



ALL PARTY PARLIAMENTARY RAIL GROUP REPORT

Rail Reform: A Guiding Mind



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FOREWORD BY THE CHAIR

The issue of rail reform is contentious one. The politically-charged privatisation debate can be something of a distraction which prevents real progress being made.

It is clear that the reforms of the 1990s resulted in a halfway house between nationalisation and privatisation. It is important that we do not go backwards, otherwise passengers will suffer. Instead we must reform the market, take on the monopolies and boost competition beyond the bidding stage.

In September 2018, the Government established the independent Williams Rail Review to look at the structure of the whole rail industry and the way passenger rail services are delivered. The Review seeks to deliver recommendations for reform that prioritise passengers' and taxpayers' interests.

Furthermore, the October 2019 Queen's Speech committed to overhauling the franchising system and replacing it with a model focused on 'performance and reliability'. This is a welcome announcement, but any overhaul must be carried out holistically and with great care and attention.

The APPG for Rail carried out an inquiry in order to review alternative structures for passengers and freight operators with the objective of improving the flow of traffic, competition, customer service and creating new markets. We commend our Report to the Williams Review and the Department for Transport.



Martin Vickers MP

Chairman, All-Party Parliamentary Rail Group
Member of Parliament for the Cleethorpes Constituency

BIOGRAPHIES



Martin Vickers was elected Conservative MP for Cleethorpes in 2010, having served as a local councillor in North East Lincolnshire 25 years. In Parliament, Martin served on the Transport Select Committee and has chaired the All-Party Parliamentary Rail Group over two parliaments.



Dame Louise Ellman MP is a long-standing Labour Co-op MP for Liverpool Wavertree and former Chair of the Transport Select Committee. She has been in Parliament throughout all of the major changes in the rail industry since privatisation.



Lord Berkeley OBE is a Labour Co-op peer, having spent a career in civil engineering, including working on the Channel Tunnel. He is currently Deputy Chair of a review of the High Speed 2 scheme and Secretary to the All-Party Parliamentary Rail Group.



Lord Scriven is a Liberal-Democrat life peer, having been Leader of Sheffield City Council, 2008-11. His professional career spans construction, health and consultancy.

ACKNOWLEDGEMENTS

The APPG would like to thank Burges Salmon for clerking the evidence sessions and drafting this Report, as well as the Group's Secretariat, T&I Communications, for ensuring the smooth running of the Inquiry.

We are grateful for the time and attention of the following individuals who have supported the APPRG.

Martin Vickers MP, Lord Berkeley OBE, Dame Louise Ellman MP and Lord Scriven for acting as the panel for the Inquiry.

The groups and individuals who provided Written Evidence to the Inquiry including:

Arriva Trains UK, FirstGroup, Jonathan Tyler, the Office for Rail and Road, Network Rail, the Rail Delivery Group, the Rail Freight Group and the Urban Transport Group.

REMIT

Review alternatives/structures for passengers and freight operators, including a case study of the East Coast Main Line around an hourly timetable, with the objective of improving the flow of traffic, competition, customer service and new markets.

In discharging this remit, the Panel considered in detail the linkage to the forthcoming report of the Williams Review into rail franchising.

RAIL APPG INQUIRY PANEL

Martin Vickers MP (Chair)

Lord Berkeley OBE

Dame Louise Ellman MP

Lord Scriven

EVIDENCE SESSIONS

The recommendations put forward in this report are informed by:

- The oral evidence provided during three sessions on:
 - 10th June 2019
 - 12th June 2019
 - 17th July 2019 (part closed session)

The Panel is grateful to all of those who provided written and oral evidence.

KEY THEMES

The issues covered were wide ranging with a number of themes emerging. These fell into three levels:

- The objectives that the railway (and any reform) are to achieve.
- Governance – the structures or ‘architecture’ through which those objectives are to be delivered and the relationships between the different organisations involved with the railway.
- Implementation.

We have grouped both our analysis and recommendations accordingly.



