

REVIEW FOLLOWING PHSO REPORT ON AN INVESTIGATION
INTO COMPLAINTS ABOUT HIGH SPEED TWO (HS2)LIMITED

Dated 11 April 2016

To: Simon Kirby
Chief Executive
High Speed Two (HS2) Limited
One Canada Square
LONDON E14 5AB

Dear Mr Kirby

You appointed me to review the Company's complaints handling and community engagement in accordance with a recommendation of the Parliamentary and Health Services Ombudsman ("PHSO"). This followed her recent investigation into complaints of maladministration¹.

I have now completed my review and present my report. My recommendations are listed in the Annex at page 33.

Yours sincerely

Ian Bynoe

¹ *Report on an investigation into complaints about High Speed Two Limited*. Presented to Parliament pursuant to Section 10(4) Parliamentary Commissioner Act 1967 and Ordered by the House of Commons to be printed on 26 November 2015 HC 620. Available on <https://www.gov.uk/government/publications>

Contents

		Page
1.00	Introduction and context	4
2.00	Terms of Reference and methodology	7
3.00	Communication and engagement with residents	8
	Strategy and planning	12
	<i>Observations</i>	16
	Values and standards	17
	<i>Observations</i>	19
	Performance	20
	<i>Observations</i>	22
	Accountability	23
	<i>Observations</i>	23
	Conclusions and Recommendations	24
4.00	Complaints handling	26
	<i>Observations</i>	29
	Conclusions and Recommendations	30
5.00	Concluding observations: “hope is not a plan”	31
Annex	List of Recommendations and Suggestion	33

1.00 Introduction and context

1.01 At the material time, Mr and Mrs D owned and occupied a property from which they carried on a specialist rural and agricultural accountancy business. They had lived in this house for many years. Around them lived several neighbours, owner occupiers like them in residential housing which formed a small but distinct settled community in a rural area south east of Lichfield.

1.02 In 2010 the then UK Government announced its intention to build a new high speed railway line (“HS2”) indicating a preferred route for the dual line, together with other possible routes. It conducted a public consultation on Phase One of the route from London to Birmingham and the connection to the West Coast Main Line during 2011. It’s Department for Transport (“DfT”) set up an arm’s length body High Speed Two (HS2) Ltd (“HS2 Ltd” or “the Company”) to deliver the project. This was established as a Non Departmental Public Body, a company limited by guarantee, which had earlier been incorporated under Companies legislation in January 2009. Its single member is the Secretary of State for Transport (“the SoS”).

1.03 In January 2012 the SoS announced the Government’s plans to proceed with Phase One of HS2 and HS2 Ltd staff began to hold meetings in the locality with individuals and communities affected. The houses occupied by Mr and Mrs D and several of their neighbours were threatened with demolition and others, not required for the line, would remain immediately adjacent to it. Six of the households combined in a group in order to seek information from and make representations to HS2 Ltd about their future. I shall call this group “the Residents”. As the PHSO sets out in the narrative to her report and its findings, several community forum meetings were convened by HS2 Ltd in the locality to seek proposals from affected communities, attended by the Residents or those representing them. HS2 Ltd staff also met them in “bilateral meetings” at which their specific situation was discussed.

1.04 In the course of these meetings, and responding to a request from HS2 Ltd for ideas and proposals by which the adverse impact of the proposed railway could be mitigated, the Residents asked HS2 Ltd for assistance in relocating their homes to newly built properties in the vicinity. In this way they would remain in the local area, retaining some of their established connections with it. The Residents initially proposed that HS2 Ltd commit (1) to an early purchase of their properties and (2) to “build a new community nearby” for them to relocate to.

1.05 The PHSO’s report shows² that this request was modified to one asking the Company to agree to enter into a suitable legal agreement with Lichfield District Council immediately on Royal Assent being given to the legislation under which Phase One of the railway would be built. By this agreement the Company would guarantee that the Residents’ properties would be demolished. This would enable them immediately to submit a planning permission for a replacement property in the locality. Additionally, the Residents asked HS2 Ltd to underwrite their planning costs incurred prior to Royal Assent in the event that HS2 was not built or their property not demolished; provide temporary funding whilst new properties were constructed and to delay construction as long as possible to give time for the Residents to rebuild before having to vacate their homes.

² See, in particular, paragraphs 53-59 of the PHSO report.

1.06 The manner in which HS2 Ltd responded to these requests formed the central complaint investigated by the PHSO. She found that the Company's handling of this amounted to maladministration and that all the Residents, though some more than others, had suffered injustice as a result. In addition she upheld complaints arising from the administration of meetings between the Residents and the Company and in the handling of complaints which they made about how they had been treated. The facts as she found them and her conclusions can readily be obtained from reading her report.

Communication and engagement

1.07 Although she did not uphold all complaints made about HS2 Ltd's engagement and communication with the Residents and specifically with Mr and Mrs D, applying standards of public administration defined in the PHSO's published *Principles of Good Administration*³, she decided, in relation to communication and engagement, that HS2 Ltd:

- held back information when it had this and it should have been provided
- failed to convey uncertain or unconfirmed information properly and fairly
- failed to understand or appreciate the likely (positive or negative) impact of information to be imparted to the Residents
- failed to consider requests/proposals in a timely manner so as to reach a decision which could be communicated to the Residents
- failed to ensure the Residents were informed when their proposals and circumstances were discussed with third parties
- failed to be reasonably flexible in arranging or postponing contact meetings so that when these took place there was substantive information to communicate which could be imparted
- failed to fully answer queries when these were put to it
- chose the wrong time and medium in which to impart significant and sensitive information (communicating by e-mail late on a Friday afternoon or when, prior to a bank holiday weekend, senior staff would not be available to answer queries)

1.08 When HS2 Ltd eventually responded to the Residents' request for relocation as a group it did not support this. The PHSO did not express a view as to whether or not this substantive decision was or was not a reasonable one to make. Instead, she judged that the time taken by the Company to deliver the response and its failure to manage the Residents' expectations and answer questions which they raised while they waited for an answer showed that "HS2 Ltd's actions were not open, accountable, or customer focused"⁴.

1.09 By the date the Company was willing to enter into negotiations with the Residents on their proposals (in mid 2014, some two years after they had been first approached) all but two owners had decided to sell up and leave. In the end, Mr and Mrs D have been the only residents to pursue relocation to a newly built property in the neighbourhood. They consider that if the Company had not maladministered the Residents' circumstances and proposal then the whole group would have been willing and able to do the same.

³ *Principles of Good Administration* PHSO (2009)

⁴ See paragraphs 112 -127 of the PHSO report.

Complaint handling

1.10 Applying the standards of administration for complaint handling set out in the PHSO's published *Principles for Remedy*⁵, she decided also that in relation to the Company's handling of complaints made by the Residents and Mr and Mrs D, that HS2 Ltd:

- did not manage customer dissatisfaction fairly and properly when this was reported to it, failing to classify such reports as a complaint to be dealt with formally under the Company's procedure
- failed to manage and organise the many complaints made by the Residents and Mr and Mrs D so as to be customer focused
- did not respond to and resolve complaints with reasonable timeliness
- and required Mr and Mrs D to withdraw their complaint to the PHSO as a condition of further negotiating with him during the petition stage of the Hybrid Bill, promoted by HS2 Ltd

1.11 During the conduct of her investigation, the PHSO learned from HS2 Ltd that a number of changes had been made in its approach to dealing with communications and in the handling of complaints. Specifically, she reported⁶ that the Company had told her it:

- had issued instructions that mobile numbers be used to contact senior staff when enquiries were urgent
- had learned from its experience of the "community forum" process, improving the management of information flow, of expectations and its ability to "head off disruptive confrontations"
- had developed a Residents' Charter, comprising a series of promises and pledges that related to "how HS2 Ltd would communicate with people who live along or near to the HS2 route"
- had appointed a Residents' Commissioner to make sure the standards set in the Charter were met
- now recorded centrally both informal and formal complaints to help deal with them and achieve continuous improvement, this being the responsibility of a newly appointed public response manager
- added a step to its complaints process so that if someone was not satisfied with the Company's response to their complaint they could ask the Department for Transport's Independent Complaints Assessor ("ICA") to consider it
- had resolved, if the same circumstances arose again in the future, not to request a petitioner to withdraw their complaint to the PHSO as a condition of taking forward any agreement

1.12 The PHSO requires the focus of my review to be the experiences of the Residents - not all residents affected by HS2 or members of the public in general - and the changes summarised above. For each of these grouped findings and reported changes in policy, procedure or practice, my review therefore will pose firstly the question whether or not each of these measures have indeed been introduced and, if so, then a second question whether alone or together I judge that

⁵ *Principles for Remedy* PHSO (2009)

⁶ Paragraphs 168-172 of the PHSO report.

they will reduce or eliminate the chances of these or similar events happening again. Below I shall attempt to address and answer each of these questions.

