

**Subject: Chairman of London TravelWatch<sup>1</sup>**

Report Number: 6

**Report to: Transport Committee****Date: 2 June 2008****Report of: Executive Director of Secretariat****1. Recommendations**

- 1.1 To note that the contents of this report and its appendices are in the public domain and to decide:
- (a) whether to resolve that information circulated to Members in confidence advance of this meeting (letters from Chairman of London TravelWatch dated 23 May 2008, a letter from the Deputy Chair dated 19 May 2008 and an email from a board member dated 22 May) should not be disclosed to the public; and
  - (b) whether to resolve that, the meeting should move into private session private session to consider recommendations 1.3 and 1.4 (namely whether Mr Cooke breached his terms of appointment and what, if any, action to take against him).
- 1.2 To consider the action of the Chairman of London TravelWatch in issuing a personal statement over the weekend of 26/27 April 2008 in relation to the Mayoral election held on 1 May 2008, and to do so in the light of the terms and conditions of the Chairman's appointment, the Guidance Note to Members/Chairman signed by all office-holders before they took up office, and the Chairman's response to complaints received.
- 1.3 If the Committee determines that the Chairman's personal statement was in breach of the terms of his appointment and the conditions under which he holds office, to decide on any appropriate action, subject to informal consultation with the Department for Transport as necessary.

**2. Background**

- 2.1 Brian Cooke was appointed as Chairman of the London TravelWatch Board in 2004 with a term of office expiring on 30 September 2008. The appointment of the Chairman of London TravelWatch has to be subject to consultation with the Secretary of State for Transport.
- 2.2 The Assembly has delegated all of its functions relating to London TravelWatch to the Transport Committee. At its last meeting on 11 March 2008, the Transport Committee approved the recruitment process for the appointment of the Chairman from October 2008 until September 2012.
- 2.3 Extracts from the job profile, terms of appointment and guidance notes for the Chairman of London TravelWatch are attached at Appendix A. These were accepted by the Chairman and signed by him

---

<sup>1</sup> Operating name of the London Transport Users Committee (LTUC)

on 29 September 2004. The Committee's attention is drawn in particular to paragraph 15 of Appendix A / 3.

- 2.4 Brian Cooke issued a personal statement on the weekend of 26/27 April 2008 and this is attached at Appendix B.
- 2.5 A number of complaints were received by London TravelWatch in the days following the media coverage of this statement regarding the Chairman's action in releasing the statement, even in a personal capacity. The grounds of complaint varied slightly but revolved around the political nature of the statement and the impact it was alleged it would have on the reputation of the office and his leadership of the London TravelWatch Board, given its need to remain a politically impartial consumers champion.
- 2.6 The protocol for the consideration of complaints against the Chairman of London TravelWatch provides for the Chief Executive of London TravelWatch to refer them to the Executive Director of Secretariat if this is appropriate. Given the nature of the statement, the complaints received and the option for termination of the Chairman's appointment if he should be deemed to have breached his terms and conditions, it was decided that the complaints should be dealt with by this Committee, acting on behalf of the Assembly. Members of the Committee have received copies of the complaints, a letter from the Deputy Chair of the London TravelWatch Board and also a letter from another Board Member of London TravelWatch.
- 2.7 Brian Cooke was informed that his personal statement was to be referred to this Committee and was asked to respond to the appearance that, in issuing that statement, he had breached his terms and conditions. His response has been circulated to Members of the Committee, and he has been invited to attend the meeting to answer any questions that Members may wish to ask him.

### **3. Issues for Consideration**

- 3.1 The key issues for the Committee to consider are whether, having considered the material attached at Appendices A and B and the Chairman's response to the alleged breach, -
  - a) the Chairman's personal statement did breach the guidance against political speeches or other political activity, and if it did
  - b) the Chairman thereby brought his office into disrepute, and
  - c) he is therefore liable to any sanction by the Committee?
- 3.2 The conditions of the Chairman's appointment include for termination prior to the end of the term of office in the event that he is deemed to have breached them. However, before deciding upon what, if any, action to take against the Chairman, the Committee should take full account of the Chairman's personal statement, his response to the complaints alleging breach of his terms and conditions, and the reasonableness of any action it decides upon.
- 3.3 If the Committee conclude that the Chairman has breached his terms and conditions of appointment and has thereby brought his office into disrepute, the options available to the Committee are to -
  - A. terminate his appointment prematurely, whether with immediate effect or at 3 months' notice,
  - B. issue a written warning as to his future conduct in relation to matters addressed in the Guidance Note and his Terms and Conditions generally, or
  - C. take no further action.
- 3.4 If the course selected by the Committee in this circumstance were Option A, there would be no requirement formally to consult the Department for Transport although they have asked for informal

consultation in that eventuality as the Chairman of London TravelWatch also serves on Passenger Focus which is overseen by them.

