

Sixth report of the interim HS2 Construction Commissioner

This is the sixth report of the interim HS2 Construction Commissioner. It covers the period from April-June 2018.

Key findings and recommendations

- Complaints caused by noise generated by Network Rail works give cause for concern, and the interim Commissioner is considering a number of issues raised in complaints about noise disturbance due to these works.
- **2018/007:** The finalised Prolonged Disturbance compensation scheme needs to reflect the role of the Construction Commissioner; in particular, complaints and appeals processes will need to be aligned clearly for the public.
- **2018/008:** HS2 and Network Rail need to reconsider the timeliness and clarity of how the latter notifies residents of noisy works, particularly those occurring at night; and how their respective complaints handling processes deliver rapid resolution of construction complaints.

Activity

The interim Commissioner has continued to develop the visibility of the role externally, as well as developing a closer understanding of progress of the HS2 project. He attended a meeting at the request of a parish council in Buckinghamshire. He also attended a meeting for residents in the Euston area organised by Sir Keir Starmer MP, and an HS2-led engagement event at Old Oak Common. These provide a useful opportunity to hear first hand from those who may be affected by coming works.

A series of meetings with HS2 Ltd and its contractors, now fitting a regular pattern, continue to provide opportunities for dialogue and, where necessary, challenge. These sit alongside regular updates with the Chief Executive, Phase One Managing Director and other senior figures. Attendance at the Planning Forum and its Environmental Health Subgroup, in line with other major projects, assists in a wider understanding of project matters such as the Environmental Minimum Requirements as they affect local authorities along the route.

The interim Commissioner also attended a Phase 2b information event in the North West. This was a useful opportunity to understand the perspective of residents at an earlier stage of the project and see how representatives of the project are starting to address the challenges. The impression given was largely positive, with some lessons from earlier phases of the project clearly learned.

The interim Commissioner has also prepared an Annual Report.

Complaints statistics

The Commissioner's office received the following cases during the period covered by this report:-

| | Enquiries/potential complaints | Valid complaints | Outside scope |
|--------------|--------------------------------|------------------|---------------|
| This quarter | 5 | 0 | 3 |
| To date | 26 | 1 | 7 |

The principal areas from which residents have approached the Commissioner's office are the London Boroughs of Camden and Hillingdon.

HS2 Ltd received the following complaints during this period:-

| | April 2018 | May 2018 | June 2018 |
|-------------------------|------------|----------|-----------|
| Total complaints | 35 | 26 | 34 |
| Construction complaints | 16 | 9 | 22 |
| of which Phase 1 | 15 | 9 | 20 |

No claims were received by the HS2 Small Claims Scheme.

Progress on recommendations from previous reports

There is no update to be given at this stage on the recommendation from the fifth report regarding the Small Claims Scheme. The interim Commissioner and HS2 Ltd continue to discuss a number of matters

relating to previous recommendations regarding complaints in the Euston area. These gave rise to issues which have subsequently been escalated to the Construction Commissioner's office.

General remarks

It remains clear while attending meetings along the route that there is variation within and between communities in the extent they are informed of the project and of current developments; the interim Commissioner observed at an event in west London a need for the project to more clearly explain the protections and provisions offered up during the Parliamentary process. In some locations, this can result in frustration at decisions that have not gone the way people might have liked. Of more concern, however, is when concern at specific HS2 construction impacts appears not to have been addressed to any practical level beyond the assessments of the Environmental Statement. While the project internally assesses (as would be expected) areas of concern, there is no objective measurement of this concern. This is perhaps understandable as there is no uniform mechanism of the project engaging those affected by it – different methods have been used to suit local circumstances. In other locations, there appear to be small numbers of enquiries and complaints relating to construction that should be addressed in the first instance to the HS2 Helpdesk, and where this occurs, the Commissioner's office will advise members of the public accordingly, but also make HS2 Ltd aware.

Numbers of construction complaints and enquiries to the interim Construction Commissioner continue to rise steadily. In April, HS2 Ltd adopted a new and more inclusive definition of what constitutes a complaint, which is a positive step. This appears to explain the increased numbers of complaints in general. The numbers of construction complaints also continue to rise gradually. HS2 Ltd continues to make progress in the way complaints (particularly construction complaints) are handled. Work to deliver further improvements is now in the procurement phase; it will take some months for these to be implemented, but this should occur in time for the start of main works construction.

The Prolonged Disturbance compensation policy needs to be seen in the context of functioning complaints processes that are designed to limit and mitigate environmental disturbance. The finalised scheme needs to reflect the role of the Construction Commissioner. There is considerable potential for confusion and overlap between claims made under this scheme and the Commissioner's role. In particular, given that inevitably on a major construction project there will be people who are significantly affected for the duration of construction, complaints and appeals processes will need to be aligned clearly for the public. It should not be seen in any way as a replacement for that process, and there is a danger of this happening. The scheme as currently set out is designed to provide assistance to those in mostly urban environments, in the most extreme circumstances. The impacts of that disturbance must be directly addressed by the project and its contractors well before any claim for disturbance. Moreover, the provisions of the Environmental Minimum Requirements to deliver 'best practical means' should minimise the number of occasions on which the policy will be required.

A particular set of issues in the Euston area give cause for concern. The increase in construction complaints in June 2018 reflect almost entirely an increase in complaints relating to noise generated by Network Rail HS2 works in the Euston area. These have affected residents in one locality, where noise insulation installation has not progressed to date. Notification of these works has at times been unclear and late, and the interim Commissioner is considering a number of issues raised in complaints about noise disturbance due to these works. The warm weather and the need to ventilate properties exacerbated a situation in which noisy works generated a large amount of complaints. Among other matters, HS2 Ltd and Network Rail will need to reconsider how their respective complaints handling processes deliver rapid mitigation or resolution of construction complaints.

With a view to the future funding of the Construction Commissioner's activity, and in line with other similar roles in public life, it is tempting to suggest that over and above a certain point, a levy is imposed on contractors towards the administration costs of the office, in line with other comparable bodies. Among other things, this would provide a direct incentive on contractors to resolve complaints at source.

It has been a privilege to spend a little over two years in the role of independent Construction Commissioner. The role is of particular importance for those who feel they have nowhere else to go as they are affected by one of the biggest construction projects in the world. The independence and accessibility of the Construction Commissioner role is of paramount importance as HS2 proceeds. It is hoped that the contribution of the interim Commissioner has provided some reassurance and support for those affected by the works.

Gareth Epps 4/9/2018