2.00 Terms of Reference and methodology

2.01 Regrettably, there was some delay in my formal appointment so I was not able to commence the review until 1 February 2016. Nevertheless, this has provided sufficient time to gather the information I needed upon which to reach conclusions and make recommendations. I shared a draft of my report with HS2 Ltd, the PHSO and Mr and Mrs D, before finalising it, asking them each to check the wording for accuracy. I did not invite other representations from them on what I said, save that I asked the PHSO to confirm to me that the review had been conducted to her satisfaction. On 1 April 2016 her office informed me that the PHSO was satisfied that the review met the requirements of the recommendation.

2.02 I set my Terms of Reference as follows:

(a) in the light of the PHSO's findings and recommendations in her report dated November 2015 into complaints made against HS2 Ltd by a Mr D and others ("the residents") to review HS2 Ltd's policies, procedures and standard operating practices for community relations, community engagement and complaints handling and any readily available data on its current performance at these;

(b) in particular, this review shall evaluate the effectiveness and suitability of these policies etc given HS2 Ltd's requirement to be "open, accountable and customer focused" in its dealings with the public and with residents affected by its activities.

2.03 In the time available to me, I have:

- read the file of the complaints made by the Residents and HS2 Ltd's response to these
- spoken twice to Mr D on the telephone and received and considered his written representations
- researched generally available information on the subjects material to this review, including relevant information papers published by HS2 Ltd
- requested and read internal policy and procedural documents and other data supplied to me by the Company
- read the three special reports published by the Hybrid Bill Select Committee
- heard and read the oral and written evidence of the Company's CEO, the responsible DfT Minister and the Residents' Commissioner to the inquiry by the House of Commons Public Administration and Constitutional Affairs Select Committee arising from the PHSO report ("the PACAC Inquiry")
- read the report of that inquiry published on 21 March 2016⁷
- interviewed relevant HS2 Ltd staff with responsibility for community relations/engagement and for complaints handling
- interviewed the HS2 Ltd Board's Non-Executive Director responsible for community relations/engagement
- interviewed the Residents' Commissioner

⁷ See Sixth Report of Session 2015-2016 HC 793 *Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd*

□ attended the information event held by HS2 Ltd in Chalfont St Peter on 13 February 2016

2.04 At this stage I should stress what this review has not covered. The Residents' complaints and PHSO report did not concern the functioning or fairness of the discretionary compensation schemes established by the DfT and mainly administered by HS2 Ltd. It is important for me to understand what these are and how they operate, since they may be the source of complaint and dissatisfaction, a point particularly noted by the Hybrid Bill Select Committee⁸. Although my observations concerning the Residents' Charter and Residents' Commissioner clearly touch on these schemes, I have not examined them in any depth, nor offer any view on their fairness or adequacy.

2.05 Also, I must emphasise that this has not been an *inquiry* into the general standards of community relations and engagement and complaints handling by the Company over its now significant history nor should it be represented as such. The timescale required by the PHSO has not permitted this nor can it be the role of a short term internal review recommended by the PHSO in these circumstances.

2.06 The PHSO report expects me to assess the current situation and, of necessity, I shall provide a snapshot, not a forward view. In due course, there will be a Construction Code with contractors required to formulate and implement local community engagement plans for the construction phase. When construction starts (expected in 2017) a Small Claims Scheme dealing with damage caused during construction will be introduced, and a Construction Commissioner, currently being recruited, will oversee the efficient working of that Scheme and make final adjudications under it. I have not examined these elements of what may be termed the future Accountability Framework in any depth nor do I offer any view on their fairness or adequacy.

2.07 I cannot ignore the fact that the PACAC has reported following its rapid inquiry as a follow-up to the PHSO report. From the terms of reference⁹ which the committee published and its call for evidence it was clear to me that though some issues were exactly the same, the Committee's scope was wider ranging than my review could be. I have summarised its conclusions and recommendations below¹⁰.

3.00 Communication and engagement with residents

3.01 Although I take as my starting point the *PHSO's* findings about the Residents' experience I have also had in mind other evidence and information gathered as part of this review.

Critical observations and perspectives on resources and performance

3.02 In her reports to the Board Chairman¹¹, her evidence to the PACAC inquiry and when interviewed by me, the Residents' Commissioner reported:

⁸ See First Special Report of Session 2015-2016 HC 698

⁹ These terms of reference were: the quality and content of the PHSO's report; the quality of HS2 Ltd's communication and engagement with residents who may be affected by HS2; the way in which HS2 Ltd deals with complaints about its engagement with residents; ways in which HS2 Ltd could improve its communication and engagement with residents who may be affected by HS2; and ways in which HS2 Ltd could improve its complaint handling procedures.

¹⁰ See paragraph 3.7 and following below.

¹¹ All reports of the Residents' Commissioner and the HS2 Ltd Board Chairman's responses to these can be found on www.gov.uk/hs2.

- From the time that she started work (early 2015), there had been insufficient staff resources deployed to basic community engagement on Phase One of the project. She said that at this time the team for the whole of Phase One comprised five persons. This was because, when the Hybrid Bill for this phase began to be considered by the Select Committee hearing petitions against the Bill, community engagement staff were redeployed to work on petitions. The number of remaining staff were insufficient to be able to meet the needs of those who were not petitioning.
- The effect of this shortage was that there had been little or no direct community engagement during 2014. She recommended in her first report (May 2015) that the local engagement areas be restored, each with an identifiable community engagement team. She recommended re-establishing working links with communities to share information on the project and ensure that those to be most affected were kept fully informed. In his response, the Board Chairman said the Company had plans to start "rebuilding relationships on a broader basis among affected communities" to start in the autumn (of 2015).
- In her second report (September 2015) the Residents' Commissioner drew attention to the fact that her recommendation for area specific community engagement teams had not yet been implemented.
- In his response, the Board Chairman noted this concern about increasing resources in the community engagement team and said that recruitment was under way to expand the function and that he looked forward "to seeing a more comprehensive communications and engagement plan taking shape over the next couple of months". He said that this would need "constant monitoring to ensure that it is effective, and that people are able to get the right information, at the right time and in the right way".
- In her third report (February 2016) the Residents' Commissioner reported that there had been "limited progress" on restoring local engagement areas and re-establishing working links with communities to share information. She reported that HS2 Ltd was "starting to build the teams" intending that more "dedicated resource" would be available from Spring 2016. She observed that although plans to recruit more personnel had started they were moving forward "very slowly". She had not yet seen how local engagement on Phase One would be taken forward from April onwards though was aware that a "detailed community engagement plan", extending beyond the date when the Phase One Bill was expected to become law, had recently been presented to the Board. In this report she repeated her concern that there was no forum for someone not part of the Phase One petitioning process providing such a person with easy access to the Company to resolve queries other than through the Help Desk telephone service.
- In the same report she observed that engagement activity for Phase Two appeared to be working well.
- In his response of 18 February 2016, the Board Chairman acknowledged that engagement must be delivered not just through information events but the Company also needed to "specifically reach people who don't come to events or contact their local political representatives, or who aren't online". He said that three new senior engagement managers had been recruited for Greater London, the Thames Valley and Northamptonshire, and the West Midlands and were in post. They were now recruiting teams of engagement managers and executives. A similar recruitment campaign would be carried out for Phase Two later in the year. Both campaigns would be locally targeted since the Company was looking to recruit people who knew their local area.

- In the same response the Board Chairman said that engagement would take place using various techniques such as proactive individual engagement such as direct mail and door-knocking; proactive group engagement including community forum meetings; partnerships with third parties; local presence such as in a drop-in centre; and general information campaigns via newsletter updates.
- Finally, in relation to community forums, the Chairman said that the Company had "taken into account feedback" from these during their initial use. It was intending to re-establish them run on the principles that:
 - HS2 Ltd would "lead them with a focused agenda"
 - actions would be followed up in a demonstrable fashion
 - timing would be led by project milestones, rather than a time driven commitment, to ensure they were relevant and meaningful
- In her first report, the Residents' Commissioner stated that the Company needed to be better able to tailor its communications to the needs of those affected by having a greater understanding of the demographics of affected households and communities. This might help to identify existing community groups which could aid HS2 Ltd to reach local residents and discover how individuals might prefer to communicate. The Board Chairman agreed to the Company commissioning market research.
- In the same report, the Residents' Commissioner recommended that there was a role for local community-based newsletters to reach and inform households in a wide area, which was of paramount importance as the project moved towards construction. In his response the Board Chairman was not convinced of the merits of a newsletter for the project.
- The recommendation appears to have made some progress since, in her second report the Residents' Commissioner referred to the "Autumn update" for 13 regions along the Phase One and Phase Two lines of route which she stated had been circulated to community and business representatives and principal community locations including parish councils and libraries. She told me she was disappointed at the restricted circulation of this document and in her report expressed the hope that it would be more generally available when next produced.
- The Residents' Commissioner told the PACAC inquiry and me that she judges that it can be extremely challenging for an individual who might have a specific environmental concern, for example, to find the appropriate person within the organisation to ask about this. There was a general policy that all enquiries were filtered through the HS2 Ltd Helpdesk team. Incoming calls from enquirers were not transferred to internal telephone numbers and no details of any HS2 Ltd employee were given. An individual would be asked to put their query into an e-mail to be forwarded by the Helpdesk to the appropriate person. The response provided would again be filtered back through the Helpdesk, not directly from the author of the response. She told me that she was concerned to learn that the Helpdesk was about to be "outsourced". In her view, this method of communication could make the Company appear at arm's length and slow.
- I noted that the Residents' Commissioner told the PACAC inquiry that the overwhelming issue raised with her was the need for more engagement, preferably in written format, so that information could be easily shared between the Company and residents. She also told the Committee she believed the Company should undertake a broader feedback exercise, similar to that undertaken by Crossrail, seeking the views of residents on how they wished to be communicated with which could be used to set up a specific mailing list to ensure that residents could be updated on the areas of the project which interested them and in a format thought to be appropriate.