- 3.5 If the Chairman's appointment were to be terminated, whether immediately or at three months' notice, the Committee would need to decide how the office should be covered until such time as the new Chair is appointed in October or, if available, any earlier date. The Committee may agree that -
- a). whilst the Deputy Chair would properly preside over the Board's proceedings in the interim, Members of the Board should immediately be canvassed for interest in appointment as Interim Chair pending the appointment of the new Chair and, if so,
  - b). the Chair and Deputy Chair of this Committee should be authorised to consider any expressions of interest received and appoint a Board Member as Interim Chair until 30 September 2008 or until the new Chair is available to take up appointment, whichever is the earlier.
- 3.6 The Committee would also need to agree to appoint a replacement representative on the Board of Passenger Focus, which is an independent public body set up by the Government to protect the interests of Britain's rail passengers and which is also currently preparing under new legislation to take on the representation of bus passengers outside London. This, too, could be delegated to the Chair and Deputy Chair of this Committee when acting in regard to 3.5(b) above, subject to consultation with the Department for Transport. Following an earlier decision of the Transport Committee the Chair of London TravelWatch is not automatically appointed to Passenger Focus.

#### **4. Legal Implications**

- 4.1 Among the recommendations, the Committee is asked to determine whether the Chairman's personal statement was in breach of his terms and conditions of appointment, and to decide on any appropriate action to take against him.

*Determining whether the Chairman's personal statement was in breach of his terms of appointment and sanction*

- 4.2 In deciding this, the Committee should deal with the matter in accordance with general principles of natural justice, fairness and reasonableness.
- 4.3 Accordingly, at its meeting, the Committee should consider and take into account:
- (i) the Chairman's personal statement;
  - (ii) the Chairman's terms of appointment (including the Guidance for Members of London TravelWatch that form part of those terms); and
  - (iii) any oral representations the Chairman wishes to advance, in addition to his written response and the answers to questions the Committee may wish to put to him, including any mitigation which he must be given the opportunity to present.
- 4.4 On the basis of that information, the Committee must objectively decide whether it is more likely than not that:
- (i) the Chairman's actions were such that his continued membership of London TravelWatch would bring that office into disrepute, and that his appointment should be terminated summarily; and if not, whether or not:
  - (ii) the Chairman's actions were in breach of his terms of appointment such that it would be appropriate and proportionate to impose other sanctions upon him, including termination of appointment with 3 months' notice; or other sanctions such as warnings and/or requiring an apology.

- 4.5 The Committee has the power to do all of the above, but should be mindful if or when imposing any sanction, to take into account any mitigation advanced by the Chairman, and the need for the sanction to be proportionate to any breach established. If, of course, the Committee establishes no breach, it should not impose any sanctions on the Chairman.

*Open or private meeting*

- 4.6 Clearly Transport Committee's meeting will be considering the Chairman's personal statement issued over the weekend of 26/27 April 2008, which is already in the public domain.
- 4.7 The meeting will, however, be considering what action, if any, it should take against the Chairman. The consideration, and determination of this issue should therefore only be held in public session if the Committee considers that dealing with it in public outweighs the public interest in dealing with it in private.
- 4.8 In the event that the Committee decides that the session be in private, it must pass a resolution to this effect, citing that, in view of the nature of the matters to be considered, exempt information (as defined in s 100I and Part 1 paragraph 1 and Part 2 paragraph 10 of Schedule 12A of the Local Government Act 1972) is likely to be disclosed and that the public interest in considering such matters in private outweighs the public interest in considering them in public.

