

Transport Committee – 2 March 2017**Transcript of Agenda Item 7 – Rail Passengers Redress Scheme**

Caroline Pidgeon MBE AM (Chair): The next one is quite a big item on the rail passengers redress scheme, which is a Government-led initiative that would create a new final arbitration body for passenger complaints, a third binding stage. Janet, Stephen or Mark, did you have anything that you wanted to add on this?

Stephen Locke (Chair, London TravelWatch): I would just add that this is something that has been pushed really hard by the Rail Minister [Parliamentary Under Secretary of State at the Department for Transport (DfT), Paul Maynard, who was keen on it from the moment he arrived in the job. We have had very good and productive discussions with him and we are also working closely with Transport Focus, which is affected by this in much the same way, working in parallel with us.

Essentially, what we have is a self-regulatory solution for the delivery of actual redress to passengers and actual decisions on redress, which goes well beyond what we are able to provide through the kind of complaint-handling appeals and the mediation that we currently do. It is potentially a major benefit for passengers and one which we think can be dovetailed quite cleverly into the current arrangements that we have and Transport Focus has and which we are obliged to carry out under statute.

Joanne McCartney AM: It could be a good scheme. My only concern is what effect it has on you and so I want to ask some questions, if I can. Just looking at the paper, I am still not clear. Who would actually run the service?

Janet Cooke (Chief Executive, London TravelWatch): The adjudication part of the service would be an outsourced provider.

Joanne McCartney AM: This would be under a company limited by guarantee?

Janet Cooke (Chief Executive, London TravelWatch): The proposal is that there is a company set up limited by guarantee and we are taking legal advice to just confirm that we and Transport Focus and the RDG can do that. In due course, when that is set up it that will outsource the work. We will be going through a very transparent procurement process to get an outsourced provider to do the actual adjudication, which happens in a lot other sectors. It is completely impartial and they have paralegals or legally-qualified people who look at the merits of the case and make the decision.

What we would do with the new piece of work with us and Transport Focus would be recruiting two to three staff on initially fixed-term contracts while we saw how the work developed. They would prepare the cases to go through to the system on the basis that this would be once the existing cases had gone through to appeal stage through our existing process. When we have finalised a case and the passenger is not satisfied with the outcome, at the moment all we can do is say, "I am sorry. We have tried our best. That is all we can do for you. If you think we have not handled it in accordance with our procedures, you can go to the Ombudsman, but otherwise that is all that can happen". Now, assuming the case is eligible, passengers can be offered the option of going through the adjudication process. What the new staff we would employ would do would be to make sure the case was ready to go through. All of the circumstances around the case that might be necessary

to explain for someone who was not familiar with how the TOCs work in London, for example, we would make sure are there.

Stephen Locke (Chair, London TravelWatch): The good news is that this is not a completely new issue because there are redress schemes of a broadly similar kind in a range of other sectors, most obviously water, which has really quite a similar structural setup to what we are talking about here, but also energy, the communications sector, the financial services sector and a number of the professional bodies. This is fairly common ground and what we have been able to do is to draw quite extensively from experts from those sectors, which have been very helpful and very constructive in helping to identify what the issues are and what risks we need to mitigate against.

Joanne McCartney AM: You already employ some caseworkers in the first two-stage process you have. You are proposing to have two or three executive dispute resolution staff under the new scheme for that third stage. Will their job be purely to present the case on behalf of a passenger?

Janet Cooke (Chief Executive, London TravelWatch): They will prepare the case and present the case. It will be that part of the system. We will be completely impartial. We are very impartial in our casework.

Joanne McCartney AM: That is what I wanted to know.

Janet Cooke (Chief Executive, London TravelWatch): Yes, I was just making sure that it is clear.

Joanne McCartney AM: This company is limited by guarantee and it says it is going to employ one or possibly one-and-a-half staff to do the governance of the scheme. These two to three new caseworkers or executive dispute resolution people you are proposing to employ, why can that company limited by guarantee not employ them if their job is to be impartial and present an impartial case?