3.03 The Hybrid Bill Select Committee noted in its First Special Report of Session 2014-15 at paragraph 93:

We have heard that HS2 Ltd's record on engagement has been poor but we do not generally find it helpful to go into the whys and wherefores of this. Sometimes there will have been a failure by HS2 Ltd to communicate adequately and helpfully; sometimes there may have been a mismatch of expectation. In other instances, the answer requested by petitioners may not yet have been available.

3.04 And in its final report¹², the Select Committee on the Bill stated:

346. We commented in our 2014-15 record on HS2 Ltd's mixed record of public engagement. We are aware of the report of the Parliamentary and Health Services Ombudsman which found serious failings in HS2 Ltd's engagement with a community in Staffordshire which will be particularly severely affected. There is work to be done in improving approaches and responses to the public.

347. It can be difficult to mollify those whose lives face disruption. Many petitioners commented on the sensitivity with which many HS2 Ltd staff had handled their issues. Apologies when errors are made go far. As the project moves toward commencement, considerate engagement and helpful provision of information will be even more important. HS2 Ltd will need to pay attention to communicating and explaining its decisions. We hope that the Residents Commissioner will do the same, and consider different lines of communication to her office.

3.05 When questioning witnesses before it on 23 February 2016, members of the PACAC Select Committee referred to having received 71 individual items of evidence relevant to its inquiry, many from MPs with constituencies on the line of route.

3.06 In the evidence session, members referred to the lack of trust between people affected by the scheme and the way in which HS2 Ltd had operated and communicated with people. It was said that the Company was not proactive with working with local communities and only provided information when prompted to do so; communication was "very much sub-par"; the Company had handled consultation poorly and made matters worse; plans had constantly changed; there had been major gaps in information and inadequate transparency; there had been inconsistent messages and assertions made without supporting evidence. The Speaker of the House of Commons, John Bercow, MP was quoted as stating that the Company had "shown little or no regard to those adversely affected by the project, whether it be through the application of the Government's discretionary compensation schemes or its communication with residents".

3.07 Before I finalised this report, the Committee completed its inquiry and reported. I note from its conclusions and recommendations that:

- The Committee welcomed the steps taken by HS2 Ltd since the period covered by the PHSO report, including the recruitment of 11 additional stakeholder communication roles

¹² Second Special Report of Session 2015-2016 at paragraphs 346-347.

and changes in complaints handling, and the “apparent willingness” of the Company’s Chief Executive to take seriously its responsibilities to the public.

- Nevertheless, there was still much work to be done since the PHSO report exposed fundamental cultural problems with the way that HS2 Ltd communicated with the public and until the Company treated its duty to the public “as a matter of primary importance” the perception, at least, would persist that HS2 Ltd had disregard for the public.
- Specifically, in the experience of the Residents the Company had not taken sufficiently seriously its duty to communicate and engage with the public openly and transparently and consultation events had turned into “public relations exercises” with information which was too generic to be of use or inconsistent: the process was treated as a “one way “box-ticking” exercise with no genuine two-way engagement”.
- The depth and extent of criticism which the Committee had read in the evidence it had received highlighted the need for a fundamental shift in how HS2 Ltd communicated and engaged with the public and the Committee had not seen evidence to suggest the step change necessary had yet taken place.
- The Company needed to address its “defensive” style of communication and to embrace openness and transparency.
- On complaints handling, the Committee welcomed the changes reported to it but noted these were not a substitute for “institutionalising genuine experiential learning” nor for mandatory training in complaints handling for all customer-facing staff.
- HS2 Ltd needed to develop a strong customer focus on the needs of those whose homes and communities were seriously affected by the project: there was scope for the Residents’ Commissioner to have greater oversight of the complaints handling process.
- The Committee expected the Company to prioritise its response to my review and its recommendations.
- Those in senior positions in HS2 Ltd needed to recognise that this was a matter of primary importance.

Review assessment of current policy, procedure and resources

3.08 The description and assessment which follows is divided into the following sections:

- Strategy and Planning
- Values and Standards
- Performance
- Accountability

3.09 Firstly I shall outline what I have learned as to the Company’s current approach and how this is evidenced. Next I shall offer some observations on these findings. Lastly, at the end of this section I shall reach conclusions on the review questions which I posed above.

Strategy and Planning

3.10 To programme effective Community Engagement activity of a consistent standard and adhering to the values set by the organisation, a well considered strategy with supporting operational, plans, procedures and practice advice are required. For a project with the dimensions, complexity and impact of HS2 this is absolutely essential. Without such an approach there is a high

risk of variability in delivery and a mismatch between resource and task. It will be unclear what are the standards which those leading the organisation expect to see delivered in the field. In addition, without a strategy and plans it is very difficult to assess what resources are required for the work and how available resources and skills are to be matched to identified needs.

3.11 Was there evidence that HS2 Ltd was clear as to its corporate goals and objectives for communicating and engaging with those affected by HS2? Could it point to a delivery plan appropriate to the needs of the moment?

3.12 HS2 Ltd is an independent limited company now formally contracted by the SoS to carry forward the development of HS2 according to the provisions of a Development Agreement dated 8 December 2014 which replaced earlier letters of remit issued by the SoS to the Company prior to that date. The Company is required to create and maintain under this Agreement a series of written strategies which must be provided in draft to the DfT for approval. None of these relate to community engagement.

3.13 Nevertheless, "Promotion, Engagement and Communications" functions are specifically delegated under the Agreement to HS2 Ltd to perform and it is responsible for preparing a written "Promotion, Engagement and Communications Programme". I have been supplied with the current document. I am not aware if this is a later version from the original. It only sets out very general objectives and goals across the full range of communications needs, including those of residents and affected communities. However, it does not provide a workable strategy for communicating and engaging with residents and communities and certainly does not amount to an effective programme or plan of work directed to this objective.

3.14 The Company has issued two High Speed Two Information Papers¹³ which are relevant. The first, on Consultation and Engagement lists high level objectives and "stakeholders" and then briefly lists, retrospectively, the consultation activities which have been held and approaches used with them. Although there is a paragraph on "Continued Engagement" the paper does not say how this will be planned or undertaken. The second paper is on the "proposed community relations strategy to be used by the nominated undertaker during construction of Phase One of HS2". By definition, this cannot describe the strategy for community relations during the detailed design stage of Phase One or for any part of Phase Two of the project: ie the present situation.

3.15 As I have already noted, HS2 Ltd is not required under the Development Agreement with its sponsoring government department to have a discrete strategy on community engagement and community relations. I do not know the reason for this but, in any event, it is not a bar to the Company having a strategy document and when I asked for this I was supplied with a draft of one. I was told that this is the first such document developed by HS2 Ltd.

3.16 It appears to have been prepared at least before April 2015 (a date referred to in the text) but still carries a DRAFT watermark. I therefore asked for its status as policy to be clarified for me and was told that the document had been agreed within the Company at the level of CEO and was being used for practical and operational purposes. However, it awaited external approval by the DfT, which expects to be consulted on such policy development. I was not told whether or when this approval was expected to be received.

¹³ G1: *Consultation and Engagement* (undated) and G2: *Community Relations* (last updated on 01 June 2015), both found on GOV.UK.

3.17 The draft strategy document (or rather series of documents):

- defines what the Company means by “community engagement”: face to face contact with affected individuals and communities, including with representative groups, but in a range of possible settings and situations
- outlines the context in which future community engagement must take place, recognising that HS2 would have a significant impact on the lives of individuals and communities and that the success of the project would be measured by how well HS2 Ltd and its contractors engaged with those affected during planning, building and operating the railway
- recognises also that earlier work through community forums and HS2 Ltd’s “reactive” channels had left many with a negative view of HS2 and there had been a loss of trust which required the Company to transform its approach
- describes five “community engagement principles”
- one of these principles was termed “Measurement and continuous improvement” claiming that measurement mechanisms would be put in place to establish how effective was HS2 Ltd’s engagement to aid corporate learning
- defines the roles and responsibilities of various work divisions within the Company across relevant directorates for delivery
- provides that “Independent Assurance” will come respectively from the Residents’ Commissioner and Construction Commissioner

3.18 When its staff dealt with the Residents, the PHSO found that HS2 Ltd had not managed expectations in an open, accountable and customer focused way. I therefore point out that the draft strategy provides this wording under the principle entitled “Managing Expectations”:

We need to be open and honest with people, telling them information when we have it and being clear when we don't know. We will need to build trust so that people begin to believe what we are telling them. When we carry out further consultation, as we will be doing on Phase Two and with our design work, we need to be clear on what people are able to influence and what they are not. This will be key to getting the best out of our consultations, working with the communities to come up with the best long term solutions for them as we begin to design and build the railway.

