



House of Commons  
Transport Committee

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**Cancellation of the  
InterCity West Coast  
franchise competition:  
Government Response  
to the Committee's  
Eighth Report of  
Session 2012–13**

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**First Special Report of Session 2013–  
14**

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## The Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Transport and its Associate Public Bodies.

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### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at <http://www.parliament.uk/transcom>. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

### Committee staff

The current staff of the Committee are Mark Egan (Clerk), Farrah Bhatti (Second Clerk), Richard Jeremy (Committee Specialist), Helen Agnew (Senior Committee Assistant), Adrian Hitchins (Committee Assistant), Stewart McIlvenna (Committee Support Assistant) and Hannah Pearce (Media Officer)

### Contacts

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# First Special Report

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On 24 April 2013 we received a response from the Government to the Transport Committee's Eighth Report of 2012–13, *Cancellation of the InterCity West Coast franchise competition*, in the form of a letter from the Secretary of State which covered a number of different matters. The parts of the letter which responded to our report are set out below.<sup>1</sup>

## Government Response

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### Introduction

Following the cancellation of the competition I took immediate action by asking Sam Laidlaw to carry out an independent inquiry into what happened and the lessons to be learnt and Richard Brown into the future of franchising. I published Sam Laidlaw's report and our response in December 2012 and Richard Brown's report in January 2013. We have learnt lessons and we continue to take swift action to implement changes within the Department.

### Calculation of the SLFs

**A more direct description of what happened is that ministers and senior officials were lied to about how the outcome of the franchise competition had been reached. A major unanswered question is why ministers and senior officials were misled about how the SLFs had been calculated, the issue which led directly to the cancellation of the franchise competition. We recommend that the Department explain why this happened, if necessary after decisions have been reached on whether or not to take disciplinary action against particular members of staff. (Paragraph 26)**

Mr Laidlaw highlighted a number of factors that, operating together, caused or at least contributed to the flaws in the running of the competition. This included that opportunities to escalate or report appear not to have been taken; inadequate planning and preparation; an organisational structure that failed to set out roles, responsibilities and associated accountabilities clearly; the resources of the DfT being excessively stretched; and an ineffective governance framework.

Mr Laidlaw made no assessment of whether any official acted inappropriately. In accordance with procedures set out in the Departmental Staff Handbook the Department appointed Bill Stow a retired Senior Civil Servant to conduct an investigation about the role of individuals.

Shortly after receiving Bill Stow's report, the Permanent Secretary initiated disciplinary action against a number of individuals in the Department. This action is a confidential staff matter and we are not therefore able to make any public statement about the outcome of the disciplinary process.

The Secretary of State for Transport has been clear that he trusts his civil servants. We know that we need to re-build confidence more widely in the Department and to demonstrate the Department's strong record of delivery on a very important agenda for the UK.

## Email capture

**In our view, we cannot categorically rule out the possibility that officials manipulated the outcome of the competition not only to keep First Group in the running for as long as possible, as Mr Laidlaw suggested, but to ensure that First got the contract. We recommend that the DfT find a way of undertaking a full email capture, reporting to someone suitably independent, to help get to the bottom of why DfT staff discriminated against Virgin and in favour of First Group during the ICWC franchise competition. (Paragraph 28)**

The Department ran its own extensive email search itself through the HR investigation according to specifications set by Sam Laidlaw's advisers, designed to detect any bias, primarily against Virgin. This found no evidence of bias.

When Mr Laidlaw appeared before the Committee, he said given the enormous amount of data that he did look at and the fact that he had the benefit of reviewing all the e-mails that were provided to the HR inquiry and could see no evidence of systemic bias or anti-Virgin culture, he felt that his conclusion is a reasonably robust one.

We feel that this approach is sufficient to detect whether there was any bias against Virgin during the process.

## Costs

**One of the most significant and disappointing aspects of this episode is that money which could have been spent on transport projects to yield tangible benefits to people across the country has instead been spent on consultants, lawyers and review teams; on work which has achieved nothing; and on compensating train operators for the DfT's incompetence. Once decisions have been taken on how to proceed with the rest of the rail franchising process the DfT should provide us with a comprehensive breakdown of the costs it has incurred as a result of the cancellation of the ICWC franchise compensation, including the opportunity costs identified by the NAO. (Paragraph 30)**

The Secretary of State has apologised on behalf of the Government to taxpayers and fare payers for this regrettable outcome caused by unacceptable mistakes during this complex procurement process. It is right that we should compensate the bidders in this case and that does mean a cost to the public purse. We will inform Parliament of the breakdown of the costs once the process is complete.

The NAO suggested that a potential major opportunity cost to the Department is the lack of investment in the franchise while it runs another competition. The West Coast Mainline has of course already received very significant investment in recent years with £9 billion invested in the upgrade of infrastructure, and new rolling stock including recently 106 new Pendolino coaches. The Department will continue to discuss with the operator of the

ICWC franchise options for additional investment and improvements to services during the period of the current franchise extension. We are currently working with Virgin Trains to understand if there is positive a business case to invest in new rolling stock for the franchise. We are also working with Virgin Trains on a package of investment and improvement schemes at a number of stations.

## Lessons to be learnt

**In this report we have identified a number of policy and resourcing decisions which turned out to be misjudgements. It is not possible for us to assess whether officials appropriately drew attention to the risks associated with these decisions because the relevant papers are not in the public domain. However, we strongly suspect that there are lessons for ministers in terms of more realistically matching policy ambition to departmental capacity and resources, not least in their role as chairs or members of boards. We recommend that the Secretary of State inform us of the lessons he considers current and future ministers, rather than officials, should draw from the cancellation of the ICWC franchise competition. (Paragraph 32)**

Mr Laidlaw's report is clear that Ministers did not know about the flaws in the process and he stated to the Transport Select Committee that the evidence he took from two Secretaries of State and the Minister who was involved throughout this process shows that they 'asked pretty penetrating questions', and in the answers they received 'they had no reason to suppose that the process was flawed'.