## **5. Financial Implications**

- 5.1 The recruitment of the Chair of the London TravelWatch Board for the period 1 October 2008 to 30 September 2012 has already been authorised.
- 5.2 London TravelWatch is a separate legal entity which is funded by the London Assembly in accordance with Schedule 19 of the GLA Act 1999 (as amended). Funding forms part of the London Assembly and Secretariat budget and the approved Authority's contribution to the London TravelWatch budget is £1.633m in 2008/09, £1.682m in 2009/10 and £1.732m in 2010/11. The annual salary costs (including on-costs), allowances and other staff related costs for the Chairman of London TravelWatch and membership of Passenger Focus are contained within the London TravelWatch budgets.

Background papers:

Memorandum of Understanding between London Assembly and London TravelWatch  
Complaints Received from Members of the Public

Contact:

John Bennett  
Head of Special Projects and Elections  
020 7983 4203

## Extracts from job profile for the Chair of the London TravelWatch Board

### Job Purpose

To develop London TravelWatch into the capital's foremost consumer watchdog representing the interests of all transport users within its area in order to promote continued improvement in transport provision.

### Person Specification

1. Must have a record of senior level achievement and have significant experience of chairing committee meetings at regional or national level.
2. (a) Evidence of being a frequent user of transport services in and around London with the ability to quickly develop an understanding of the concerns and issues of passengers and users.  
  
(b) Must reside within the London TravelWatch area (see map enclosed and declaration on the application form)
3. The experience of dealing with both print and broadcast media on high profile and potentially contentious issues
4. The ability to work within a complex political environment with the necessary political sensitivity to lead a consumer watchdog organisation.
5. A confident and effective communicator with people at all levels including opinion formers and users from all sectors of the community.
6. The ability to identify the key messages within policy documents and statistical data, deliver empirical research into customer opinion and ensure high quality documents for publication.
7. Experience of organisational stewardship through effective leadership, the exercise of good judgement and responsible decision-making.
8. A commitment to equalities issues and experience of implementing policies and procedures to ensure London TravelWatch champions accessible transport.

**Extract from terms and conditions of appointment of the Chair of the London TravelWatch Board**

- 7 The appointment is also subject to termination before the end of the 4 year period if the London Assembly has determined that the appointee's continued membership of [LTW] would bring that office into disrepute and that the appointee's appointment should be terminated.

The London Assembly also reserves the right and you have the right to terminate the appointment before the end of the 4-year period on 3 months notice in writing.

## Extract from the Guidance Note for Members / Chair of the London TravelWatch Board

### Guidance Note For Members of London TravelWatch<sup>2</sup>

This guidance applies to what you yourself do, whether it is for your own benefit or for anyone else's (including spouses, parents and children), or if you are acting as a trustee. It does not directly apply to dealings in which spouse, parents or children take their own separate decisions. Those decisions will be insulated from your knowledge by the rule that you must not in any case give confidential or private information you have as a member of London TravelWatch to anyone other than in the course of your duty as a member.

#### General

London TravelWatch has adopted the seven principles of public life as a statement of Corporate Values. The principles are:

- Selflessness (decisions taken solely in terms of public interest)
- Integrity (without putting themselves under any financial or other obligation to those who might influence them in the performance of their duties)
- Objectivity (choices, where they apply, should be made on merit)
- Accountability (holders of Public Office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate)
- Openness (decisions should be transparent where possible. Information should be restricted only when the wider public interest clearly demands)
- Honesty (Holders of Public Office must declare any private interests relating to their public duties and take steps to resolve any conflicts of interest)
- Leadership.

- 1 Members of public bodies are expected to adhere to these principles and values of public service and perform their duties and functions accordingly. But simply to comply with any rules of conduct may not in itself be enough because appearances also matter. You should, therefore, at all times avoid any occasion for suspicion and any appearance of improper conduct. What the public believes about your conduct will affect the credibility and integrity of London TravelWatch as well as those responsible for making appointments. The purpose of this Guidance Note is to assist you in the carrying out of your duties as a member of London TravelWatch.
- 2 Your duty is to the whole of the travelling public; to represent the interests of the users of transport provided, procured or licensed by Transport for London, the Underground, Heathrow Express, Eurostar and the national railways in and around London. If you have personal or private interests in a question which has to be decided by London TravelWatch, then you should take no part in the reaching of a decision, except in the special circumstances described in paragraph 20 below.
- 3 You should not accept membership or remain in membership of London TravelWatch if you have business or professional interests which cause you to declare an interest so often that you can be of little value to London TravelWatch, or if it would be likely to weaken public confidence in the duty of London TravelWatch to work solely in the public interest.