3.19 Contained in appendices to the strategy document are a set of more practical papers which include:

- detailed planning for Phase One area information events currently being held (including for one which I attended)
- a paper outlining the Phase Two engagement approach
- a paper explaining how HS2 Ltd had responded to the call from the Hybrid Bill Select Committee¹⁴ for more proactive and early engagement with communities, farmers and growers, businesses and relevant authorities
- papers summarising how engagement will be planned during construction

¹⁴ See First Special Report of Session 2014-15 HC 338 at paragraph 83.

3.20 Separately I was supplied with a paper on HS2 Ltd's Community Engagement Activity planned for 2016 which was considered and agreed by the Company's Board on 14 January 2016. As a result of that agreement, the Company will recruit additional staff called "community representatives", separately from those in Community Engagement teams which are also being expanded by further recruitment. I am informed that the former posts will be recruited to when the latter teams have been appointed. The role of these new posts will be to provide information and advice from within the communities which they know, reporting to Head of Governance for Community Relations. Of these new positions the paper states that "their role will be to:

- Provide a truly independent voice about issues on the ground
- Alert HS2 [sic] to issues that have not been picked up by HS2's community engagement teams
- Monitor our progress on resolving issues
- Question how and why issues have not been resolved"

3.21 The Board was informed that the staff resource for Community Engagement would expand from 22 posts in 2015-16 to 48 in 2016-2017. Additionally, it was proposed that 13 Local community representatives would be recruited in year 2016-2017.

3.22 The Board paper describes other planned activity for the coming year outlining how HS2 Ltd will:

- Engage with individuals pro-actively by eg direct mailshot or door knocking
- Engage with communities at local consultation or community information events
- Establish community forums "at the right stage learning lessons from their initial use in 2012-2013: they would be led by HS2 Ltd with a focused agenda; actions would be followed up "in a demonstrable fashion" and their timing would be led by project milestones, rather than a "time-driven commitment ensuring they are relevant and meaningful"
- Engage with Third party partnerships such as local authorities, parish councils and residents' associations; faith organisations
- Provide a local presence in drop in centres
- Provide information via general information campaigns

3.23 The Board Paper referred to a planned "step change" during 2016 in how the Company undertook Community Engagement work. The Company's Chairman used the same phrase when replying to the Residents' Commissioner's Third Report. When I asked what was the extent to which delivery of this commitment would be monitored, with regular updates against defined milestones, I was told that the recently recruited Senior Community Engagement Managers would now be tasked with developing "Community Engagement Delivery Plans" ("CEDPs") for each of their respective areas.

3.24 The intention of each plan was to identify relevant stakeholders and community members; define issues and identify opportunities to inform them; detail area specific strategies; define timeframes, roles and responsibilities specific to the area in question and identify supporting procedures and "tools" to enable staff to deliver the plan.

3.25 I was told that once finalised and approved, all HS2 Ltd personnel would perform their duties in accordance with the requirements of the CEDP and related procedures. Separately, I was

informed that community engagement teams reported weekly to the Head of Community Relations on activity and issues of concern.

3.26 I was also supplied with:

- the results of the Ipsos MORI focus group research commissioned by HS2 Ltd and conducted with members of the public in affected communities and which had led to the design of information products and the organisation of recently held or planned local information events; and
- the Communications Handling Plans firstly for the nine Community Engagement events planned for Spring 2016 along the route of Phase One and secondly for the recruitment campaign for new Community Engagement staff

3.27 The following additional points were made to me during interviews:

- Role-play using four written scenarios including residents adversely affected by construction of the railway would be used during recruitment for the new community engagement staff to test candidates' capabilities when handling such situations.
- The Company had learned many lessons from its experience with community forums. These had been set up for the design development phase and their effectiveness had been variable. New approaches were needed for Phase Two and had been introduced, assisted by local authorities being more supportive and prepared to help with contacts. The Company would use the community forum approach in the future but this would be but one of a number of ways to give and receive information, including means by which someone could obtain information via self-service.
- Sequencing of the Government's decisions with regard to the route for Phase Two and Phase Two A and the discretionary compensation scheme associated with these phases was not the same as for Phase One. There was not the same risk of the sort of delays used to try to justify the time taken to respond in the Residents' case.
- Advice was being sought from organisations recently involved in national campaigns (eg digital switchover) on good practice in public information and engagement work.

Observations

3.28 As of 9 February 2016, HS2 Ltd still had no fully approved corporate strategy for community engagement.

3.29 The draft strategy defines well the nature of good community engagement; it gathers essential objectives and useful principles to guide operational implementation. This would help to encourage compliance with the PHSO's requirement to be customer focused, open and accountable.

3.30 The draft strategy document however does not provide an overarching plan with timescales, milestones and clear targets which would enable the Executive Management Team and Board of Directors easily to monitor progress, effectiveness and the quality of the work undertaken. In other words, it needs to be supplemented with a comprehensive implementation plan which says what level of service will be provided, when, to whom and for how long.

3.31 It is therefore not surprising that the Residents' Commissioner identified the gap in provision and resource described above. There is no sense from reading the strategy document supplied to me that from 2014 until 2016 the Company planned to retain a capacity for proactive and continuous community engagement with the affected communities where consultation had taken place in 2012 and 2013, prior to the Hybrid Bill entering Parliament.

3.32 It is surprising and very disappointing that it is only after four years have elapsed since the Government announced its intention to proceed with Phase One of the project that staff have now been recruited to develop Community Engagement Development plans for the local areas affected by the necessary planning of the detailed design of the railway, its construction and operation. This is all the more so given the need to try to recover and restore better community relations in certain areas where trust had been lost.

3.33 Without seeing what the CEDPs say and how they are put together, it is impossible to comment on their adequacy and, crucially, whether or not they will be matched with the required resources and skills and be responsive to the communities which they affect.

Values and Standards

3.34 The PHSO criticised the Company's response for not being "customer focused, open and accountable". These terms define behaviours which are as much influenced and nurtured by the value system promoted within an organisation as by its policies and procedures. Does HS2 Ltd have a set of corporate values which it tells the public it should be judged against?

3.35 The Company has agreed a set of four corporate values for the organisation: Safety, Integrity, Respect and Leadership. Staff have suggested examples to show how these may be translated into practice and behaviours. I have listed below the respective values relevant to this review with the agreed examples linked to each.

- **Integrity:** acting fairly, transparently and consistently
 - using the powers we have been given wisely
 - acknowledging the impact of the HS2 programme
 - doing the right thing, even in difficult circumstances
 - being accountable for our actions
- **Respect:** understanding others, recognising their value and behaving accordingly
 - listening and understanding and being open-minded
 - explaining our decisions clearly
 - working flexibly
 - appreciating the impact of our actions

3.36 A community engagement practical toolkit has been developed, was launched at the end of January 2016 and I was supplied with a copy. I was told that it will be used by community engagement teams. The document is too lengthy to summarise here. However it contains highly practical advice and guidance such as in the "RAILS" acronym reproduced in Figure 1. This straightforwardly describes the behaviours and values expected to be demonstrated by staff and *experienced by members of the public with whom they will deal:*

Figure 1: RAILS Acronym

Community engagement: Our objectives	
R eceptive and Relevant	HS2 Ltd welcomes any questions and is very proactive in providing information which is relevant to me, my interests and where I live
A ccurate	HS2 Ltd is accurate in what it tells me, even if not everything is yet known for sure
I nformative	HS2 Ltd is open and informative, rather than closed or secretive
L istening	HS2 Ltd listens to me and understands my point of view and concerns
S upportive	HS2 Ltd helps me to receive the support I need

Residents’ Charter

3.37 The Residents’ Charter document, launched in January 2015, is an important source of some standards against which the Company can be held to account. It states that HS2 Ltd wants to "deal with residents in a fair, clear, competent and reasonable manner". Under four main headings viz. "Clear communication", "Access for all", "Personal support" and "Clear responsibilities" various standards are defined for the Company's interactions with "residents" particularly those applying for compensation from one of the discretionary property schemes.

3.38 The paragraph promising "Access for all", however, is not clearly worded. In the pledge to "engage effectively with all groups and those who may need additional support..." it is not immediately clear what is meant by the word "groups". The Company engages frequently with Residents’ groups and Action Groups. This is not what is meant here since I presume the pledge is to relate effectively to someone whatever may be their age, ethnicity, health, gender [etc. ie](#) someone whose personal characteristic(s) groups them with others sharing the same characteristic(s). This needs rewriting.

