



FRAMEWORK DOCUMENT BETWEEN THE DEPARTMENT FOR TRANSPORT AND TRANSPORT FOCUS

This framework document has been drawn up by the Department for Transport in consultation with Transport Focus¹. This document sets out the broad framework within which Transport Focus will operate. The document does not convey any legal powers or responsibilities. It is signed and dated by Department for Transport and Transport Focus. Copies of the document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and made available to members of the public on Transport Focus website. The Department and Transport Focus will review the effectiveness of this document on an annual basis at one of the regular sponsorship meetings.

1 Purpose

1.1 Under the Railway Act 2005 (as amended), Transport Focus has been set up to protect and promote the interests of transport users.

Overview of statutory provisions:

1.2 Transport Focus was established by sections 19-21 of the Railways Act 2005, which also abolished the previous network of regional committees and the Strategic Rail Authority, transferring sponsorship of the organisation to the DfT. Previously the organisation was known as the Rail Passengers' Council and Committees. The legal name became the Passengers' Council following the addition of the bus, coach and tram remit via the Local Transport Act 2008 and subsequent secondary legislation. The Infrastructure Act 2015 provided a remit for users of the Strategic Road Network in England. Part 5 of schedule 5 to the 2005 Act makes it clear that Transport Focus is not to be regarded as a Crown body or agent of the Crown.

1.3 Transport Focus's strategic aims are to:

- I. Making a difference for today's transport user
- II. Making a difference for tomorrow's transport user
- III. Making Transport Focus an insight and evidence hub
- IV. A modern workplace for great people

1.4 Its mission statement is to be:

Consumer focused, evidence based and useful: making a difference for transport users.

1.5 Consistent with this, the Department expects Transport Focus to make a clear and strong impact in placing transport users at the heart of industry decision-making. Consistent with its

¹ Transport Focus is the operating name of the Passengers' Council and is used as such throughout this document.

independent status this should include challenging where passenger and user interests are not being fully taken into account, including challenging Government.

1.6 The Department also expects Transport Focus to take an active role in the establishment of the Rail Ombudsman and to use it as a means to further develop its advocacy role to focus on issues of concern to passengers.

1.7 More generally, this document reflects a shared commitment from both the Department and Transport Focus to work together constructively, based on principles of good communication, mutual respect and no surprises.

2 Governance and accountability

Transport Focus's legal origins of powers and duties

2.1 Transport Focus's powers and duties stem from primary and secondary legislation, as set out in appendix 3.

3 Overall aims

3.1 The Secretary of State/responsible Minister(s) has agreed that, subject to 1.3, the aims of Transport Focus should be to make a clear and strong impact in placing transport users at the heart of industry decision-making and which result in tangible improvements. Consistent with its independent status this should include challenging where passenger and user interests are not being fully taken into account, including challenging Government. This should include ensuring a strong public voice for passenger/user interests.

4 Ministerial responsibility

4.1 The Parliamentary Under-Secretary of State for Transport will account for business in Parliament.

5 Sponsor department's accounting officer's specific accountabilities and responsibilities as Principal Accounting Officer (PAO)

5.1 The Principal Accounting Officer (PAO) of the Department for Transport has designated the Chief Executive as Transport Focus's Accounting Officer. (The respective responsibilities of the PAO and Accounting Officers for ALBs are set out in Chapter 3 of *Managing Public Money* which is sent separately to the Accounting Officer on appointment.)

5.2 The PAO is accountable to parliament for the issue of any grant-in-aid to Transport Focus. The PAO is also responsible for advising the responsible Minister:

- on an appropriate framework of objectives and targets for Transport Focus in the light of the department's wider strategic aims and priorities;
- on an appropriate budget for Transport Focus in the light of the sponsor department's overall public expenditure priorities; and
- How well Transport Focus is achieving its strategic objectives and whether it is delivering value for money.