Mr Laidlaw also said in his report that substantial cost savings were required by the Government's spending review in 2010, but this is not to say that, with appropriate escalation and follow up of the issues, sufficient resources could not or would not have been found for this particular issue. We have now finalised our corporate planning process for the next financial year and we have made a deliberate choice to prioritise rail franchising.

In terms of learning lessons about our franchising policy, Richard Brown was asked to consider how best to restart the franchising programme. We published Richard Brown's recommendations on 31st January 2013. Mr Brown concludes that franchising is a fundamentally sound approach for securing the passenger railway services.

## Action taken

**We recommend that, in its reply to this report, the Department inform us of the action it has taken in relation to each of the recommendations made by Laidlaw. Furthermore, we wish to receive an updated analysis in January 2014, which should also cover the action taken in relation to each of the recommendations of the Brown report which the Department decides to accept. (Paragraph 32)**

Alongside Mr Laidlaw's report, the Department published a response document setting out the actions we will take in light of the WCML cancellation. We have already made progress on many of these.

## Planning and Preparation

We said that we would reflect on Mr Brown's review of the rail franchising programme before making any decisions about the commercial terms of the franchise offer or the terms of the ITTs. We have now received Mr Brown's report and we published the full version on the 31st January when we announced our plans for the three paused franchise competitions. We have also set out a clear programme for future franchising. This approach will provide certainty to the market and support our programme of rail investment.

We have appointed a Director General for Rail who is accountable for all rail related activities in the department. We have taken on board the recommendations made by Mr Laidlaw and Mr Brown about the need to establish a properly resourced procurement organisation. We have created the post of Franchising Director which is currently being filled on an interim basis until we appoint a permanent resource. The Franchising Director is a single point of contact responsible for delivering the franchising programme. Each franchise procurement team has been restructured into discrete teams with each of the individual strands of specification of the franchise and procurement reporting to a Project Director. The Project Director is responsible for overseeing the delivery of each stage of the competition.

We want to ensure that each franchise competition has the right mix of skills, experience and knowledge and we have conducted a skills review to inform the allocation of resource to each team. This reported in January to the Department's Executive Committee. We are currently running a competition to ensure we have the right suite of external advisers for the programme. The Department has started to fill further posts in the franchising directorate and is seeking to strengthen the commercial and procurement skills held in the organisation via this process.

The recommendations made by Mr Brown are being taken carefully into account in shaping the programme. These included the recommendation that the pace of the programme should have regard to the capacity of both the Department and the industry to resource successive competitions.

In order to oversee the programme we have also formed a Rail Franchising Advisory Panel, chaired by Richard Brown. This Panel will advise, support and inform the Secretary of State on the rail franchising programme, provide support, challenge and assurance to the Franchising Director and provide a commercial perspective to the programme.

## Organisational structure and governance

A Rail Board has been created as part of establishing the governance and assurance for the new Rail Group. The arrangements for the new Rail Group will be aligned with the principles established for governance and assurance processes to be rolled out across the Department. Similarly the local arrangements at rail programme and project level will reflect those applied at Rail Group and Departmental level.

A Procurement Assurance team has been established within the Rail Franchising Directorate to ensure that sound and transparent processes are in place. The team is reviewing the current procurement process. A high level franchise procurement process

map explaining the key stages, critical decision points and the principal considerations at each key stage is currently being market tested and scheduled to be published by the end of April 2013. We will also produce a Franchising Competition Process Guide which will set out in detail how the procurement of passenger rail franchises is undertaken along with a full description of the Governance the Department applies to its franchise procurement procedures. This is scheduled to be published in June 2013.

The new process will also include a 4 step procurement assurance review that will take place at key stages during the procurement process. An independent team of procurement professionals will 'follow' a procurement through its lifecycle providing independent and robust assurance to relevant boards or committees.

A cross-Government review on the policy of anonymisation of bids has commenced. This is being led by the Group Procurement and Policy team with significant input from the Cabinet Office Procurement policy team.

We have also started a Governance Review to revisit the composition and constitution of the bodies involved decision making. This includes considering our approach to assurance and the extent and limitations of delegated authority held by committees and individuals. We are also refreshing our risk management policy, including the route for escalating issues and risks.

## Resources

We have started training for our Senior Responsible Owners and will have made this available to the SROs in our new rail group by the end of March. We are also refreshing our induction training and are working on a new Learning and Development Strategy for the Department.

We have now finalised our corporate planning process for the next financial year and we have made a deliberate choice to prioritise rail franchising.

## Audit

We have reviewed and reset our programme of internal audit which included the scrutiny of the Group Audit Committee. We have also placed on the agenda at our Executive Committee meetings the findings of the Internal Audit and the Major Project Authority about those projects they are most concerned about. As we update our project documentation following the Governance Review mentioned above we are making clear the contribution these reviews make as part of the wider assurance strategy.

## Wider Assurance

As we said in December we had already started work on quality assurance principles for our modelling and procurement activity.

Sir Nick Macpherson has now published his report on the review of quality assurance of Government analytical models. In light of this report we are finalising our quality assurance and best practice guidelines which are a source of information and guidance for all those in the department using producing and using analysis.

We are also well on the way to producing a procurement user guide to assist those outside the profession, as well as a comprehensive set of guidelines for procurement professionals.