3.39 The introduction of a Residents’ Charter and parallel innovation, the appointment of a Residents’ Commissioner, were in response to the criticism faced by the Company of its consultation and community engagement initiatives in 2012 and 2013. The Charter is therefore promoted as a solution to the loss of trust acknowledged by HS2 Ltd as resulting from negative experiences during consultation on the Phase One line of route and mitigation measures. However, it appears to me to have been drafted primarily to apply to contacts between house-owners and occupiers and HS2 Ltd in relation to the discretionary property compensation schemes. It says very little beyond that relationship. Thus there is no general published standard for openness, highly relevant in the Residents’ case. This might be difficult to define but the thrust of the PHSO’s criticism was that HS2 Ltd could and should have informed the Residents earlier of its position.

3.40 The Residents’ Charter was said to set standards for communications with residents in situations such as were faced by the Residents and was offered as evidence that HS2 Ltd had learned the lessons which their experiences showed were needed. The document appears to me

to have been drafted so as to focus on communications relating to the compensation schemes and published standards of service in that field and not generally. I cannot see that the document is consistent with the claim that it applies to communication and engagement in other situations.

3.41 This interpretation is confirmed by reading on HS2 Ltd's website how the Company defines those to whom the charter applies. This is much narrower than the group it has been claimed are protected by the Charter's provisions¹⁵. The website states that it will only apply to someone if:

- the person owns or occupies property that will be required for the construction or operation of the railway
- the person is an owner occupier of a residential property, small business or agricultural unit who believes they are eligible either to apply for one of the government's discretionary property measures or to seek statutory compensation
- the person is an owner or occupier of a property above a proposed deep bored tunnel section of the HS2 route

3.42 On the same page, in answer to the question "How will the charter be monitored?" the reader is told that the Residents' Commissioner will monitor whether the Company is fulfilling the commitment set out in the Charter and will deliver a report to the Chairman and Board. Of these it is said that it will evaluate performance "in communicating in dealing with matters relating to both statutory and discretionary property measures".

3.43 In her written evidence to the PACAC inquiry, the Residents' Commissioner explained how she expanded her role beyond her original brief so as to include a responsibility for evaluating communications in general not just those concerning the property measures. Her subsequent reports, and in particular her comments and recommendations on the gap in provision for Phase One, evidence this.

3.44 HS2 Ltd has given many assurances during the petitioning process on the Hybrid Bill for Phase One. Undertakings also have been entered into. Where these relate to notification and/or communication or engagement with the community then these standards will have to be met by the Nominated undertaker: HS2 Ltd if it is in this role.

Observations

3.45 The body of corporate values defined for the Company are sound and well explained now that examples accompany them.

3.46 These are consistent with encouraging behaviours aligned with the PHSO's tenets for customer focused, open and accountable service by and from the Company's staff.

3.47 These Corporate values need to be widely promoted and explained to the public – partly to counterbalance the disproportionate prominence given to HS2 Ltd's economic or business objectives distilled in its "Engine for Growth" tagline. The body's values should be made prominent in HS2 Ltd literature, in its communications and at its public information events. As

¹⁵ See paragraph 1.10 above. The Company told the PHSO that it had developed a Residents' Charter, comprising a series of promises and pledges that related to "how HS2 Ltd would communicate with people who live along or near to the HS2 route".

far as the public are concerned they are hard if not impossible to find and in February 2016 they were not included anywhere on the Company's "About Us" webpage.

3.48 The HS2 Residents' Charter is primarily designed to set standards for the handling of claims to the discretionary property schemes. It provides little in the way of standards for general community engagement and communication – apart from promising communications in plain, non-technical language, which was not an area of complaint which arose in the Residents' case. Thus the Charter does not appear to give an individual or group the right to an interview to seek clarification or information about their circumstances (though this may be afforded them) and does not offer more than the Help Desk service – which is known to act often as a barrier rather than an aid to quick communication.

3.49 Public service charters are a useful means of setting and publicising to the target customer group the service standards which they can expect to receive at the same time as telling them how they can pursue a complaint if they consider performance has been unacceptable. In administrative settings, where the law is not used to regulate arrangements, and where the power imbalance as between provider and "customer" is profound – as when HS2 Ltd deals with the public affected by its proposals - charter "rights" can fill the gap and help to render the service more accountable to "customer" rather than provider interests. **The Residents' Charter only provides this in a small area of the Company's operations. The charter concept could and should be used more widely and explicitly in HS2 Ltd's community engagement and in consultation settings: defining the standards which consultees/residents can expect from an interaction with the Company and advising the public what to do if it is felt that these have not been met.**

Performance

3.50 HS2 Ltd's current published Corporate Plan does not contain any Performance Indicators for Community Engagement apart from that requiring a response to general correspondence within 20 working days. I therefore asked the Company about delivery of community engagement objectives and the extent to which this was monitored by HS2 Ltd's Management Board and Board of Directors to ensure regular updates against defined milestones.

3.51 I was told that the community relations team contributed to the monthly HS2 Ltd Board report with a summary of the engagement activities taking place along the line of route and the enquiries and complaints received by the Help Desk. Three senior community engagement managers had been recruited and it was their responsibility to provide the Management Board with a weekly "forward-look" listing the engagement activities underway and an update on the opportunities and issues in their area.

3.52 I accept that listing activities and matching these to local opportunities and "issues" are aids to monitoring performance. However, neither can provide reliable evidence of quality. **My assumption is that the "measurement mechanisms" promised in the draft strategy "to establish how *effective* (my italics) was HS2 Ltd's engagement to aid corporate learning" have not yet been developed and introduced for all engagement activity.**

3.53 I asked to be supplied with recent examples of *proactive* community engagement and details were supplied to me.

3.54 In the first example, on Phase Two A, I was told that a design modification was made to the railway replacing a cut and cover tunnel with a retained cutting. This was prior to the announcement of the route in November 2015 and, shortly before the announcement was made, borough and county council officers were briefed, the local MP met engineering and environmental representatives and elected members were briefed on the day after the announcement. During the week of the announcement the Company sent a leaflet to all residents of the village affected inviting them to an information event held in the village hall concerning the change to the scheme. The event was held between 1-7 p.m. and was attended by 133 people. As well as visualisations of what the railway might look like in the area, staff provided materials and information on the property schemes for affected residents. The visualisations showed that HS2 Ltd was likely to need land currently occupied by four houses. Representatives called on each of these houses with a letter for the occupant(s) from the Community Engagement Manager for the area explaining the Company's plans so that they did not learn of this part of the plans from a third party.

3.55 In the second example, I was told that HS2 Ltd learned of a travellers' site owned by the local authority comprising a community that needed to be specifically targeted to ensure that occupants had a good understanding of the consultation, Hybrid Bill Select Committee and petitioning processes. On the advice of the local authority letters were hand-delivered by the site social worker to each of the plots. This resulted in residents' representatives being present at each of the five community engagement events held by HS2 Ltd in the area. On the request of the residents a forum meeting was set up to provide further information. At this meeting HS2 Ltd undertook to keep the community updated following conclusion of the petitioning process. I was told that dates had been scheduled for meetings during 2016 to provide such update information. Later, I shall refer to information I obtained from the Hybrid Bill Select Committee's Final Report which has a bearing on the lessons of this example¹⁶.

3.56 I attended a local information event in Chalfont Saint Peter on Saturday, 13 February 2016. The event lasted from 11am until 4pm and I was present for approximately three hours. I noticed that some people attended having received an invitation card in the post. The meeting was promoted in a news article in the local newspaper. There were no posters visible in high street shops but I noticed one on a church notice board.

3.57 A large number of HS2 Ltd staff across a range of disciplines such as construction, engineering, property and the environment were present, together with those from community engagement/petition teams and there were two sets of plans on display: one showing the construction phase for the railway and one the proposed scheme after construction. Smaller scale copies of these plans were available for the public to take away together with HS2 Ltd information sheets, application forms for the "Need to Sell Scheme"; the Residents' Charter and cards advertising the Help Desk telephone number. On clear, well set out display boards essential information was provided about various topics but I noticed that the Residents' Charter and Residents' Commissioner did not have their own banner – though ecology did – and there was no visual representation of the Company's agreed values nor information on what the public could do when dissatisfied with what HS2 Ltd had done or not done.

¹⁶ See paragraph 3.63 below.

3.58 The interactive map of Phase One was available and a video was played continuously which showed Phase One (as reflected in the Hybrid Bill deposited) superimposed on a film of the route taken from the air¹⁷. The event was very well attended. I asked about access to the information available at the event for those unable to come due to limited mobility or illness. I was told that staff were available to make a later home visit in the circumstances. One such appointment had been made during the event for someone reporting that their relative could not come due to her age. There was no information on display boards or literature to take away which explained the Company's complaints procedure and how someone could pursue a complaint if they were dissatisfied with the service provided by the Company or a decision it had made.

3.59 The following additional points were made to me during interviews:

- From more than one interviewee I learned that the Government's insistence that HS2 Ltd use the standard [GOV.UK](http://gov.uk) website platform meant that communication with the public was rendered more difficult since that site was not user-friendly, was difficult to navigate and was text and document heavy.
- The Company had doubled in size recently and the lesson from the Residents' case may be that three or four years ago the Company was not in a good position to avoid mistakes like those found by the PHSO. It was maturer and better prepared now.