5.3 The PAO is also responsible for ensuring arrangements are in place in order to:

- monitor Transport Focus's activities;
- address any significant problems within Transport Focus, making such interventions as are judged necessary;
- periodically carry out an assessment of the risks both to the department's and

Transport Focus's objectives and activities;

- inform Transport Focus of relevant government policy in a timely manner; and
- bring any concerns about the activities of Transport Focus to the full Transport Focus Board, and, as appropriate to the departmental board requiring explanations and assurances that appropriate action has been taken.

5.4 The Rail Strategy and Security Directorate in the department is the primary contact for Transport Focus. They are the main source of advice to the responsible Minister on the discharge of his or her responsibilities in respect of Transport Focus. They also support the PAO on his or her responsibilities towards Transport Focus, drawing on other parts of the Department for Transport.

6 Responsibilities of the Transport Focus Chief Executive as Accounting Officer

General

6.1 The chief executive as Accounting Officer is personally responsible for safeguarding the public funds for which he or she has charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of Transport Focus. In addition, he or she should ensure that Transport Focus as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management that are set out in Box 3.1 of Managing Public Money.

Responsibilities for accounting to parliament

6.2 The accountabilities include:

- signing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State;
- preparing and signing a Governance Statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts;
- ensuring that effective procedures for handling complaints about Transport Focus are established and made widely known within Transport Focus;
- acting in accordance with the terms of this document, *Managing Public Money* and other instructions and guidance issued from time to time by the Department, the Treasury and the Cabinet Office;
- giving evidence, normally with the PAO, when summoned before the PAC on Transport Focus's stewardship of public funds.

Responsibilities to the Department for Transport

6.3 Particular responsibilities to the Department of Transport include:

- establishing, in consultation with the department, Transport Focus's strategic and business plans
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the department; that the department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the department in a timely fashion.

Responsibilities to the Board

6.4 The Chief Executive is responsible for:

- advising the board on the discharge of the Transport Focus's Board responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time;
- advising the board on Transport Focus's performance compared with its aims and objectives;
- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed;
- taking action as set out in paragraph 3.8.6 of *Managing Public Money* if the board, or its Chair, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical.

7 Transport Focus's Board

7.1 The board should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The board must set up an Audit and Risk Assurance Committee chaired by an independent non-executive member to provide independent advice on risk. The board is expected to assure itself of the effectiveness of the internal control and risk management systems.

7.2 The board is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of Transport Focus consistent with its overall strategic direction and within the resources framework determined by the Secretary of State;
- ensuring that the responsible Minister is kept informed of any changes which are likely to impact on the strategic direction of Transport Focus or on the attainability of its targets, and determining the steps needed to deal with such changes;
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor department, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account any guidance issued by the sponsor department;
- ensuring it receives and reviews regular financial, operational and performance information concerning the management of Transport Focus; is informed in a timely manner about any concerns about the activities of Transport Focus; and provides positive assurance to the department that appropriate action has been taken on such concerns;
- demonstrating high standards of corporate governance at all times, including by using the independent Audit and Risk Assurance Committee to help the board to address key financial and other risks;
- appointing a chief executive and setting performance objectives and remuneration terms linked to these objectives which give due weight to the proper management and use and utilisation of public resources.

The Chair's personal responsibilities

7.3 The Chair is responsible to the Parliamentary Under Secretary of State for Transport (or other designated responsible Minister). Communications between the Transport Focus board

and the responsible Minister should normally be through the Chair. He or she is responsible for ensuring that the board's affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout Transport Focus.

7.4 In addition, the Chair has the following leadership responsibilities:

- formulating the board's strategy;
- ensuring that the board, in reaching decisions, takes proper account of any guidance provided by the responsible Minister or the department;
- promoting the efficient and effective use of staff and other resources;
- delivering high standards of regularity and propriety; and
- representing the views of the board to the general public.