Janet Cooke (Chief Executive, London TravelWatch): This is efficiency, really. This is where we and Transport Focus are already dealing with the cases. We understand the issues; we can make sure that they are presented. It is a very streamlined process and critically --

Joanne McCartney AM: I understand that, but your job is to represent the passengers. It just seems to me that if you have some staff who are representing passengers and then the next stage is going to staff in your same organisation who then have a different view, they are not on behalf of the passengers; they are trying to get a fair resolution --

Janet Cooke (Chief Executive, London TravelWatch): Yes, they will be completely impartial between the two, yes. We will have separate systems and they will be sitting separately and there will not be that crossover in the work. They will pick up the case at the point that it is closed off if it is eligible, applying the eligibility rules, which the company will own once it is set up.

Joanne McCartney AM: You see, I am still not clear --

Janet Cooke (Chief Executive, London TravelWatch): The Rail Minister is very keen that what we set up can be done quickly, builds on what is already happening there and improves things, but critically does not set up another new big organisation employing lots more staff.

Joanne McCartney AM: No, my question is, if you have this company limited by guarantee that is already employing staff for the governance, why they do not employ the dispute executives as opposed to you? I just do not know whether there is a benefit there or not.

Janet Cooke (Chief Executive, London TravelWatch): The governance will just be the support for the panel or the adjudicator --

Joanne McCartney AM: Yes, I understand that.

Janet Cooke (Chief Executive, London TravelWatch): -- will have an overview of it and will meet - I do not know - four to five times a year to make sure they have the statistics that the staff employed within TravelWatch and Transport Focus will be putting together. Our staff will be doing the correspondence with the passengers, accumulating the statistics, making sure policy learnings are fed back in and all of those kinds of things. It closes the circle, really, in terms of what we have not been able to do.

Joanne McCartney AM: It just strikes me from a legal point of view, if we have a new entity that is already going to employ some new staff, why do they not employ them, rather than you having to go through legal agreements and also potentially be affected by any redundancy payments at the end of the day or recruitment costs or whatever? It is something that the Chair, when the final scheme comes back, perhaps should have regard to.

Janet Cooke (Chief Executive, London TravelWatch): We will be employing staff on temporary contracts and the whole scheme will be reviewed about nine months down the line independently to make sure it is being done in the most efficient way. This is why we will set it up on that basis, to give that flexibility. Having spoken to other sectors, we are fairly confident that this is the best and the most efficient way of operating this and particularly that will work best for the passenger.

Joanne McCartney AM: For the two or three who are employed, is it going to be a national scheme? It is not just for London?

Janet Cooke (Chief Executive, London TravelWatch): No, it will be two or three staff in London TravelWatch dealing with the London rail passenger element, which, as you know, is different because of the interconnectedness of rail. Transport Focus will be doing it outside the London railway area from Manchester.

Joanne McCartney AM: Will it be employing some other dispute --

Janet Cooke (Chief Executive, London TravelWatch): It will be employing probably three to four because we expect that its caseload will probably be bigger, but we do not know yet until the scheme starts.

Joanne McCartney AM: Fine, but just have regard to whether this new entity that is being set up could employ those staff.

Stephen Locke (Chair, London TravelWatch): Your comments are well taken, Joanne. We are still getting legal advice and that is a point to just test out with the legal advisers. It is mostly a technicality, but it is quite an important technicality.

Joanne McCartney AM: It is, yes.

Stephen Locke (Chair, London TravelWatch): That is right. What is clear in all of this is that we are under huge pressure to deliver it really fast and that is going quite well, but equally there is going to be a lot of learning as we go along. We need to be quite careful not to set things like resource levels in stone, bearing in mind that there are a lot of unknowns in this situation.

What is absolutely in stone is that we cannot under any circumstances contemplate any element of the cost falling on London TravelWatch's existing budget and nor can we allow any diversion of resources from our current priorities, which are already tightly stretched, in order to deal with this, important though it is. We have been very clear about that. The Minister and the RDG and the DfT officials all accept it, but we have to keep plugging away at it because you never know. These things sometimes get chipped away at a bit.

Joanne McCartney AM: This is quite technical. You would therefore line-manage these new staff on the national scheme. Is that right?

Janet Cooke (Chief Executive, London TravelWatch): For the London part. The bit of the scheme that we build on what is happening in London and Transport Focus will manage the bit of the scheme that builds on what is happening outside London.

Joanne McCartney AM: You see, it just strikes me that there is a potential - and I say potential - possibility of conflict. If you are judged on the success of your complaint-handling systems in the first two stages and then the staff you are line-managing are taking cases to the national scheme, as it were, and a lot of your cases do not succeed at that stage, it could imply certain conflicts as to how those staff are line-managed. I am just putting it out there that it could be a potential cause of conflict.