OBJECTIVES

There needs to be clarity on the objectives and legitimate needs of:

- passengers;
- freight customers;
- wider society;
- organisations engaged in the industry such as TOCs, FOCs and infrastructure managers; and
- Government.

We are not convinced that there is currently clarity or consistency on those objectives, either for the railway, or in terms of what any new national rail body would be required and resourced to deliver.

The voice of the passenger and of freight customers needs to have a clear and distinct role in those objectives.

There are two aspects in particular where clear thinking is required:

- The logical rationale of a new national body would be that of a professional ‘controlling mind’ to make key decisions, ensuring consistency of thinking and approach. This found a large measure of support from witnesses. However, further devolution to the city regions and sub-national transport authorities, as well as to Transport Scotland and Transport for Wales also had significant support – often from the same witnesses.
- There is a clear tension and conundrum. Witnesses agreed on the need for liaison between the different bodies but this does not go to the core of the issue. It would appear viable to have a new centralised national controlling mind or to have decisions and related powers moved closer to local markets. It does not appear possible to have both however.

- The circle could be squared if all decisions and powers delegated to regions and cities relate to implementation. De-centralisation rather than devolution. That is though, understandably, not what is sought by those who advocate greater local control.
- The correct balance of risk and reward is a critical issue. There was support for the view that current model involves excessive prescription for franchisees and also sometimes the transfer of exogenous risk contrary to the principles of the 2012 Brown Review.
- Similarly the level of DfT direct control currently exerted over major project approvals and delivery by Network Rail was identified. This however was accepted to be a direct necessity currently as a result of recent high profile NR project time and cost overruns. This level of intervention will hopefully be relaxed as NR demonstrates renewed ability to deliver on projects including the Midland Main Line and East Coast Main Line renewals. The strapline objective of 'taking the politics out of the railway' was also a theme debated. However, there was strong witness consensus, with which we agree, that as funder of major projects and as a representative voice of the passenger and taxpayers, both central and local politicians rightly need to have a continuing role and the ability to influence policy. That need is, however, separate to decisions on strategic delivery and implementation once the policy has been mapped out.

GOVERNANCE

We heard many views on the suggested creation of a new national rail body (NRB) and the role(s) that it might carry out. There was significant support amongst witnesses for such a body. There was also general consensus that the demarcation line between government and it would be that of setting policy and funding by government and strategic control of delivery by the NRB. There was also consensus on the need for continuing independent combined safety and economic regulation through the ORR.

However (linking into the need for clear objectives – above) it was notable that views around the inter-relationship of any NRB and devolved authorities were far less clear. The need for active, constructive liaison between an NRB and the devolved authorities was taken as read but this begs the underlying policy tension between a national ‘controlling mind’ and true devolution of powers to regions. We also note that transport powers have already been devolved in large part to the Scottish and Welsh Governments (and Transport Scotland and Transport for Wales). A body with UK wide controlling powers similar to the Strategic Rail Authority (SRA) in the early 2000s is therefore no longer viable.

There is also a strong argument for the NRB to develop smaller regional NRBs in areas such as Northern Powerhouse, Midlands Connect and the greater London or South West areas similar to the Transport Scotland area, to lead the development of more integrated infrastructure and services with a greater link with cities in those areas.

It was observed that the physical geography, the economic geography and the political geography of the various parts of the UK do not neatly coincide. This reality is more acute in the English and city regions and wider regions than in Wales and Scotland. It was also observed that those different geographies are each not constant and evolve over time. We agree with both observations. Both the objectives set and the structures set up to deliver those objectives

therefore need to be able to flex to meet evolution in those three geographies.

We also note that rail freight needs a national (and international) policy and commitment built into the governance structures.