Observations

3.60 The local information event appeared to me to be well planned and well resourced. It offered an opportunity for those attending to gain a fair amount of locally relevant and up to date information from a range of professional disciplines present. There was a good supply of written materials to take away, though some obvious gaps in information which the Company should have been keen to communicate effectively viz. its values and complaints procedure.

3.61 For the event to work it relied on the "self-service" approach although it was noticeable that HS2 Ltd staff approached those attending to ask if they could help with information and answer questions.

3.62 "Measurement mechanisms" still have to be developed to demonstrate how effective the Company's community engagement work is at meeting its objectives and to aid quality improvement. There also does not appear to be a *systematic* and *consistent* way for the key staff responsible to learn lessons from instances where community engagement has been less effective or subject to justified criticism and/or complaint.

3.63 I was provided with details of "good practice" examples of proactive engagement. The second of these related to work undertaken by the Company with a community affected by the relocation to Langley of the Heathrow Express depot. It described, on the face of it, effective community engagement. However, I note from the Hybrid Bill Select Committee's report¹⁸ that in the same vicinity a group of canal boat residents reported to the Committee how aggrieved they were that the Company had not recognised them earlier as parties affected by its proposals. **An organisation committed to continuous improvement will seize the opportunity which this published criticism**

¹⁷ HS2 fly-through of the Phase One Route Between Birmingham and London (HS2 Ltd and Arup). Available to view on youtube.com.

¹⁸ High Speed Rail (London-West Midlands) Bill: Second Special Report of Session 2015-2016 paragraph 157.

presents to investigate how its strategy here could have succeeded with one group of the public while not with the other.

3.64 It is not hard to see the significant difficulties a member of the public will have seeking user friendly contact with HS2 Ltd via the standardised and largely “archival” [GOV.UK](#) web page and [format. GOV.UK](#) appears to me to be entirely unable to provide the capability and fitness for the purpose which the Company needs from its web portal.

Accountability

3.65 Non-Executive Directors have a governance role in a company such as HS2 Ltd. They seek assurance from the Executive as to the performance of the organisation against its agreed strategic goals and targets. I interviewed the Non-Executive Director on the Board with responsibility for community engagement. She had relevant experience of projects with a high community impact and in non-executive roles in the NHS had worked with organisations requiring high levels of openness and responsiveness.

3.66 She considered that lines of accountability in the Company were now clearer than they had been when the events complained about in the PHSO report had occurred. She had raised with her Board colleagues the importance of community engagement and pressed for the Company to step up its activity and resources devoted to this. She now considered that the Company's performance on community engagement was watched by the Board which took a close interest in it. She considered that the Board and Company had done all that the Residents' Commissioner had asked of them but that they had been too slow in responding.

3.67 The Residents' Commissioner has been in post since January 2015. She works for two days a week, has some administrative assistance and participates in several internal staff working groups. Her remit is to:

- Oversee and monitor communications standards with regards to the property measures
- Report to the Chairman and the Board on the Company's performance in relation to its commitments in the Residents' Charter
- Respond to home owners on communication issues that relate to HS2 Ltd property measures
- Hold regular meetings with the Chairman about emerging trends and concerns regarding the property schemes; and act impartially and be independent of HS2 Ltd at all times

3.68 The role description summarised above is not entirely consistent with the actions of the Residents' Commissioner or the contents of her recent reports. These have included observations and recommendations well beyond the scope of the property measures¹⁹.

Observations

3.69 **Governance of the community engagement and communication activities in the Company is unconventional.** The Residents' Commissioner is not a regulator and has no formal powers to issue directions, order changes or carry out inquiries or investigations. She is clearly intended to be

¹⁹ See paragraph 3.02 above.

apart from the Executive, though she participates in staff working groups, because she reports to the Board and to its Chairman in particular.

3.70 The thinking behind this was presumably to highlight the importance of her opinions on what she had reviewed and on her recommendations. **If the effect has been to increase the time and attention given by the Board to these matters then that may have improved the Company's governance in this area.**

3.71 **When her reports are analysed, it appears that her recommendations are eventually acted upon. Early into her appointment, her first report highlighted the need for restoration of the community engagement teams for the Phase One areas. Nearly a year later those teams are being recruited. I cannot say whether the Company was intending to proceed at this pace in any event or if her reports have speeded up the process. Her conclusion, a year on from her appointment, is that the Company's actions lag well behind its intentions and that it is too slow and cumbersome when changes must be made. That opinion appears to be well supported by the evidence which I have seen.**

Community engagement: conclusions on the Review questions and recommendations

3.72 I did not see any evidence that the Company had issued instructions that mobile numbers be used to contact senior staff when enquiries were urgent, only that the contact number for one staff member had been supplied in the circumstances. **I recommend that HS2 Ltd issue instructions accordingly.**

3.73 I saw evidence that key managers in the Company had learned from its experience of the "community forum" process. Those in leadership positions acknowledged that the model had not always achieved the objectives set for it, contributing to loss of public trust, and that another approach was required involving a range of methods. This thinking was evidenced in the policy being developed by the Company and in the methods it was now deploying. The learning also needs to be embedded in the way that community forums and bilateral meetings are arranged and described in future. **I recommend that their respective Terms of Reference should be altered to make explicit reference to the commitments to openness, customer focus and accountability now reflected in policy documents, Company values and other materials.**

3.74 Although I am satisfied that the Company has indeed introduced a "Residents' Charter", comprising a series of promises and pledges that related to "how HS2 Ltd would communicate with people who live along or near to the HS2 route", the focus for this is to do, more narrowly, with the Property Compensation Schemes not the circumstances arising with the Residents' complaints. **Nevertheless, the meaning of the Charter can be made clearer and I recommend that the Residents' Commissioner considers my observations and how the wording can be altered. Proposals should be tested with members of the public before they are introduced.**

3.75 I am satisfied that the Company has appointed a Residents' Commissioner, in a part time capacity, to monitor its compliance with standards set out in the Charter, and that this Commissioner had reported to the Chairman and Board on three occasions since her appointment, with recommendations for improving community engagement and the running of the compensation schemes. Although the role has limited resources available to it, no formal regulatory powers nor executive responsibility, nevertheless during the past year the present

Commissioner has highlighted gaps in the **Company's** provision and persisted in raising her points despite the slow response to her recommendations. This contribution probably helps to retain the Chairman and **Board's** focus on this priority area though I cannot say if, without it, conditions would be have been different.

3.76 Where the role of the **Residents' Commissioner** is weak is in relation to **"upholding"** or **"enforcing"** the standards in the Charter. She has no responsibility for investigating complaints and is specifically excluded from doing so. While complaints may come into her and be routed to the Public Response Manager now dealing with these, there is no evidence that the **Residents' Commissioner** keeps a close eye on relevant complaints, so as to understand what complainants are alleging and whether they are right to do so. **The Commissioner should make it her business to learn of the complaints which relate to her responsibilities and the outcomes of these. I recommend at paragraph 4.28 below that she receive reports accordingly.**

3.77 I note that the Company has a Design Panel to provide external advice on design issues. I suggest that there may also be benefits in convening a Community Engagement Advisory Panel, drawn from those who have recent and relevant experience of community engagement work on large infrastructure schemes, both in providing and receiving it. This panel could provide a sounding board for new thinking and plans for communications and engagement.

3.78 I recommend that the Company as soon as possible and practicable:

- approves its strategy for Community Engagement
- defines clear milestones for the implementation of the strategy
- defines measurement mechanisms by which the quality and effectiveness of its community engagement activity can be monitored
- designs and implements a practicable and effective system for learning and implementing lessons from less effective community engagement or any such engagement activities which have attracted justified criticism and/or complaint

3.79 It is difficult to understand why HS2 Ltd was not required by the DfT under its Development Agreement to have a discrete Community Engagement strategy in place by a specified time. This may have resulted in this essential area of policy not attracting the priority and resources which it requires. Given the level of public and parliamentary concern about the performance of the Company in this area and the findings of this review, I recommend that the DfT amends the Development Agreement to give appropriate status to HS2 Ltd's strategic policy on community engagement and to ensure that Ministers can hold the Company to account for its effective delivery.

