



Department
for Transport

Response to the Report of the Laidlaw Inquiry

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1. I am very grateful to Sam Laidlaw, to Ed Smith, and to the team of advisers and assistants who have supported them, for undertaking such a thorough examination, at a commendable pace, of what went wrong in the West Coast franchise procurement, which was cancelled on 2 October.
2. Mr Laidlaw's report makes for sombre reading. He has identified a series of errors and misjudgements, none of which should have happened, which cumulatively led to the need to cancel a major and important public service procurement. Such errors and misjudgements cannot be allowed to happen again.
3. It is therefore helpful that Mr Laidlaw has identified a firm set of recommendations for action. These amount to a clear plan for setting the Department back on track and, if acted upon quickly and effectively, will enable the refranchising process to resume, with the full confidence of ministers, taxpayers, passengers and the rail industry. The Secretary of State accepts the recommendations in the report and he and I are today committing the Department to their swift implementation.
4. Mr Laidlaw's report, though thorough, is necessarily not the full story - before we reach final conclusions on all that needs doing in relation to rail franchising procurement by the Department we must take account both of the forthcoming NAO report and the conclusions of Richard Brown's review of the future of the rail franchising programme, which is to be submitted to the Secretary of State by the end of December. Nevertheless, Mr Laidlaw's recommendations propose actions that we can and will pursue straightaway.
5. It is clear that there are lessons to be learned which should be applied more widely, though the evidence I have indicates that the errors identified in Mr Laidlaw's report are specific to the West Coast competition and thereby to the Department's franchising programme.

6. In this response I am therefore setting out the actions already in hand and those I will be putting in place with immediate effect.

Planning and Preparation

7. It is important for Government departments, including the Department for Transport, to deliver the Government's priorities at a good pace, based on sound planning and rigorous management. We need to draw in the right expertise. And we need to be clear and open about the risks inherent in large and complex transactions. Specifically on rail franchising, the viability of the commercial proposition is key, and that requires us to engage the bidding community in an effective dialogue – something Richard Brown is considering as part of his review.
8. We will therefore:
 - (i) revisit, as soon as we have Richard Brown's input in December, the commercial terms of the franchise offer, in particular the means by which we seek to protect the taxpayer's interests by ensuring winning bidders have appropriate capital provision to weather fluctuations in passenger revenue, whether by continuing to require a subordinated loan facility (SLF) or by other means;
 - (ii) revisit, again with Richard Brown's input, the terms of each franchise Invitation to Tender, including market soundings with prospective bidders, so as to ensure that bidders are clear about what is required, how they will be assessed, and where the Department will reserve the right to exercise commercial judgement, recognising that a purely formulaic assessment is unlikely to be suitable for such large and complex transactions;
 - (iii) ensure that the appropriate degree of transparency is present in each competition, so that bidders can be clear about the way assessment of their bids is being handled;

- (iv) appoint external advisers for each competition to cover the key areas of financial, legal and technical input necessary to supplement our in-house teams underlining their respective roles and responsibilities; and
- (v) establish a clear cycle of reviews at a senior level through the lifecycle of each franchise competition, monitoring progress against a clear timeline, and ensuring appropriate senior oversight of the decisions that will need to be made on the issues that arise throughout the competitive process (including contingency planning and the potential of bidders challenging the process) – at the outset, as the competition is underway, and in the run up to deciding on contract award, in addition to securing appropriate external advice, challenge and stress testing.

Organisational structure and governance

- 9. It is clear that there has been insufficient clarity over individuals' responsibilities in respect of rail franchising. I have concluded that I should re-brigade rail responsibilities under a single director general, accountable for the full range of the Department's interests in rail.
- 10. It is also important that we put in place a simpler, clearer structure of governance for rail franchise competitions, such that individuals can be in no doubt about where they fit into the process, what is and is not within their delegated authority to decide, and how risks should be identified, reported and managed. We need a single senior individual to be responsible for the overarching programme, and also separately and serially each franchise competition needs a clear individual lead. These individuals must be given clear roles, tailored training, and the suitably qualified and capable project management support they need to discharge their responsibilities.
- 11. Such arrangements exist and have worked well for other Departmental procurements and programmes. We must ensure that we adhere to best practice throughout the Department's portfolio of activities.

12. We will therefore:

- (i) restructure by the end of December to establish a single Director-General (DG) with responsibility for all rail business;
- (ii) appoint a single Director responsible for the rail franchising programme, reporting to the Rail DG, who will in turn appoint individuals to lead each franchise competition;
- (iii) ensure that each franchise competition team has the right mix of skills, experience and knowledge on hand, through conducting an immediate skills review to inform the allocation of resource to each team, which will report to the Department's Executive Committee by the end of January.