A further point arose in parallel with the evidence sessions. Speculation about the Williams Review outcome was reinforced by a Sunday Times article of 11th August 2019 reporting that the review had recommended “*a huge increase in Network Rail’s powers putting it at the heart of a powerful new organisation*” including:

- NRB ownership of rail infrastructure and oversight of train services
- Unification of train and track through that structure
- NRB to incorporate DfT rail franchising functions and team
- New franchises to pass less risk to operators
- NRB to incorporate RSSB, setting safety standards and functions

There has been a long-standing tension since privatisation. Even those who supported wholeheartedly the liberalisation of the rail network could regularly be heard calling for a “*controlling mind*”. However the concept of a liberalised, regulated rail market and a single controlling mind are logically incompatible. The former is about a symmetrical balanced system with clear distinctions between those who set the targets and rules then police or investigate them and those who deliver against those targets and rules. The ‘*controlling mind*’ concept is something which depends upon vertical control structures. It is possible to have one or the other, but logically not both.

A number of witnesses expressed concern about the significant structural, operational and commercial conflicts which would be created by combining

multiple functions within Network Rail. Those tensions have the potential to adversely affect passengers, freight customers and the wider public, as well as making a complex system dependent on symmetry highly asymmetric once more. We agree with those concerns given the logically distinct roles of 'referees' and players.

Whilst this aspect was not covered in evidence the panel notes also that this distinction was a key part of the conclusions and recommendations of Lord Cullen's public inquiry recommendations after Ladbroke Grove, including his firm conclusions that: asymmetry was not viable and that it was inappropriate an infrastructure manager should set safety rules for freight and passenger operators. He stressed that *"this was the superimposition of the relationship of regulator and regulated upon a relationship of supplier and customer"* and carried with it clear conflicts of interest. That analysis was driven by the universal reality that all organisations (whether public or private) naturally tend to favour their own interests and play to their own centre of gravity.

Those findings fed into work being carried out in parallel by the European Commission. Since 2004/5 both European and UK legislation has therefore required that certain functions can only be carried out by the national safety authorities, including a number of the functions that speculation now indicates might pass to a new NRB.

The need for greater alignment of incentives was also stressed by a number of witnesses. It is not obvious how that would be achievable with a dominant combined player/referee with power to allocate risk and reward to others through franchise commitments, capacity allocation, charging structures, safety rules and operating rules whilst being required also to deliver and manage the infrastructure.

Finally, the government and industry needs to learn the lessons from the successes and failures of the Strategic Rail Authority – in terms of governance, accountability and the problems and cost of frequent political changes. It is also important to deliver change using the existing legislative and regulatory framework to the greatest extent possible so as to avoid delaying the implementation of change whilst legislative reform passes.



IMPLEMENTATION

A number of important themes directly impacting on efficiency and delivery for freight customers and passengers were identified by in the evidence and discussion. The Panel also considered the position of the East Coast Main Line in this context.

On reform of rail franchising we agree with the view expressed by RDG and others that different delivery models are needed. A menu of model suited to the particular geographic needs of passengers and economic growth opportunities. One size should not fit all. For example a concession contract with agreed returns (for successful delivery) and little or no transfer of revenue risk, may be well suited to the development of some large city regions.

At the other end of the spectrum an intercity line with available capacity might – after careful analysis and balancing of different freight and passenger requirements – support an auction of open access rights. The panel received some evidence that the East Coast might fit that category, although careful feasibility analysis would be needed before forming a view on that. The Great Western and West Coast Main Lines in contrast are even more highly capacity constrained and will be so for the foreseeable future.

Variant models between those ends of the spectrum may well work. The choices need to be shaped by clarity of objectives, by who is doing what respectively (funding/specifying/delivering) and by how the system will still work as a total system, including alongside freight and existing open access operations. In securing these objectives, wider issues and strategies, such as climate change, also need to be considered.

Repeated experience, confirmed by the evidence, confirms that transfer of risk and ambitious franchise models are not obviously compatible with periods of large scale infrastructure change. Management contract models and direct awards are more suited to that situation.

There was also a clear consensus that the positive safety record of the industry needs to be sustained. There can clearly be no trade-off between safety and efficiency; the two are complementary and inter-dependent.

