

HIGH SPEED TWO PHASE 2a INFORMATION PAPER

D4: CONSTRUCTION COMMISSIONER

This paper outlines proposals for the HS2 Construction Commissioner.

It will be of particular interest to those potentially affected by the Government's proposals for high speed rail.

This paper was prepared in relation to the promotion of the High Speed Rail (West Midlands-Crewe) Bill which is now enacted. It was finalised at Royal Assent and no further changes will be made.

If you have any queries about this paper or about how it might apply to you, please contact the HS2 Helpdesk in the first instance.

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D4: CONSTRUCTION COMMISSIONER

1. Introduction

- 1.1. High Speed Two (HS2) is the Government's proposal for a new, high speed north-south railway. The proposal is being taken forward in phases: Phase One will connect London with Birmingham and the West Midlands. Phase 2a will extend the route to Crewe. Phase 2b will extend the route to Manchester, Leeds and beyond. The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act 2017.
- 1.2. HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works to a Development Agreement made with the Secretary of State for Transport.
- 1.3. In July 2017, the Government introduced a hybrid Bill¹ to Parliament to seek powers for the construction and operation of Phase 2a of HS2 (the Proposed Scheme). The Proposed Scheme is a railway starting at Fradley at its southern end. At the northern end it connects with the West Coast Main Line (WCML) south of Crewe to allow HS2 services to join the WCML and call at Crewe Station. North of this junction with the WCML, the Proposed Scheme continues to a tunnel portal south of Crewe.
- 1.4. The work to produce the Bill includes an Environmental Impact Assessment (EIA), the results of which are reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs)², which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.5. The Secretary of State for Transport is the Promoter of the Bill through Parliament. The Promoter will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill. This body is known as the 'nominated undertaker'. The nominated undertaker will be bound by the obligations contained in the Bill and the policies established in the EMRs. There may be more than one nominated undertaker.
- 1.6. These information papers have been produced to explain the commitments made in the Bill and the EMRs and how they will be applied to the design and construction of the Proposed Scheme. They also provide information about the Proposed Scheme itself, the powers contained in the Bill and how particular decisions about the Proposed Scheme have been reached.

¹ The High Speed Rail (West Midlands – Crewe) Bill, hereafter 'the Bill'.

² For more information on the EMRs, please see Information Paper E1: Control of Environmental Impacts.

2. Overview

- 2.1. This paper outlines proposals and proposed terms of reference for the HS2 Construction Commissioner. The Secretary of State will ensure that a Construction Commissioner is appointed to cover Phase 2a by the time construction begins.
- 2.2. A Construction Commissioner will be appointed to deal with complaints which, in the view of the complainant, have not been dealt with satisfactorily by the nominated undertaker.

3. Proposed terms of reference

- 3.1. If someone is unhappy with any aspect of Phase 2a's construction, their first step would be to complain to the nominated undertaker. If the complainant feels that their complaint has not been satisfactorily addressed through the normal procedure, they can raise their issue with the Construction Commissioner.
- 3.2. He or she will investigate any grievance where it is alleged that the nominated undertaker has not satisfactorily addressed a matter raised by a complainant.
- 3.3. Following an investigation by the Construction Commissioner, if a complainant feels that their complaint has not been satisfactorily addressed they can ask a Member of Parliament to refer their complaint to the Parliamentary and Health Service Ombudsman.
- 3.4. The Construction Commissioner will also be able to provide advice to members of the public on how to complain, and is expected to be accessible to all who may reasonably require his or her services.
- 3.5. It is expected that the Construction Commissioner's main functions will be to:
 - ensure that people who are affected by HS2 works know who the Construction Commissioner is and what he or she does;
 - ensure that the role is well publicised, easily accessible and has clearly defined processes and timescales;
 - mediate in unresolved disputes between the project and individuals or bodies;
 - provide an annual report and other reports as required by the independent body on the activities of the Construction Commissioner's office and statement of accounts to the independent body;
 - advise the nominated undertaker where action could be taken to reduce complaints;
 - monitor and report on the Small Claims Scheme; and
 - act as an arbitrator for the Small Claims Scheme in the event that a dispute cannot be resolved through the normal process.

- 3.6. The Construction Commissioner's role will not cover:
- complaints that have not first been considered by the nominated undertaker's helpdesk;
 - complaints relating to works that are not part of, or associated with, the HS2 project;
 - complaints relating to planning conditions and other matters that are subject to the approval of statutory authorities;
 - matters considered by Parliament in approving the project;
 - matters dealt with by the Office of Rail Regulation, and operational rail matters dealt with by train operating companies and passenger watchdogs;
 - matters under investigation by the Health and Safety Executive;
 - complaints relating to property compensation issues;
 - claims for losses over £10,000;
 - complaints relating to settlement deeds (see Information Paper C14: Ground Settlement & C10: Small Claims Scheme for further details);
 - the operation of the HS2 railway or services³; or
 - matters relating to HS2 Safeguarding Directions.

4. Appointment

- 4.1. An independent Construction Commissioner will be appointed by the Promoter. The Construction Commissioner will be monitored by an independent body.
- 4.2. The precise terms of reference for the Construction Commissioner will be established by the independent body, made up of a variety of project stakeholders.
- 4.3. The Construction Commissioner will be able to provide independent, impartial decisions, ensuring a fair and balanced approach to cases that cannot be resolved through the normal complaints process.
- 4.4. The role will relate to the construction of the Proposed Scheme, not its operation. Once construction has been completed, the role will terminate.

5. Next steps

- 5.1. An independent Construction Commissioner will be appointed by the Promoter and an independent body will monitor the Construction Commissioner.

³ Complaints relating to the operation of the service will follow the same procedure as those about other passenger rail services: London TravelWatch or the Rail Passengers Council (Passenger Focus).

- 5.2. Full terms of reference for the Construction Commissioner will be agreed in due course by the independent body.

6. More information

- 6.1. More detail on the Bill and related documents can be found at: www.gov.uk/HS2