---

<sup>2</sup> Formally known as the London Transport Users Committee (LTUC).

- 4 You will be provided with a copy of London TravelWatch's Aims and Objectives, together with a written statement of what is expected of you as a member. The Chair of London TravelWatch will review your contribution annually against these objectives, values and expectations.

### **Disclosure of interests**

- 5 Responsibility for declaring a financial, political or any other relevant interest as defined below rests with you and you must not rely on others to remind you of your responsibilities on this. Neither is it reasonable to expect the Chair or any other member to draw your attention to a possible conflict of interest otherwise than by means of a general statement.
- 6 You must not allow the impression to be created that you are, or may be, using your position on London TravelWatch to promote a private or personal interest, rather than forwarding the interests of the generality of the public. Private and personal interests include those of family and friends as well as those arising out of membership of an association, club or political party. If you have a personal or private non-financial interest in a matter arising at a meeting you should always declare it, unless it is insignificant, or one which you share with the generality of the public. Guidance as to involvement in local transport users groups is appended hereto in annexe A.

.....

### **Political activities**

- 15 The following rules apply to the Chair and members of London TravelWatch:
- (a) Members should abstain from controversial party political activity;
  - (b) Subject to (a) above, members should be free to engage in any political activities, provided that they are conscious of their general public responsibility and exercise a proper discretion, particularly in regard to the work of London TravelWatch. On matters affecting that work, they should not normally make political speeches or engage in other political activities;
  - (c) Members of London TravelWatch who are also members of the House of Lords will be guided in their conduct in that House by the statement made by Lord Addison in the House on the 21<sup>st</sup> of March 1951, as amended by the Second Report from the Select Committee on Procedures of the House dated the 3<sup>rd</sup> of February 1971;
  - (d) Members seeking election to the House of Commons, European Parliament or to the London Assembly should take unpaid leave or resign from London TravelWatch after lodging their nomination papers. It is the responsibility of candidates seeking election to the House of Commons to ensure that they avoid any legal impediment to election stemming from the House of Commons Disqualification Act.
  - (e) Members elected to the London Assembly or appointed to the Board or staff of Transport for London or to the staff of the Greater London Authority automatically cease to be members of London TravelWatch on appointment to any such post. If they have not already done so when submitting nomination papers, members of the House of Commons or European Parliament must resign from London TravelWatch once elected.
  - (f) Members of London TravelWatch should be free to maintain association with Trades Unions, Co-operative Societies, trade associations etc, to the extent that such associations do not conflict with the interests of London TravelWatch;

(g) Any member of London TravelWatch who is doubtful about the application of the rules in this section, or about the propriety of any political activity, should seek guidance from London TravelWatch's Chief Executive, who will, if necessary seek further guidance from the Greater London Authority; and

(h) The foregoing rules apply equally to political activity on behalf of any political party or organisation.

16 A publicly accessible register is kept by London TravelWatch in which the Chair's and the members' interests will be recorded (e.g. shares, directorships, party political positions/affiliations, other appointments etc.). These requirements will be scrupulously observed at all times and it is your responsibility to keep the register updated as necessary. You will be asked to validate your entry on the register on an annual basis to take account of any changes of circumstances. Members are reminded of the requirements of the London Assembly to obtain its consent prior to accepting Directorships or other public appointments.

17 London TravelWatch will hold a publicly accessible register of any offer of gifts or hospitality made to any member or member of staff. You must declare any such offer made to you and be mindful of the public perception of the acceptance of such offers.

18 The Chair's Executive Group may audit the above registers at its discretion.

.....

### **Implications of Breach of this Guidance**

26 Observance of this Guidance Note is a condition of appointment to London TravelWatch and a breach of it may lead to your appointment being terminated. You should also note that certain types of breach might also involve sanctions under criminal law.

