked about maybe not having the authority right now to put in an injunction, but you could take injunctions or take legal action against the individuals within P&O Ferries who have taken these decisions. Perhaps you can provide us with what advice you are being given on that, so we can understand what your motivations and moves may be in the next week or two. That is just for you to take away; you don't have to respond right now.

Paul Scully: We have asked the Insolvency Service for exactly that, on the directors.

Q267 **Ms Ghani:** Perfect. Minister Courts, you talked about Maritime 2050. I



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would argue that the actions of P&O Ferries have trashed some of the ambitions that are in Maritime 2050, and they have been hugely damaging for the sector and the reputation of the UK, whether it is for the flag or whether it is for the MCA or for all the work that we are trying to do to encourage firms to come on board and fly our flag, or even to hire our seafarers.

One of the things that you can do and possibly announce next week is looking at actions to make sure that people are bringing contracts onshore, so they are not offshore, as was the case in this situation. So, when they are offshored in places like Jersey, they are not paying national insurance contributions, which makes employment rights very hard—very hard indeed—for the seafarers. Why don't you take that action? You can take that action next week to make sure that the market is more stable for UK seafarers.

Robert Courts: Few people know more about Maritime 2050 than you, Ms Ghani, so thank you for your comments on that. I want it to be a success. I will continue to look at whatever steps it might be possible for us to take. I don't want to speculate on what they might be now, but I—or the Department—will come back to the House next week.

Q268 **Ms Ghani:** Does that mean action will be taken next week to make it even easier for firms like Stena and DFDS to continue to do great work and employ superb British seafarers?

Robert Courts: Absolutely, and that is what I want to see more of. We will come back and give some further proposals in due course.

Q269 **Chair:** Last point. The Prime Minister said yesterday that the Government will ensure that mariners working in UK waters "are paid the living wage." We have heard that these 800 seafarers are being paid more than that, but, as a floor, how is the Prime Minister going to deliver that pledge? Does that require a law change, for example?

Robert Courts: There may be some legislation required. There are a number of different ways, but this is such a complex matter. That is why we need to reflect on it and work between Departments and why I am asking, with the Committees' indulgence, to come back to the House next week and explain what it is that we will do. There may be some law changes.

Q270 **Chair:** When it was put to the Prime Minister when that was going to be done, his response was that it would be soon, as long we have Opposition support. We know that the minimum wage applies between the UK and Northern Ireland, and that has already been brought in, so he is clearly talking about new legislation. What has he got planned?

Robert Courts: That is exactly what we are working through. I am sorry that I cannot go into any more detail, but we will come back next week and explain.

Q271 **Chair:** So it may be one of those where the Prime Minister said, "This is what we are going to do," and then everybody else works out the detail as



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to how we are going to do that. *[Laughter.]* That is not being facetious; that is fair enough. A chief exec or a Prime Minister says we are going to this—

Robert Courts: He has made absolutely clear that he wants people to be protected. He has made the direction of travel clear and the view of the Government clear.

Paul Scully: The Prime Minister has deliberately tried to cut through the complexities of the national minimum wage, in the way you described. Minister Courts made some changes in the national minimum wage in November 2020, but there are still some areas that have not yet been tested in case law and through the courts, so it is important that we listen to exactly the focus that the Prime Minister has given us and come back ASAP.

Q272 **Chair:** Is he personally involved with this? If the Prime Minister picked up the phone to the chief executive of DP World and said, "This is outrageous. One of your subsidiaries is openly flouting the law and seems not to be bothered about it," do you think that would have cut-through?

Paul Scully: I couldn't tell you, to be honest.

Q273 **Chair:** I think we have heard a tale of corporate thuggery here, where a huge company just seems to think it can break the law with impunity. In terms of actions, we will be writing with a serious of recommendations, but it cannot come fast enough. I hope the message in terms of going immediately to the High Court and seeking all remedies that are available to Government to hold them to account, including via the Attorney General's office, will be heard today, and that legislation will be considered, because if something doesn't happen and a marker isn't put down on this, then others will be thinking that they have carte blanche as well. Will you welcome that type of response from this Committee?

Robert Courts: Absolutely. I think our aim is entirely shared, so I will be working constructively with the Committees and Members from across the House to achieve our shared aim.

Paul Scully: As will I. We want a robust response.

Chair: Excellent. I look forward to us doing that and then receiving news of your action. Thank you to all four of you and thank you to all the members of the Committees.