3.80 When the changes at paragraph 3.78 are in place, I recommend that the Company should then revise and republish its Information Paper on Community Engagement so the public may learn:

- what the strategy is and how it may develop
- what they may reasonably expect to receive from the Company by way of communication and engagement
- how the Company will measure the effectiveness and quality of its community engagement, and

- **how the Company will learn and implement lessons where community engagement has failed or been less effective, or has been the subject of justified criticism or complaint.**

3.81 The Company's agreed values and illustrative examples need to be highlighted effectively to the public and staff in internal and external documents and given appropriate publicity. **I recommend that HS2 Ltd's CEO commissions a project which will result in these working principles having far greater prominence in the work environment and where the company has any interface with the public (eg website, information events and leaflets).**

3.82 This short term review has not been equipped to investigate further the claims made to me by the Residents' Commissioner that the way the Help Desk operates creates a barrier to rapid and responsive public communication. Nor have I been able to examine the claim made to me by several members of staff that having to use the GOV.UK website restricts opportunities for effective communication with the public. **I recommend that both these reported obstacles to effective and responsive communication should be urgently examined from an independent, "customer focused" perspective to establish if the concerns are justified and, if yes, to recommend the necessary changes.**

4.00 Complaints handling

4.01 I have read the following documents as part of this review:

- all the correspondence passing between the principal complainants (Mr and Mrs D) and HS2 Ltd by e-mail and letter
- redacted correspondence relating to the four complaints (out of 59) categorised as "stakeholder engagement" and dealt with by the Company since 2014 (where only identities of parties involved have been removed)
- the Company's current corporate complaints procedure (document number: HS2-HS2-PE-PRO-000-000004) approved 21 January 2016
- data on complaints received by the Company and their respective outcome(s) from September 2014 until January 2016 inclusive
- summaries of all complaints referred to and reported on by the ICA since 2014 when access to the ICA was provided by HS2 Ltd
- the full ICA reports for the two complaints that related, respectively, (1) to a failure to publicise the exceptional hardship scheme and (2) to a failure in effective engagement with the complainant
- the page on GOV.UK's website relating to the Company's complaints procedure summarising its contents and providing an online complaint form
- HS2 Ltd's online complaint leaflet
- complaints questions and answers on the Company's internal web page (Interchange)

Situation at time of complaints

4.02 The Residents' last complaint was made in May 2014. Information about the Company's then procedure was available at this time and employed by staff. Mr D told me that they obtained the complaints procedure without apparent difficulty. A two stage approach was largely adopted for the Residents' and Mr and Mrs D's 23 complaints. However, the policy and procedure was minimal in scope and the Company at that time had little in the way of written policy and procedures to govern the handling of complaints. Nor was there anyone on the staff tasked with ensuring high

and consistent standards of practice and encouraging a positive approach to complaints management.

4.03 A Procedure for Complaint Management document was prepared later in 2014 and is dated 9 July 2014. I presume this was introduced into operations at this time. It included some basic definitions and operational procedures including the reporting and collating of complaints dealt with across the Company by the Public Response Team. Collated complaints data supplied to me is for the period starting in September 2014 to January 2016 inclusive.

4.04 Until 2014 HS2 Ltd provided no access under its procedure to the DfT's Independent Complaints Assessor (ICA) despite this role having been well established in the Department and with its principal delivery agencies (eg Driver and Vehicle Licensing Agency, Driving Standards Agency and Highways Agency, as the latter two bodies were called at the time). This was most unfortunate since it meant that the Residents were not able to take their complaints to an ICA during 2013 and had to resort to the more complex and protracted procedure used for referring their complaint to the PHSO for an investigation which did not deliver an outcome until late November 2015.

4.05 The Company now has an up-to-date complaints policy and procedure and has sought and obtained ISO accreditation for its standards of performance in dealing with complaints. In my view, this policy reflects contemporary standards of good practice in complaints handling.

- It does not have a narrow definition of what is a complaint
- it clearly identifies the behaviour of third party contractors as within the scope of the procedure
- it includes a section giving policy advice on the remedies which the Company may need to provide when maladministration, a mistake or other error is acknowledged and redress needs to be provided. In addition, the Public Response Manager in charge of complaints handling informed me that further guidance was being formulated for use by the Company dealing specifically with the payment of financial compensation.

4.06 In representations to the PHSO in response to a draft of her report, the Company told investigators that it had "instigated a system of centrally recording both informal and formal complaints raised across the project in order to assist in co-ordinating complaints received in respect of any area of the organisation, and also in reporting and continuous improvement"²⁰. This is why the PHSO's report summarises this organisational practice at paragraph 171 of that report. From the complaints data I have been supplied with I can see that some informal complaints have been recorded from August 2015. For example, six were recorded in January 2016, five of them arising from "ground works investigation" activity. This reflects the practice as described to the PHSO.

4.07 However, I note that, when the complaints procedure was updated in January 2016 by the Complaint Handling Standard and Procedure for Complaint Management being combined in a single document, a change was made to the definition of a complaint. In the previous document a complaint was described as "an expression of dissatisfaction, whether justified or not". In the new version, the following definition appears:

²⁰ Background Information Document (Undated) paragraph 98.

"Any concern (received in writing, by phone or in person) about service provided by HS2 Ltd, its staff or contractors, which cannot be resolved locally within the business".

4.08 Later on in the document at paragraph 2.4.1 the following guidance appears:

Wherever possible HS2 Ltd will try to resolve any concerns immediately. Where a complaint can be resolved within 24 hours or locally within the service involved, HS2 Ltd does not need to record matters under the formal complaints procedure, unless the complainant requests them to do so.

4.09 On one interpretation, this means that any concern where local resolution is being attempted does not meet the threshold for being categorised as a complaint and therefore does not require any recording or reporting to the Public Response team.

4.10 In her evidence to the PACAC inquiry and in her interview with me the Residents' Commissioner emphasised the importance of all complaints being recorded, whether or not they were informally resolved.

4.11 As I have already mentioned, since July 2015 HS2 Ltd has employed a Public Response Manager with specific responsibility for complaints policy, procedures, data collection and reporting. I interviewed this member of staff. She has relevant recent experience in public and private sector complaints handling. This additional resource has meant that the Company can now mandate all new staff to have a training session on complaints handling, provided by the Public Response Manager.

4.12 I have been supplied with information used in such training which includes a training scenario. This is based on a community engagement event at which a local resident approaches a member of staff unhappy about ground investigation works in the area. The person is frustrated with the HS2 project in general, the inconvenience caused by the works and states that the pavement has been damaged. Staff being trained are asked to consider the issues being raised; what the person wants done; how as a member of staff they would handle the complaint during and following the event; and what actions could be taken.

4.13 In addition, the Public Response Manager has updated the information page on the Company's complaints procedure found on the GOV.UK website; written a complaints leaflet which can be downloaded from that site and set up an online form which a person can use to make a complaint to the Company via the internet.

4.14 The Public Response Manager has also written a complaints question and answer page for the Company's internal internet (Interchange) with a complaint form also available on this page for staff to use when taking a complaint from a member of the public.

Independent Complaints Assessor

4.15 Since 2014 a complainant who remains dissatisfied with the response received from the Company's chief executive (the second stage of the complaints procedure) can ask the CEO to refer the complaint for review by an independent complaints assessor appointed by the DfT. The PHSO expects government agencies to provide an opportunity for an independent review prior to

her office agreeing to investigate a complaint. Information about the ICAs and their recent Annual Reports are readily available online²¹. **Although the scope of an ICA review is more circumscribed than an investigation by the PHSO, they uphold complaints in a significant proportion of the cases which they see²², their published timescales for issuing a report are reasonably short (three months) and they are conscious of the need to highlight issues of policy or system learning if this is necessary. It would be unjustified to consider the role as “toothless” or lacking the rigour and thoroughness needed in a public complaints adjudicator.**

4.16 I have read summaries of all the reports issued by the ICA in the cases which have been referred for review and the reports in the two cases where the complaints related to communication and community engagement. **In all these cases, I found the system in place working as intended.**

4.17 I have read redacted correspondence relating to each of the four complaints files opened by the Company during the period September 2014 until January 2016 and categorised as one relating to “stakeholder engagement”. **These have been handled according to the Company’s complaints procedure.**

Observations

4.18 **The changes reported to the PHSO are evidenced from the information I have been given. The current complaints procedure document²³ differs from that disclosed to the PHSO and needs review and revision to make crystal clear that the Company will record ALL complaints made to it, whether or not they are dealt with informally or in accordance with its procedure. That was the statement made to the PHSO and that is what policy and practice needs to reflect.**

4.19 This is important because there is a mismatch between the Company’s complaints data and the perceptions and reported views of others having good reason to record and represent to the Company examples of public dissatisfaction with the way that it works. I refer to the Select Committee reports mentioned above and to the evidence of complaints and dissatisfaction received by the PACAC inquiry, much of it from MPs, referred to at its recent hearing and in its report.

4.20 It is not within the scope of my review to suggest what should happen with these reports of outstanding complaints/unregistered complaints. **However, I must observe that they probably represent a substantial body of unresolved grievances which have never been presented to the Company’s complaints procedure. At the least, I would expect them to require some assessment by the Company to establish whether or not they disclose any grounds for corporate learning from what they reveal. An organisation committed to continuous improvement and learning lessons, which I am told HS2 Ltd strives to be, should welcome the opportunity afforded by this feedback.**

²¹ See reports for 2011-2013; 2013-2014 and 2014-2015 at www.gov.uk/government/collections/independent-complaints-assessors-for-the-department-for-transport

²² During 2014-2015 the proportion of complaints upheld by the ICA for the three largest referring agencies ranged from 18% to 39%.

