

Ms Nusrat Ghani MP
Parliamentary Under-Secretary of State (Department for Transport)
Department for Transport
Etc.

6th February 2020

Head Office

1 & 2 The Shrubberies
George Lane, South Woodford
London E18 1BD
United Kingdom

T: +44 (0)20 8989 6677

E: enquiries@nautilusint.org

W: nautilusint.org

Dear Ms Ghani

**The Equality Act 2010 (Work on Ships and Hovercraft) Regulations 2011 (SI 2011/1771
("the Regulations")
Walker v Wallem Shipmanagement Ltd (Appeal No. UKEAT/0236/18/LA) (Copy enclosed)**

I write to you in connection with the recent sex discrimination ruling of the Employment Appeal Tribunal (EAT) referred to above, of which you may already be aware.

The brief facts are that Hong Kong based Wallem Shipmanagement, in the context of recruiting cadets from Blackpool & Fylde College, sent an email to the college stating that it "... will not offer places for female cadets because we can't offer the appropriate on-board environment ...". Unsurprisingly, Sophia Walker, a female cadet at the college to whom the email was forwarded, complained to Wallem Shipmanagement, and subsequently commenced a sex discrimination claim in the employment tribunal. Although the employment tribunal ruled that she was not protected by the Equality Act 2010 as applied to ships and seafarers by the Regulations, it would, had it jurisdiction over the case, have awarded her £9,000 in compensation for injury to feelings. Ms Walker appealed to the EAT, which upheld the employment tribunal's decision, for the same reasons.

This case is likely to cause considerable concern within the British maritime community, which has recently seen many campaigns and events aimed at promoting the entry of women into seafaring careers. I know you are personally committed to this cause and have done much to champion the role of women in the maritime industry.

Women in maritime was also the subject of a meeting at the ILO in February last year. Most seafarers are male, and all sides of the industry have been trying hard to diversify the workforce, to make it inclusive of people from all backgrounds.

Furthermore, the UK is a signatory to the Maritime Labour Convention, 2006, which outlaw's discrimination in employment and occupation.

In summary, the loophole in UK legislation, which denied Ms Walker access to justice, arose as follows. Section 81 of the Act provides that Part 5 (Work) only applies to ships and seafarers as prescribed. The Regulations (introduced by a previous Shipping Minister, Mike Penning) extend Part 5 of the Act to UK ships and EEA ships (but only when the latter are in UK waters). The EAT ruled that, as the relevant job in this case entailed work on a foreign ship outside UK waters, to which the Regulations do not extend the Act, Ms Walker did not enjoy its protection. Her argument, that she should have been treated like any other land-based applicant to whom the Act directly applies (and therefore not falling within the narrower scope of the Regulations), failed because she was held to be a seafarer, even although she had not yet secured employment.

Nautilus understands there may be legal restraints, and even policy considerations, which impact on determining the extra-territorial extent of UK employment legislation. For parliament to exclude from the Act seafarers on foreign ships working wholly outside UK waters is one thing. However, it is unacceptable that the Act does not apply to the recruitment of seafarers within the UK, in the circumstances described.

Currently (and we expect even after the current transition period) UK law must comply with Directive 2006/54/EC on equal opportunities and equal treatment of men and women in matters of employment and occupation. However, the EAT has stated that it is doubtful if the Regulations comply and, furthermore, recommends that the next quinquennial review of the Regulations (due by 31 July 2021) considers the "... injustice suffered by the claimant ..." in this case. I am also concerned that the same exclusion could apply in respect of UK-based recruitment agencies in connection with jobs on foreign ships outside UK waters, because all applicants would be subject to the same exclusion as the claimant in the instance case.

I am sure that you will agree that this matter should be one of utmost concern to the government, the maritime industry and all those championing equal opportunities and diversity in the workplace.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Dickinson', followed by a period.

Mark Dickinson
General Secretary