7.5 The Chair also has an obligation to ensure that:

- the work of the board and its members are reviewed and are working effectively;
- the composition of the board reflects, to the greatest possible extent, the diversity of the transport users in whose interests its members serve, bringing any concerns about this issue to the attention of the Department;
- the board has a balance of skills appropriate to directing Transport Focus's business, as set out in the *Government Code of Good Practice for Corporate Governance*;
- board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- he or she, together with the other board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the responsible Minister is advised of Transport Focus's needs when board vacancies arise;
- he or she assesses the performance of individual board members annually and when being considered for re-appointment;
- there is an operating framework in place setting out the role and responsibilities of the Board consistent with the *Government Code of Good Practice for Corporate Governance*
- there is a code of practice for board members in place, consistent with the latest Cabinet Office *Code of Conduct for Board Members of Public Bodies*.

Individual board members' responsibilities

7.6 Individual board members should:

- comply at all times with the *Code of Conduct for Board Members of Public Bodies* and with the rules relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the board's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of Transport Focus.

8 Annual report and accounts

8.1 The Transport Focus board must publish an annual report of its activities together with its audited accounts after the end of each financial year. Transport Focus shall provide the

department its finalised (audited) accounts each year in order for the accounts to be consolidated within the Department for Transport's.

8.2 The annual report must:

- cover any corporate, subsidiary or joint ventures under its control;
- comply with the Treasury's *Financial Reporting Manual* (FRM);
- outline main activities and performance during the previous financial year and set out in summary form forward plans.

8.3 Information on performance against key financial targets is within the scope of the audit and should be included in the notes to the accounts. The report and accounts shall be laid in parliament and made available on the Transport Focus website, in accordance with the guidance in the FRM. A draft of the report should be submitted to the department at least two weeks before the proposed publication date. The accounts should be prepared in accordance with the relevant statutes and specific accounts direction issued by the department as well as the FRM.

8.4 The annual report should also provide a description of the impacts of Transport Focus's work beyond its strategic objectives, most particularly its direct impact on transport users.

9 Internal audit

9.1 Transport Focus shall:

- establish and maintain arrangements for internal audit in accordance with the *Treasury's Public Sector Internal Audit Standards* (PSIAS) (<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>) and ensure that the Government internal audit agency have complete access to all relevant records.
- set up an Audit and Risk Assurance Committee of its board in accordance with the *Code of Good Practice for Corporate Governance* and the *Audit and Risk Assurance Committee Handbook*.
- on request, forward the audit strategy, periodic audit plans and annual audit report, including Transport Focus Head of Internal Audit opinion on risk management, control and governance to the sponsor department; and
- keep records of and, as necessary, prepare and forward to the department an annual report on fraud and theft suffered by Transport Focus and notify the sponsor department of any unusual or major incidents as soon as possible.

9.2 The government internal audit agency has a general right of access to all documents.

10 External audit

10.1 The Comptroller & Auditor General (C&AG) audits Transport Focus's annual accounts and passes the audited accounts to the Secretary of State who will lay the accounts together with the C&AG's report before parliament. In the event that Transport Focus has set up and controls subsidiary companies, Transport Focus will, in the light of the provisions in the Companies Act 2006, ensure that the C&AG is appointed auditor of those company subsidiaries that it controls and/or whose accounts are consolidated within its own accounts. Transport Focus shall discuss with the sponsor department the procedures for appointing the C&AG as auditor of the companies.

10.2 The C&AG:

- will consult the department and Transport Focus on whom – the NAO or a commercial auditor – shall undertake the audit(s) on his behalf, though the final

decision rests with the C&AG;

- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from Transport Focus;
- will share with the sponsor department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the Department's responsibilities in relation to financial systems within Transport Focus;
- will, where asked, provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports which departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

10.3 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which Transport Focus has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, Transport Focus shall provide, in respect of grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

Right of access

10.4 The Department may request access to Transport Focus records and personnel for any specific purpose such as, for example, a sponsorship audit or operational investigation, any such request not to be unreasonably refused by Transport Focus.