On alignments, including timetabling:

- The panel received a detailed submission on the potential benefits of a Swiss-style 'clockface' timetabling approach. There are potential benefits of such an approach. However, any potential implementation would first require careful risk benefit analysis, including the upsides and downsides for passengers and freight customers. The East Coast might – although we stress that careful review would be required – be used as the basis of a feasibility study.
- Currently there is a clear disconnect between NR control period infrastructure commitments set by ORR, franchising specifications set by the Department of Transport and the timetabling process co-ordinated by NR and ultimately refereed by ORR. NR is involved actively in discussions with franchise bidders and the department. However, there is currently no structure or process that meshes the resulting commitments such that the infrastructure projects, track capacity and timetable mandated or required by a franchise specification will be available. This results in problems and lost benefits and investment.
- We also heard a view that current value-for-money (VfM) parameters can create perverse outcomes.

RECOMMENDATIONS

Objectives

- The Government's policy and delivery objectives (both for the industry and for any reform of it) should be set out in a readily accessible form so that proposals can be readily tested against those objectives.
- The objectives must:
 - factor in the clear voices and needs of passengers and freight customers, all operators who have to meet those needs and government (central and other) as funder/voice of the taxpayer;
 - provide clarity of thinking on both (a) policy on the relationship between any central 'controlling mind' organisation and devolution and (b) principles of fair risk and reward;
 - be able to flex to accommodate changing political or economic geography; and
 - currently also need to take account of Section 4 of the Railways Act 1993 (as amended).

Architecture

- The roles of government (local and central) as funders, political voice and policy setter should continue, as should the independent role of ORR in both safety and economic regulation.
- Clarity should be provided on the roles and powers of, and interfaces between, any new specifying national rail body and devolved transport bodies.
- Any proposal to transfer powers to NR as a new national rail body should first be carefully analysed and risk assessed against:
 - Safety impacts including the conclusions of the Cullen Inquiry and current UK and EU rail legislation on symmetry and independence of certain roles;



- Competition and market impacts including franchised services and open access passenger and freight services;
- Alignment, and potential dis-alignment, of incentives; and
- A requirement that any changes must have a clearly defined benefit to both passenger and freight operators and their respective customers.

Implementation

- The positive safety record of the industry needs to be sustained. There must be no trade-off between safety and efficiency as the two are complementary and inter-dependent.
- Different models of delivery of passenger services should be explored and used in a way targeted to different customer needs and best geographic ‘fit’. The choices of which model to use where need to be determined by clarity of objectives, by who is doing what respectively (funding/specifying/delivering) and by how the system will still work as a total system – including alongside freight and existing open access operations.
- Ambitious franchise models that seek to transfer high levels of risk should not be used during periods of large scale infrastructure change.
- A new structure and a new process should both be implemented that sets and meshes visible and accountable commitments (including upon NR and other relevant infrastructure managers) such that the infrastructure projects, track capacity and timetable mandated or required by a franchise specification will definitely be available. There should be no continuation of the current disconnect between those elements.

- A review of current VfM criteria should be carried out against a small but representative selection of (rejected) proposals of varying scale to analyse whether those criteria risk wider perverse unintended effects.
- Separate but co-ordinated feasibility studies should look closely on the East Coast Main Line at the viability potential advantages and disadvantages, including for passengers, freight and taxpayers, of:
 - Moving competition to an open access ‘auction’ model (or similar)
 - A Swiss style ‘clock-face timetabling approach.

CONCLUSION

We are pleased to present this report from the All-Party Group which we hope will be considered alongside the Williams Review. Our members have great experience in rail issues and consider it provides a thoughtful and realistic assessment of the current situation.

While some may say we've been here before, it is important that any structural change not only focuses on aligning sometimes competing priorities, but also maintains the industry's primary role – serving its customers.

We commend our report to Keith Williams and his team and are pleased to present our observations to the Rail Minister, Chris Heaton-Harris MP.



Station
Bus
Train
Underground
Way out
Stansted

Liverpool Street
UNATTENDED LUGGAGE
Liverpool Street