13. We will also:

- (i) revisit the composition and constitution of the bodies involved in the delivery of franchising – including the Board Investment and Commercial Committee, the Contract Awards Committee and the Rail Refranchising Programme Board. We will ensure that, taken together, we have a structure that is both clear and which delivers the appropriate degree of input, assurance, challenge and oversight to each competition, including industry expertise and non-executive input, signed off by the Department's Executive Committee. This will include recasting the terms of reference for each:
 - to clarify how they relate to each other;
 - to state clearly the processes for escalating decisions, escalating, reporting and managing risk; and
 - to document how business within each body is to be conducted in terms of circulation of papers, quorate membership and documentation of discussion and decisions;
- (ii) review and document the specific quality assurance processes to be applied to key elements including economic modelling and forecasting

and legal drafting, and the terms of reference and follow-through of hostile reviews, testing adherence to our published methodology for bid assessment;

- (iii) ensure the responsibilities of all individuals are clearly documented, widely circulated, well understood, and reviewed periodically. This will include the extent and limitations of delegated authority held by committees and individuals, the route for escalating issues and risks, and the importance of sound record keeping; and
- (iv) revisit the approach we take on bidder anonymity to ensure that the impartiality and integrity of bid assessment are maintained whilst ensuring all relevant information supporting the recommendations for shortlisting and contract award is readily and transparently available to the top of the Department and Ministers.

14. We will complete this work quickly so that the right arrangements are in place when the franchising programme recommences.

Resources

15. We must ensure that we resource our Departmental commitments and priorities appropriately. Despite the downsizing in 2011, the Department has continued to deliver on a wide range of ambitious programmes, not least the transport aspects of the 2012 London Olympics. Rail franchising should be no different. The mix of skills, knowledge and experience needed to specify and run franchise competitions necessarily requires us to build a solid in-house team and to draw in expertise from professional external advisers.

16. Much of the work of the Department is by its very nature difficult and complex. We cannot and should not duck from that. But we must also be frank about the challenges that poses, in accordance with the values set out in the Civil Service Code. It is essential we identify and offer alternative solutions, are clear about choices, and through our corporate planning process, present options for prioritising activity and allocating resources,

17. We will therefore:

- (i) commence recruitment immediately to fill the capability gaps already identified in our in-house team for rail franchising;
- (ii) ensure that the right suite of external, professional advice is available for each competition – financial, legal and technical;
- (iii) provide appropriate refresher and induction training for all our in-house teams, including the effective management of external contractors, in particular ensuring that all those designated ‘senior responsible owners’ go through appropriate training on their responsibilities and what they entail by the end of March 2013;
- (iv) ensure all our staff are clear about their responsibilities to identify, escalate and manage risks; there must be a culture of open and honest exchange by staff at all levels with senior managers and Ministers; this is fundamental to the way our Department should do business.
- (v) we will also present clear options for the resourcing of the Department’s responsibilities for Ministers to review in the corporate planning process already underway for financial year 2013-14.

Audit

18. Internal audit and gateway reviews by the Major Projects Authority are important elements of the overall assurance process. They need to be timely, well-focused on the key risks, and well-informed. Therefore we will:

- (i) ensure the project documentation makes clear the contribution these reviews make as part of a wider assurance strategy;
- (ii) urgently review, reset and monitor our programme of internal audit under the scrutiny of the Group Audit Committee; and
- (iii) with immediate effect consider the findings of these reviews at the Department’s Executive Committee, to ensure their findings are picked up and their recommendations addressed.

Wider assurance

19. The issues identified on the West Coast competition have prompted questions about whether they were symptomatic of a wider problem affecting other Departmental activity. We are already taking action to address this and are well-advanced in reviewing the Department's most significant procurement and modelling activity. This work has found procurement processes, controls and measures consistent with good public sector practice. On modelling, our work shows that the Department has applied a wide range of quality assurance checks and processes that are consistent with good professional practice. The evidence shows that the issues identified in Mr Laidlaw's report are specific to the West Coast competition and thereby the Department's franchising programme, rather than being a cause for wider concern.
20. We have also developed a refreshed, clear set of principles and best practice for the quality assurance and audit of models, which we will be using henceforward as a yardstick to assess and guide all our modelling activity. We will revisit these principles, as appropriate, in the light of the cross-government review of modelling being led by Sir Nick Macpherson, Permanent Secretary of the Treasury. We are also developing urgently a similar set of principles for procurement activity, which we will implement across the Department accordingly.

Conclusion

21. There is no question this has been a serious blow for the Department. I am determined we learn all we can from this episode. The Department has a key role to play in developing and delivering policies that are central to the Government's priorities for promoting the UK's economic growth and wellbeing. I know I can count on all the Department's staff to continue to work hard on this agenda.
22. I will be ensuring that the Laidlaw prescription – about clarity of process, clarity of responsibility, adequacy of resourcing, openness to challenge

and escalation and honesty about risk – is well understood and applied in all parts of the Department's business.

23. The priority now is clear. We must – and we will – implement Mr Laidlaw's recommendations through the actions I have detailed in this response.

We will do our best to ensure that all staff in the Department have the right skills, supported by the right advice and training, and are absolutely clear of their responsibilities. We will foster a culture of greater openness and transparency. The Department's board will hold me and my executive team to account for the timely and effective delivery of this programme.

A handwritten signature in black ink that reads "Philip Rutnam". The signature is written in a cursive style with a long horizontal flourish at the end.

Philip Rutnam

Permanent Secretary

Department for Transport

6 December 2012