Management and financial responsibilities

11 Managing Public Money and other government-wide corporate guidance and instructions

11.1 Unless agreed by the department and, as necessary, HM Treasury, Transport Focus shall follow the principles, rules, guidance and advice in *Managing Public Money*, referring any difficulties or potential bids for exceptions to the sponsorship team in the Department for Transport in the first instance. A list of guidance and instructions with which Transport Focus should comply is in Appendix 2.

11.2 Once the budget has been approved by the Department and subject to any restrictions imposed by statute and/or the responsible Minister's instructions, Transport Focus shall have authority to incur expenditure approved in the budget without further reference to the sponsor department, on the following conditions:

- Transport Focus shall comply with the delegations set out in Appendix 3. These delegations shall not be altered without the prior agreement of the sponsor department;
- Transport Focus shall comply with *Managing Public Money* regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed;
- Transport Focus shall provide the sponsor department with such information about its operations, performance individual projects or other expenditure as the sponsor department may reasonably require.

12 Corporate governance

Board appointments - the Chair and board members

12.1 The Transport Focus Chair and board members are normally appointed for a period of four years by the responsible Minister. Such appointments will comply with the Commissioner for Public Appointments *Code of Practice for Ministerial Appointments to Public Bodies*. Recruitment should be undertaken in liaison with both DfT and Cabinet Office Centre for Public Appointments to ensure a consistent and transparent approach. The Department and Transport Focus should discuss the funding of any recruitment campaign managed by Transport Focus on behalf of the Department.

Board appointments – the chief executive

12.2 The chief executive is appointed by the Transport Focus board, consulting the PAO, as required.

Composition of the board

12.3 In line with the government's *Code of good Practice* (<https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>), the Board will consist of a Chair, together with an appropriate number of non-executive members that have a balance of skills and experience appropriate to directing Transport Focus's business. For Transport Focus there should be members who have experience of its core business, operational delivery, financial and/or project management, communications and performance management. The board should ensure that executive team members are supported and constructively challenged in their role to ensure that the core strategic objectives of the organisation are achieved.

13 Risk management

13.1 Transport Focus shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk: Principles and Concepts* (http://www.hm-treasury.gov.uk/orange_book.htm). It should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Treasury's guidance on tackling fraud (http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf) It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

14 Strategic and business plans

14.1 Periodically, and on request, Transport Focus shall submit to the sponsor department a draft of the strategic plan covering three years ahead. Transport Focus shall agree with the department the issues to be addressed in the plan and the timetable for its preparation. The plan shall reflect Transport Focus's statutory and/or other duties and, within those duties, shall have regard to but not be bound by the priorities of the department, but shall take account of departmental decisions taken on policy and resources in the light of wider public expenditure decisions.

14.2 The first year of the strategic plan, amplified as necessary, shall form the business/work plan. The work plan shall be updated to include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the department. Subject to any commercial considerations, the strategic and business plans should be published by Transport Focus on its

website and separately be made available to staff. Transport Focus shall consult the Department at least two months beforehand about its strategic and work plans, which shall have regard to but not be bound by the priorities of the Department.

14.3 The following key matters should be included in the plans:

- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives;
- key non-financial performance targets;
- a review of performance in the preceding financial year and an estimate of performance in the current year;
- alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast; and
- other matters as agreed between the department and Transport Focus.

15 Budgeting procedures

15.1 Each year, as soon as reasonably practicable, and in the light of decisions by the Department on its updated draft corporate plan, the department will send to Transport Focus:

- a formal statement of the annual budgetary provision allocated by the department in the light of competing priorities across the department and of any forecast income approved by the department; and
- a statement of any planned change in policies affecting Transport Focus.

15.2 The approved annual work plan will take account both of approved funding provision and any forecast receipts, where these can reasonably and accurately be determined, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any departmental funding and/or other income over the year. These elements form part of the approved work plan for the year in question.

16 Grant-in-aid and any ring-fenced grants

16.1 Any grant-in-aid provided by the department for the year in question will be voted in the department's Supply Estimate and be subject to Parliamentary control.