### **Declaration of acceptance of the Guidance**

27 Once approved all existing members of London TravelWatch will be required to sign the declaration set out in annex D accepting all its terms and that compliance with those terms is a condition of continued membership of London TravelWatch. All new members will be required to sign the declaration on appointment.

**PERSONAL STATEMENT ISSUED BY BRIAN COOKE ON 26/27 APRIL 2008.**

**Strictly embargoed until 0900 Monday 28th April**

**Brian Cooke Votes for Boris Johnson**

Brian Cooke, the Chairman of London TravelWatch, the watchdog for transport users in and around London today revealed that he has voted for the Conservative Candidate Boris Johnson in the forthcoming election for London Mayor. He has already sent off his postal vote as he will be on holiday on the day of the election. In 2000 and 2004 Brian voted for Ken Livingstone but having worked much closer with his administration believes that even if that was wise then it is now time for a change. He has not used his second preference vote.

Brian said "Having Chaired London TravelWatch for almost 4 years, I am told successfully, and having vastly increased the profile of London TravelWatch which in turn leads to very close contact with many transport users and a large range of other stakeholders and having looked at all the candidates transport manifesto's in detail it has helped me come to this decision. I am of the view that Boris Johnson will listen to users concerns better and tackle some of the real issues in a more constructive and user friendly way. Ken has paid lip service to real consultation on a whole raft of issues and I don't believe Boris will have the arrogance of the "Ken knows best" policy. I believe Boris and his team would really take on board consultation and the views of Londoners. An example was the introduction of free travel on buses for young people which many including London TravelWatch, predicted would cause major problems of anti social behaviour and not only did but still is"

Brian Cooke continued "There is strong evidence that the current Mayor has played with both tube and bus fares for his own political aims. Reducing some bus fares in 2007, freezing a few headline fares in January 2008 and doing a very strange deal over Venezuelan oil are just some examples of this. Oyster is widely liked and welcomed but the Mayor has dragged his feet in getting it extended to the National Rail system within London, he often blames the Train Operators but having been very close to this issue I believe much of the blame is actually at the Mayor's door"

Turning to TfL's management Brian said "The most senior management at Transport for London (TfL) are excellent and I hope whoever is Mayor they will continue in their roles, but they will only continue to do their jobs well if they don't get constant interference from the Mayor and his office. Continuity to continue with the plans developed over the last eight years is important. The recent leaked e mails, if true as I believe, show that transport fares are budgeted to go up by more than inflation over the next few years yet the Mayor has denied this on a number of occasions. Sometimes one wonders whether the truth and Mr Livingstone sit together at all. However realistically I don't believe it's possible to further expand and improve London's Transport network without fare rises that contribute to it. The Mayor should say that and not try to hide behind things for possible Electoral gain".

"I also believe that Boris Johnson is much more likely to appoint a strong board for TfL. In my view many of the current TfL board are very weak, with frequent changes as they fall out of favour and then Ken removes

some and puts others in, TfL and Ken Livingstone are so joined at the hip that the board seem frightened of critiquing. The Mayor should set the strategy, appoint the board and its chair, but let the board and the management get on with delivery. That is the way it was set up but this Mayor tries to micro manage the whole lot. The board cannot not hold the TfL management to account for the real issues that concern Londoners. A strong business like board is essential for a vast organisation like TfL. I also believe it should have a least one dedicated member to represent the passenger and link with London TravelWatch as the statutory consumer representation body. Legislation currently prevents this from being a London TravelWatch member but that could be looked at in the longer term"

"I believe that a Boris Johnson administration would do much to reduce some of the excesses in TfL. The last annual accounts showed 112 people being paid over £100,000 per annum and a staggering further 1,299 being paid between £50 to 100,000 per annum. That is highly likely to have significantly increased this year with inflation and Metronet being taken in house. TfL's total permanent employees are 18,715 and more than 7% of them are paid over £50,000 per annum plus all the perks of free travel, final salary pension etc and that's before you count the whole army of consultants that are there"

Brian added "I also believe Boris would ask the TfL board to look seriously at the amount spent on public relations and marketing. Some things need to be promoted and advertised but does a monopoly publicly owned transport provider need to promote itself so much, I doubt it. A strong minded TfL board appointed by Boris Johnson could dramatically save costs here too I believe. TfL also spends vast sums on research yet it sets the questions, or often the Mayor does, and it alone usually sees the answer. A much more open and transparent way of undertaking passenger and transport user research would give the research much more validity and lead to improvements for the user. I believe a Boris Johnson administration would be much more likely to engage on this issue too"