Janet Cooke (Chief Executive, London TravelWatch): We are looking at the risks at the moment and that is the kind of thing we are looking at. In terms of the preparatory work that we will be doing within our organisation and Transport Focus is doing - and we will be doing very closely - is better understanding where we might want to streamline procedures or where we need to understand why we might be doing things differently to Transport Focus. There is often a good reason, but we will need to be very clear because comments will be coming back in due course about, "It would seem that this kind of case", or whatever. We will be very much looking at that, Joanne, because that is a big risk for us in terms of reputation.

Joanne McCartney AM: Yes, it is. Just ask, do you have any plan B in place, I suppose, if there is a higher workload than anticipated and the funding you initially get does not cover it? Will you make sure that there is some contingency in whatever agreement you come up with?

Janet Cooke (Chief Executive, London TravelWatch): We are looking at not wasting money but making sure we are very well-resourced on the new scheme to pick up that risk, which is one of the reasons for having fixed-term contracts and also for outsourcing the actual adjudication work. We have made it very clear that we cannot do the work unless we are adequately resourced.

Joanne McCartney AM: Will you need extra supervision resources or can you do it within your existing staffing?

Janet Cooke (Chief Executive, London TravelWatch): We will need extra supervision resources and that will also be included in what we recharge to the scheme. Certainly for the first year, not a big proportion but a proportion of my time will be recharged. We are looking at how we can delegate further within the organisation to free up that senior time. Critically, in terms of proposed supervision arrangements, we have

some part-time staff who have agreed that they would increase their hours. We are able to input experienced staff and recover the costs without impacting on our existing work.

Joanne McCartney AM: You see, that leads me back to how those staff are also line managers of your two-stage.

Stephen Locke (Chair, London TravelWatch): That point is taken.

Joanne McCartney AM: That potential conflict needs to be really well-managed.

Stephen Locke (Chair, London TravelWatch): In terms of surges of work, briefly, first of all, the sorts of outsourcing bodies that do this kind of complaint handling do a lot of it in other sectors. This is to some extent a flexible resource. If there is a surge of complaints, they can find people to do it as long as they keep the quality standards up and the quality management.

The second point is in terms of funding. There is a lot of discussion still to be completed about exactly how the funding structure works, but it is normal for redress schemes in other sectors to have a combination of base funding from the companies concerned and then funding per case, so that if a particular company generates a very large number of redress cases, there is a per head fee that then goes on to that particular item. There are ways of structuring the funding that will actually make that feasible, but you are absolutely right that they are very real risks and we need to be completely on top of them.

Caroline Pidgeon MBE AM (Chair): Joanne has raised some really important issues, particularly around conflict and also the issue about who employs the staff and, if you increase their hours, the potential conflict also of their pension costs and all of that being covered and the additional costs. Those do need to be picked up. Ultimately, the final decision whether this goes ahead or not is down to us. Could you assure us you are going to look at those?

Then, Members, if we can agree to the principle of London TravelWatch being involved in a proposed rail passengers redress scheme, subject to there being no negative impact on its current work, with all additional costs being met in full by the rail industry and measures in place to manage potential conflict, we should add in there.

Then also can we agree to delegate to me, in consultation with party group leads, to make the decision whether or not we do enter into a rail passengers redress scheme?

All: Agreed.

Caroline Pidgeon MBE AM (Chair): Also, it is going to be a very tight timescale because you are looking at this coming in from the beginning of April.

Janet Cooke (Chief Executive, London TravelWatch): The Rail Minister is hoping it will come in from the beginning of April. We have a meeting with him next week and we will be setting out the implications of a soft launch at the beginning of April [2017] or possibly a few weeks later because it is taking a lot of time to get into exactly the sort of thing you are talking about, Joanne [McCartney AM]. We spent a couple of hours yesterday doing our own risk assessment with Transport Focus. There is a lot of work. The Minister - I am sure most of you have met him - is terribly enthusiastic and is very keen that this will go ahead. We are, but we need to say, "This is what we can deliver on this date", just to manage his expectations.

Caroline Pidgeon MBE AM (Chair): We will need to have signed it off before it can go ahead. Even the soft launch we have to have signed off across leads. Is that agreed, Members?

All: Agreed.