16.2 The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. Transport Focus will comply with the general principle, that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of Transport Focus. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, the department will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.

16.3 In the event that the department provides Transport Focus separate grants for specific (ring-fenced) purposes, it would issue the grant as and when Transport Focus needed it on the basis of a written request. Transport Focus would provide evidence that the grant was used for the purposes authorised by the department. Transport Focus shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year, unless previously agreed with the Department.

17 Reporting performance to the department

17.1 Transport Focus shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the strategic and business (work) plans. Transport Focus shall inform the sponsor department of any changes that make achievement of objectives more or less difficult. It shall report financial and non-financial performance and the achievement of key objectives regularly. Transport Focus's performance shall be formally reviewed by the department as part of the Sponsor Opinion process. The responsible Minister will meet the Chair and Chief Executive at least once a year.

Providing monitoring information to the department

17.2 As a minimum, Transport Focus shall provide the department with information monthly that will enable the department satisfactorily to monitor:

- Transport Focus's cash management;
- its draw-down of grant-in-aid;
- forecast outturn by resource headings;
- other data required for the Online System for Central Accounting and Reporting (OSCAR).

Transport Focus/Department for Transport working level liaison arrangements

17.3 Officials of the finance team of the sponsor department will liaise regularly with Transport Focus officials to review financial performance against plans, achievement against targets and expenditure against its DEL and AME allocations. They will also take the opportunity to explain wider policy developments that might have an impact on Transport Focus.

18 Delegated authorities

18.1 Transport Focus's delegated authorities are set out in appendix 1. Transport Focus shall obtain the department's prior approval before:

- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in Transport Focus's annual budget as approved by the department;
- incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department;
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
- carrying out policies that go against the principles, rules, guidance and advice in Managing Public Money.

19 Employment of Staff

Broad responsibilities for staff

19.1 Within the arrangements approved from time to time by the responsible Minister and the Treasury, Transport Focus will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that: the rules for recruitment and management of staff create an inclusive culture in which diversity is

fully valued; appointment and advancement is based on merit: there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;

- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and Transport Focus performance measurement systems are reviewed from time to time;
- its staff are required to acquire the appropriate professional, management and other expertise necessary to achieve Transport Focus's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place;
- a code of conduct for staff is in place based on the Cabinet Office's *Model Code for Staff of Executive Non-departmental Public Bodies*
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80082/PublicBodiesGuide2006_5_public_body_staffv2_0.pdf .

Staff costs

19.2 Subject to its delegated authorities, Transport Focus shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

Pay and conditions of service

19.3 NB the department should have regard to chapter 5 of the Cabinet Office's *Public Bodies: A Guide for Departments* that provides guidance on staff issues in public bodies (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80082/PublicBodiesGuide2006_5_public_body_staffv2_0.pdf).

19.4 If civil service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the staff and to any other party entitled to payment in respect of travel expenses or other allowances, payment shall be made in accordance with the *Civil Service Management Code* (<https://www.gov.uk/government/publications/civil-servants-terms-and-conditions>) except where prior approval has been given by the department to vary such rates.

19.5 Staff terms and conditions should be set out in an Employee Handbook, which should be provided upon request to the department together with subsequent amendments.

19.6 Transport Focus shall operate a performance-related pay scheme that shall form part of the annual aggregate pay budget approved by the department or the general pay structure approved by the department and the Treasury whichever is applicable.

19.7 The travel expenses of board members shall be tied to the rates allowed to senior staff of Transport Focus. Reasonable actual costs shall be reimbursed.

19.8 Transport Focus shall comply with the EU Directive on contract workers – the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations.

Pensions, redundancy and compensation

19.9 Transport Focus staff shall normally be eligible for a pension provided by the Principal Civil Service Pension Scheme (PCSPS).

19.10 Any proposal by Transport Focus to move from the existing pension arrangements, or to

pay any redundancy or compensation for loss of office, requires the prior approval of the department. Proposals on severance must comply with the rules in chapter 4 of Managing Public Money.