Brian also said "When you read the transport manifesto's of the two leading candidate's there is much in both that can be attractive but when it comes to realistic delivery I believe that a Boris Johnson administration would serve Londoners better. There is however one principal thing I disagree with Boris Johnson on. I do not believe that scrapping the bendy bus is a good idea. A review of which routes they are used on yes but scrapping no. In Central London they move huge numbers of people in relative comfort quite quickly. Ken Livingstone has failed to address the fair evasion issue in these buses and I believe there are many ways this could be solved without withdrawing them is not the answer. Many of the suggested changes to lower fare evasion have been pointed out to the Mayor but he refuses to take them on board"

"I also believe it is vital for both TfL and the Mayor to have a good and constructive working relationship with all of London's 33 boroughs. Currently the relationship is often strained and the Boroughs are not listened to or consulted on the issues. This is even truer in outer London. In his campaigning I believe Boris Johnson has already shown that he will not be a Zone 1 mayor and will consult with boroughs in a much more pro active way"

Brian was also very critical of Ken Livingstone's plans to extend the freedom pass to be available 24 hours per day. He said "As I will be 60 in about nine months time I can't wait to get my freedom pass but allowing people to use it before 0900 will only make London's very crowded transport system even worse. Many people over 60 still work why should they be subsidised by all other fare payers and at the same time make transport system even more crowded and more uncomfortable for those that will be paying to subsidise the others. I think that plain daft. If current patronage on Tube, Rail and Tram in particular carries on growing at the current rate the planned expansion wont cope anyway and to subsidise more people at the most crowded time seems totally crazy. This was another of Mr Livingstone's proposals that he says he will introduce but has failed to have any consultation with those that matter the most, or their representatives -

those who put money in the fare box! I also do not believe any research has been undertaken to get passengers views on this. Currently the boroughs fund the freedom pass through local rates. Have they been consulted on this mad idea - not one jot! In fact frankly I doubt that Mr Livingstone can actually deliver this as it will require agreement from the privatised train companies which in my view is unlikely to be forthcoming - why would they want there trains to have even more sardines in the can"

Finally Brian Cooke said "Having met Boris, at his request a request I would have happily and willingly accepted from any Mayoral candidate but was not invited by any of the others including Ken, I believe he will make an ideal Mayor. In a serious meeting he is not the court jester that some portray him as. He understands the issues that concern Londoners perfectly, and not just around transport, and he will undoubtedly get a leading edge team around him to help in the massive job that being Mayor of this great capital involves. With the current unpopularity of the Gordon Brown government I believe it is highly likely that we will get a Conservative Government at the next general election, probably in 2009. I am sure that Boris and his team will work well with a Conservative administration in that is likely to be in Whitehall for the greater part of the mayors four year term. The labour government will, I believe, also try to work well in what could be there final 12 or so months. It would not be in their interests to have disputes with the capital's Mayor. All in all I believe that Boris and his team would do by far and away the best job for London in the vital years that will build up to the Olympics in 2012. Finally, like Boris, I believe that the Mayors tem should be limited to two terms. It is time for a change."

## Notes

This is a personal statement of Brian Cooke and is largely his own views which are not necessarily the views of London TravelWatch. In order to preserve the independence of the organisation Brian will take no active role in London TravelWatch until after the election and has taken leave between issuing this statement and the election. London TravelWatch's board is politically independent but includes Councillors, ex councillors and a prospective parliamentary candidate among its membership, between them representing all three main parties. Other than a short period in around the 1997 General Election when he actively worked with a Referendum Party Candidate Brian has never been a member of any political party and has not stood at any election.

Neither the Back Boris team nor anybody else has had any part in the preparation of this personal statement.

Brian Cooke was appointed chair of London TravelWatch for a four year team that expires on 30th September 2008. The appointment is by the London Assembly. He will decide whether to reapply when he knows the outcome of Thursday's election not just for Mayor but for the London Assembly.

Brian Cooke