²³ HS2-HS2-PE-PRO-000-000004

Conclusions on Review questions and recommendations

4.21 I am not satisfied that the Company now records centrally both informal and formal complaints. The Complaints procedure needs to be amended to reflect the clear need for this. I recommend this be done immediately and the change in practice promulgated throughout the organisation.

4.22 I am satisfied that the Company now has a Public Response Manager whose full time role is to manage the handling of complaints in the Company. She has already made positive changes which improve the credibility and efficient working of the procedure.

4.23 I am satisfied that the Company has added a step to its complaints process so that if someone is not satisfied with the Company's response to their complaint they can ask the DfT's ICA to consider it. The ICA provides an essential, independent element in the scheme able to report on a case much quicker than can the PHSO. Unless and until the numbers of complaints arising from HS2 Ltd's activity reach much higher numbers, with a commensurate rise in referrals to the ICA, I cannot justify recommending that a dedicated ICA be appointed to deal only with HS2 Ltd work.

4.24 I am satisfied that the Company has resolved, if the same circumstances arose again in the future, not to request a petitioner to withdraw their complaint to the PHSO as a condition of taking forward any agreement.

4.25 The Company's Complaints Procedure needs publicising in a leaflet which should be made freely available at all information events and community forums. **I recommend that this be done as soon as possible to catch events planned and about to take place.** It is not sufficient for this to be available only online or supplied on request.

4.26 I recommend that at all future public information events, community forums and bilateral meetings the Company should not just publicise its corporate values (see paragraph 3.81 above) but also its complaints procedure and formal approach to dealing with public dissatisfaction by having, for example, a banner or poster communicating this message.

4.27 The respective roles and responsibilities of the Residents' Commissioner and ICA and in due course Construction Commissioner need to be clearly understood by each of these parties. **I recommend that they have an early meeting for this purpose and regular and effective liaison thereafter. The Residents' Commissioner needs to read ICA reports on complaints relevant to her responsibility. The ICA needs to be informed where the Residents' Commissioner has made recommendations which may have some bearing on a matter complained about which s/he has been requested to review.**

4.28 I recommend that the Residents' Commissioner should be supplied with regular reports on all complaints relating to her fields of responsibility, viz. communications, community engagement and the property schemes and on other cases, by request.

5.00 Concluding observations: “hope is not a plan”

5.01 Since I was appointed to carry out a short term review into the changes claimed to have been made by the Company I have not conducted a general enquiry into how HS2 Ltd has treated all those affected by its operations and by the proposed railway. My focus has been on how the Residents would have experienced the Company’s failings in their circumstances and I have assessed what, if anything, has changed which may have an impact on people in the same or similar situations in the future.

5.02 The Residents experienced administrative delay, prevarication, and a lack of candour about what the Company was willing or able to do and when. They encountered an unreasonable and unjustified defensiveness when they complained that the standard of response they were getting and its timeliness were unacceptable. The Residents had no ready access to an independent point of view and they had to take their complaint to the PHSO which meant a long wait – on top of delays already resulting from the Company’s belated service.

5.03 Not all the Residents’ allegations about HS2 Ltd were upheld by the PHSO but the investigation’s principal findings demonstrated in their case a combination of failings which resulted, in my view, from a lack of leadership and grip, from miscommunication and an unwillingness or inability to see the consequences of administrative conduct on the personal lives of those affected who would be already distressed and upset by the proposal for the railway and what it meant for their future. As the PHSO concluded, what was lacking was openness, customer focus and accountability.

5.04 I did not myself investigate the complaints but I can see that behaviours like this are influenced by the working culture and they can reflect the cues which staff receive from the top leadership, the organisation’s core values (stated or unstated) and its *raison d’être*, the working policies of the body and the extent to which resources have been matched to corporate objectives. HS2 Ltd is charged by Ministers with delivering a designed railway by a fixed deadline to a largely pre-determined budget. It is a civil engineering company tasked with a high profile project of exceptional cost, size and complexity.

5.05 It is about to acquire for the SoS legal powers to alter forever the ordinary lives of people “in the way of” the railway. It is not hard to envisage that, amongst the pressures and priorities of an organisation given this task, high quality community engagement may, from time to time, take second place and that *performance of a consistently high standard* will prove elusive.

5.06 Recent changes in complaints handling have equipped HS2 Ltd to manage complaints more professionally, fairly and promptly in the future. I am reasonably confident that current policy, procedure, personnel and resources can combine to produce a more positive and prompt response. I do not mean to say that complaints will now be upheld by the Company where before they were not. However, a complainant remaining dissatisfied with HS2 Ltd’s decision can now appeal to an entirely independent reviewer whose recommendations are invariably accepted. **This is not a trivial innovation and the complaints procedure is now much the stronger due to this independent oversight.**

5.07 In relation to community engagement and communication, I am much less confident that the Company is yet able to demonstrate it can make the “step change” envisaged by the Board

in January 2016, promised in the draft strategy document supplied to me and to the Residents' Commissioner by the Board Chairman in his recent response to her third report. Some key plans are in place but others are yet to be drawn up. Recruitment is underway to build the **Company's** capability and increase its local intelligence but this process is far from complete. It is too soon to be able to say if the resources then available, in staff time and skills, will equip HS2 Ltd for the proactive, sensitive and comprehensive engagement work called for.

5.08 If further justified complaints are not to find their way to the PHSO and be upheld, the Company's Board, senior managers and the Residents' Commissioner must keep a close eye on this high risk area of their respective responsibilities. They must be ready to intervene quickly when progress is too slow or lacking in innovation. They must ensure that quality standards and levels of public satisfaction are rigorously recorded, with lessons quickly learned when things go wrong.

Annex

List of Recommendations and Suggestion

1. Recommendation 1: that HS2 Ltd issue instructions that mobile phone number(s) for senior staff be provided to members of the public who may need to make contact urgently. (Paragraph 3.72)

2. Recommendation 2: that Terms of Reference for community forums and bilateral meetings be altered to make explicit reference to the commitments to openness, customer focus and accountability now reflected in policy documents, Company values and other materials. (Paragraph 3.73)

3. Recommendation 3: that the Residents' Commissioner considers the Report's observations on the wording of the Residents' Charter and how it can be altered, testing proposals with members of the public before they are introduced. (Paragraph 3.74)

4. Recommendation 4: that the Company as soon as possible and practicable:

- approves its strategy for Community Engagement
- defines clear milestones for the implementation of the strategy
- defines measurement mechanisms by which the quality and effectiveness of its community engagement activity can be monitored
- designs and implements a practicable and effective system for learning and implementing lessons from less effective community engagement or any such engagement activities which have attracted justified criticism and/or complaint (Paragraph 3.78)

5. Recommendation 5: that the DfT amends the Development Agreement to require the Company to have a strategy on community engagement and to ensure that Ministers can hold the Company to account for its effective delivery. (Paragraph 3.79)

6. Recommendation 6: (after Recommendation 4 has been implemented) that the Company revise and republish its Information Paper on Community Engagement so the public may learn:

- what the Company's community engagement strategy is and how it may develop
- what they may reasonably expect to receive from the Company by way of communication and engagement
- how the Company will measure the effectiveness and quality of its community engagement, and
- how the Company will learn and implement lessons where community engagement has failed or been less effective, or has been the subject of justified criticism or complaint. (Paragraph 3.80)

7. Recommendation 7: that HS2 Ltd's CEO commissions a project which will result in the Company's agreed corporate Values having far greater prominence in the work environment

and where the Company has any interface with the public (eg website, information events and leaflets). (Paragraph 3.81)

8. Recommendation 8: that two reported obstacles to effective and responsive communication with the public (viz. some operating practices of the Help Desk and the use of the [GOV.UK](https://www.gov.uk) website for HS2 Ltd's web based communication) should be urgently examined from an independent, "customer focused" perspective to establish if the concerns are justified and, if they are, to recommend the necessary changes. (Paragraph 3.82)

9. Recommendation 9: that the Company's Complaints Procedure be amended to reflect the need for central recording both of informal and formal complaints and that this change in practice be promulgated throughout the organisation. (Paragraph 4.21)

10. Recommendation 10: that a printed leaflet be produced as soon as possible publicising the Company's Complaints Procedure which should be made freely available at all information events and community forums. (Paragraph 4.25)

11. Recommendation 11: that the Company should publicise its Complaints Procedure and its formal approach to dealing with public dissatisfaction at all future public information events, community forums and bilateral meetings, by having, for example, a banner or poster communicating this message. (Paragraph 4.26)

12. Recommendation 12: that the Residents' Commissioner, current ICAs and Construction Commissioner, when appointed, should have an early meeting to assist them to understand their respective roles and responsibilities. (Paragraph 4.27)

13. Recommendation 13: that the Residents' Commissioner should be supplied with regular reports on all complaints relating to her fields of responsibility, viz. communications, community engagement and the property schemes and on other cases, by request. (Paragraph 4.28)

14. Suggestion: I suggest that there may be benefits in convening a Community Engagement Advisory Panel, drawn from those who have recent and relevant experience of community engagement work on large infrastructure schemes, both in providing and receiving it. This panel could provide a sounding board for new thinking and plans for communications and engagement.