20 Review of Transport Focus's status (and winding-up arrangements)

20.1 Transport Focus will be reviewed once in every parliament, or in line with the latest guidance from the Cabinet Office. The date of the next review will be in 2018/19.

21 Arrangements in the event that Transport Focus is wound up

21.1 The sponsor department shall put in place arrangements to ensure the orderly winding up of Transport Focus. In particular it should ensure that the assets and liabilities of Transport Focus are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to the sponsor department.) To this end, the department shall:

- ensure that procedures are in place in Transport Focus to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of Transport Focus's assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts;
- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding Transport Focus AO should sign the closing accounts. In the event that the department inherits the role, responsibilities, assets and liabilities, the sponsor department's AO should sign.

21.2 Transport Focus shall provide the department with full details of all agreements where Transport Focus or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw-back due to Transport Focus.

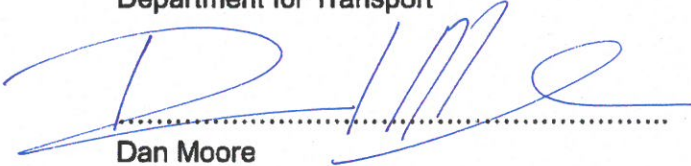
LIST OF APPENDICES

Appendix 1 List of delegated authorities (attached)

Appendix 2 List of government-wide corporate guidance instructions (attached)

Appendix 3 Schedule of the various statutes and statutory instruments which impact on the role and duties of Transport Focus.

Signed On behalf of the
Department for Transport

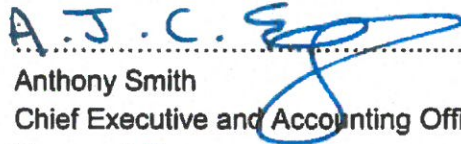


Dan Moore
Director, Rail Markets Strategy
Department for Transport

Signed On behalf of Transport Focus



Jeff Halliwell
Chair
Transport Focus



Anthony Smith
Chief Executive and Accounting Officer
Transport Focus

Date 7 November 2017

Date 7/11/17

APPENDIX 1

List of delegated authorities

The Department for Transport's delegated authorities are set out below. Notwithstanding these delegations, certain categories of spending proposal override any delegated authority and must be submitted to the Treasury. These are proposals which:

- could create pressures leading to a breach in Departmental Expenditure Limits, administration costs limits, or Estimates provision;
- would entail contractual commitments to significant levels of spending in future years for which plans have not been set;
- could set a potentially expensive precedent;
- could cause significant repercussions for others;
- require primary legislation;
- are novel and contentious; or
- where Treasury consent is a statutory requirement.

In addition:

- The Department for Transport will act at all times within the rules of Managing Public Money.
- The department will abide by any specific agreements reached with Treasury Ministers or officials during Spending Review discussions or otherwise.
- If spending falls under more than one category of delegation, the lower delegated limit applies.

The delegated authorities for the Department for Transport are set out in the following table:

Nature of delegation		Delegated limit	Disclosure threshold
General* (BCR over 3.5)	Resource and capital	£100m	£90m
General* (BCR under 3.5)	Resource and capital	£40m	£30m
HS2	Resource and capital	£100m	£90m
Network Rail**	Resource and capital	£0m	£0m
Stock Write-Offs and Impairments	Equipment, SOSP, IS/IT, etc.	£5 million	£1 million
Claims waived or abandoned	Any	£1 million	N/A

Special Payments	Extra-contractual payments involving departmental default and made on appropriate legal or other professional advice.	£0.5m	N/A
	Ex-gratia payments, compensation payments made on legal or other professional advice, extra statutory and extra-regulatory payments	£0.1m	N/A
	Consolatory payments (ex-gratia payments) to individuals in respect of incidents which do not involve financial loss	£500	
	Special severance payments outside of normal statutory or contractual requirements	£0 (all cases must be submitted to the Treasury for approval)	
Highways major projects and maintenance spend	Resource and capital	£500m	£500m

