

## HIGH SPEED RAIL (WEST MIDLANDS - CREWE) BILL

### The Promoter's Guidance Note on the 'right to be heard' procedure

#### Introduction

1. Petitioners against a hybrid Bill, such as the High Speed Rail (West Midlands – Crewe) Bill ("HS2 Phase 2A Bill"), do not have an automatic right to have their petitions considered by the Lords Select Committee to which the Bill has been referred. Generally speaking, Petitioners are not entitled to appear before the Select Committee on their petitions unless their petitions allege, and they prove, that their property or interests are directly and specially affected by one or more provisions of the Bill. This entitlement is called "the right to be heard". In addition, the Standing Orders of the House of Lords relating to Private Business ("Lords S.O.s") prescribe certain cases in which the Select Committee may, at their discretion, allow a Petitioner a right to be heard.
2. This right to be heard (previously called *locus standi*) can be challenged by the Promoter of a hybrid Bill. In the case of the HS2 Phase 2A Bill, the Promoter is the Secretary of State for Transport ("the Promoter").
3. There are procedural rules governing the way objections to a Petitioner's right to be heard must be dealt with. The purpose of this Guidance Note, which has been approved by the Private Bill Office in the House of Lords, is to explain the procedure.
4. This Guidance is intended for any Petitioner to whom the Secretary of State for Transport sends a formal Notice of Objection to the Petitioner's right to be heard. The objection means that the Promoter believes that:
  - the Petitioner does not have the right to have their petition against the HS2 Phase 2A Bill heard by the Lords Select Committee; and
  - either the Select Committee does not have a discretion to allow the petition to be heard or, if it has a discretion, that the discretion should not be exercised.

The Select Committee will hear both sides of the argument and will then decide the position.

5. The relevant details regarding the right to be heard are set out in Lords S.O.s 114 to 120. S.O.s 117, 117A and 118, which are most relevant, are set out in the Promoter's Note on the Right to be Heard.

#### The Notice of Objection is important

6. The Select Committee will hear arguments on each Petitioner's right to be heard at a hearing which will be held in a committee room in the Houses of Parliament in London. The Petitioner has the right to attend the hearing and make representations to the Select Committee. Petitioners can either do this themselves or through a representative.
7. A Petitioner whose right to be heard has been challenged must, either personally or through a representative, attend the hearing to make representations. Failure to do so will result in the issue of whether the Petitioner should be heard on his or her petition (either as of right or at the discretion of the Select Committee) not being considered and would mean that the petition against the HS2 Phase 2A Bill would not be taken into account by the Select Committee.

8. At the hearing it will be for the Petitioner to make the case that they should be allowed to be heard on the petition (either as of right or at the discretion of the Select Committee).

### **Before the hearing**

9. The Petitioner or their representative should receive two copies of the Notice of Objection and the Notice should include the Petitioner's name or the name of their representative.
10. The Select Committee decides the order in which to hold the right to be heard hearings.
11. The Petitioner will be informed of the time and date of the hearing at which the Select Committee will consider the Promoter's objection to the Petitioner's right to be heard. The Petitioner should contact the Select Committee's programme officer if it is not possible to attend on that day or at that time so that an alternative day or time may be arranged.

12. **Not less than 2 working days before the hearing:**

- the Petitioner must confirm in writing or by email ([hlprivatebills@parliament.uk](mailto:hlprivatebills@parliament.uk)) with the Private Bill Office of the House of Lords that they intend to appear at the hearing, giving their name and the name of any representative intended to appear on their behalf;
  - if facts are disputed and the Petitioner intends to rely on any documents or written evidence about these facts, the Petitioner must submit the documents or written evidence to the Private Bill Office and send copies to the Parliamentary Agents for the Promoter.<sup>1</sup> (The Promoter is also required to submit any evidence it proposes to use to that Office and to the Petitioner); and
  - the Petitioner must give notice to the Private Bill Office and the Parliamentary Agents for the Promoter of details of any witnesses the Petitioner proposes to call at the hearing to give oral evidence. (The Promoter is also required to give such notice to that Office and to the Petitioner).
13. Notices or documents **must** be received by the Private Bill Office by the deadlines referred to in paragraph 12:
- by email to the Private Bill Office ([hlprivatebills@parliament.uk](mailto:hlprivatebills@parliament.uk)) by 5:00pm;
  - sent to the Private Bill Office<sup>2</sup> by post (by recorded delivery service), the material being **posted not less than 2 working days** before the day on which it has to have arrived with them as required by paragraph 12 above; or
  - by delivery to the Private Bill Office at a time agreed by appointment (020 7219 3231) between 11:00am and 5:00pm.
14. Notices or documents **must** be received by the Parliamentary Agents for the Promoter by the deadlines referred to in paragraph 12:
- by email to the Parliamentary Agents by 6:00pm;
  - sent to the Parliamentary Agents by post (by recorded delivery service), the material being **posted not less than 2 working days** before the day on which it has to have arrived with them as required by paragraph 12 above; or
  - by delivery to the Parliamentary Agents by 6:00pm.

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<sup>1</sup> Details of the Parliamentary Agents to whom the copies and other documents are to be sent will be given with the notice of objection.

<sup>2</sup> House of Lords Private Bill Office, House of Lords, London, SW1A 0PW

## The hearing

15. The order of proceedings at the hearing is to be determined by the Select Committee but is expected to be:

- Statement from the Petitioner explaining why they believe their property or interests are directly and specially affected or why they should be allowed a discretionary right to be heard, using evidence if wanted;
- Statement from the Promoter explaining why it believes the Petitioner does not have a right to be heard;

***Either party may use evidence of disputed facts that has been notified under paragraph 12.***

- Questions from the Select Committee (these can be asked at any time);
- Questions from either party to the other (if the Select Committee allows, and to be asked through the Select Committee Chair);
- If called on by the Select Committee, short closing remarks by the Petitioner; and
- Select Committee decision (which may be postponed until the end of a sitting or until a later day if there are several Petitioners to be heard).

***The Select Committee may alter this procedure.***

## The Select Committee's decision

16. The Select Committee will decide whether the Petitioner should be granted a right to be heard in full (in which case the full petition will be heard), granted on a limited basis (which means the Select Committee will hear only parts of the petition) or refused altogether (in which case the petition will cease to form part of the proceedings on the HS2 Phase 2A Bill).
17. The Select Committee may give its decision orally or in writing. The Select Committee's decision on the Petitioner's right to be heard is final – there is no right of appeal.
18. If the Petitioner is granted a full or limited right to be heard by the Select Committee, the Petitioner will be able to make their case on the petition (or, if appropriate, part of it) at a later stage in the Select Committee proceedings.
19. **It should be noted that under the rules, a Petitioner's right to be heard will automatically be disallowed by the Select Committee if the Petitioner or their representative do not come to the hearing at the appointed day and time.**

## Further information

20. More information can be found on the UK Parliament website, in particular in the section on the Select Committee on the HS2 Phase 2A Bill and its activities:  
<https://www.parliament.uk/business/committees/committees-a-z/lords-select/high-speed-rail-west-midlands-crewe-bill-select-committee-lords/>

**9 July 2019**