Highways major programmes	Resource and capital	Any amount, provided it contains no geographically distinct package of work worth more than £500m not otherwise approved. Where schemes over £500m are included, HMT would be willing to consider approving whole programme, including tier 1 scheme, through one single programme level BC	
Highways Long-term contracts Other than major projects committed in the Investment Plan	Resource and capital	£500m where no more than £100m falls outside of the period covered by the current statement of funds available or its successor (if available)	
Highways PFI contracts	Resource and capital	No delegation	

* This applies for all major projects, with the exception of Network Rail, HS2 and Highways England expenditure which are set out separately.

In addition, certain other types of spending always require Treasury approval:

- new revenue grants paid to local government. In line with the Government's commitment to greater financial freedoms for local government, these would need to be un-ringfenced and have no restrictive conditions;
- spend on public private partnerships, which generally creates commitments beyond the current Spending Review period and requires complex contracting which is considered novel or contentious; and
- spend on a complex or non-standard commercial model (e.g. joint venture) for a service or Business Process Outsourcing is considered as novel or contentious spend and any negotiations or legal disputes with government's strategic suppliers is considered as spending that could cause repercussions elsewhere in the public sector.

Notes:

1. Approval is required if spending falls outside one or more of the applicable delegated limits. Spending should be measured on a whole life cost basis except where this is not sensible, for example for ongoing annual commitments.
2. This includes all new projects and proposals/announcements, even when they are part of a larger programme or payment that was provided for as part of a Spending Review or other Treasury written approval and that are not covered by prior written approval from the Treasury.
3. This also includes renewal of existing projects and programmes where significant changes are being proposed.
4. Costs are on current net present value accruals basis.
5. The cost is the sum of all payments committed to a body, organisation or individual from a single programme over its lifetime (i.e. costs should not be "unbundled" to fall below the delegation).

APPENDIX 2

Compliance with government-wide corporate guidance and instructions

Transport Focus shall comply with the following general guidance documents and instructions:

this document;

Appropriate adaptations of sections of *Corporate Governance in Central Government Departments: Code of Good Practice*

<https://www.gov.uk/government/publications/corporate-governance-code-forcentral-government-departments> ;

Code of Conduct for Board Members of Public Bodies

http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-ofconduct_tcm6-38901.pdf

Code of Practice for Ministerial Appointments to Public Bodies

<http://publicappointmentscommissioner.independent.gov.uk/wpcontent/uploads/2012/02/Code-of-Practice-2012.pdf>

Managing Public Money (MPM);

Public Sector Internal Audit Standards,

<https://www.gov.uk/government/publications/public-sector-internal-auditstandards>;

Management of Risk: Principles and Concepts: ;

<https://www.gov.uk/government/publications/orange-book>

HM Treasury Guidance on Tackling Fraud,

http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf ;

Government Financial Reporting Manual (FRM),

<https://www.gov.uk/government/publications/government-financial-reportingmanual>;

Fees and Charges Guide, Chapter 6 of *Managing Public Money*,

Departmental Banking: A Manual for Government Departments, annex 5.6 of *Managing Public Money*;

relevant Dear Accounting Officer letters

<https://www.gov.uk/government/collections/dao-letters> ;

Regularity, Propriety and Value for Money,

http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/psr_governance_valueformoney.htm;

The Parliamentary and Health Service Ombudsman's Principles of Good Administration <http://www.ombudsman.org.uk/improving-publicservice/ombudsmansprinciples> ;

Consolidation Officer Memorandum, and relevant DCO letters;

relevant Freedom of Information Act guidance and instructions (Ministry of Justice);

[Model Code for Staff of Executive Non-departmental Public Bodies (Cabinet Office)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80082/PublicBodiesGuide2006_5_public_body_staffv2_0.pdf];
other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;

other relevant instructions and guidance issued by the central Departments;

specific instructions and guidance issued by the sponsor Department;

recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the ALB.

APPENDIX 3

Schedule of the various statutes and statutory instruments which impact on the role and duties of Transport Focus.

RAILWAYS ACTS 1993 / 2005

76 General duties of the Passengers Council

(1) It shall be the duty of the Passengers Council to investigate any matter which relates—

- (a) to the provision of railway passenger services, or

- (b) to the provision of station services by any person in a case where the operator of the station in question is authorised by a licence to be the operator of that station,

if the condition specified in subsection (2) below is satisfied in relation to the matter in question.

(2) The condition mentioned in subsection (1) above is satisfied if—

- (a) the matter is the subject of a representation made to the Council by a user or potential user of railway passenger services and does not appear to the Council to be frivolous or vexatious;

- (b) the matter is referred to the Council by the Secretary of State; or

- (c) the matter appears to the Council to be one which it ought to investigate.

(2A) If any matter falling within subsection (2)(a) appears to the Passengers' Council to relate only to—

- (a) the provision of railway passenger services wholly within the London railway area (within the meaning of section 252A of the Greater London Authority Act 1999), or

- (b) the provision of station services within that area,

the Council must refer the matter to the London Transport Users' Committee.

(4) If, on investigating any matter, the Passengers' Council considers it appropriate to do so, the Council shall make representations to the person providing the secured service (within the meaning of Part 4 of the Railways Act 2000) which is in question and—

- (a) in the case of a service provided under a franchise agreement, to the franchisee, or

- (b) in the case of a service provided on behalf of the Secretary of State, to the Secretary of State,

about the matter, or any matter to which it relates or which appears to the Council to be relevant to the subject of the matter investigated.

(5) Where the Passengers' Council —

- (a) having made representations under subsection (4) above, is of the opinion that it is unable to achieve a satisfactory resolution of the matter by that means, or
- (b) on investigating any matter, has reason to believe that a franchisee is contravening, or is likely to contravene, any term of the franchise agreement or that the holder of a passenger licence or a station licence is contravening, or is likely to contravene, any condition of the licence,

the Council shall, unless representations about the matter have been made to the Secretary of State by the Passengers' Council, refer it to the Secretary of State with a view to the

Secretary of State exercising such of his powers as he considers appropriate in the circumstances of the case.

(5A) But if the Secretary of State considers that it would be more appropriate for a matter referred to him by the Passengers' Council to be considered by the Office of Rail Regulation, the Secretary of State shall refer the matter to it, with a view to its exercising such of its powers as it considers appropriate in the circumstances of the case.

(6) Where the Passengers' Council investigates any matter—

- (a) it may prepare and send to the Secretary of State a report of its findings; and
- (b) it may publish any such report, unless the matter in question is one which was referred to the Council by the Secretary of State as mentioned in subsection (2)(b) above.

(7) Where the Council has investigated any matter under this section, it shall neither—

- (a) include in any report or representations a proposal for any steps to be taken by any person in relation to that matter, nor
- (b) refer the matter to the Secretary of State under subsection (5)(a) above by reason only of the failure of any person to take any steps in relation to that matter,

unless, balancing the cost of taking those steps against the benefits which the Council considers will be enjoyed by any person in consequence of the taking of those steps, the Council is of the opinion, on the basis of the information available to it, that the expenditure involved represents good value for money.

(7A) It shall also be the duty of the Passengers' Council, so far as it appears expedient from time to time to do so—

- (a) to keep under review matters affecting the interests of the public in relation to railway passenger services and station services;
- (b) to make representations to, and consult, such persons as they think appropriate about those matters; and
- (c) to co-operate with other bodies representing the interests of users of public passenger transport services.

(7B) The Secretary of State may, after consultation with the Passengers' Council, make an order excluding services from the duties imposed by this section; and an order under this subsection—

- (a) may exclude services of a particular class or description, particular services or services provided by a particular person;
- (b) may provide that services are excluded subject to compliance with specified conditions; and
- (c) may not revoke an exclusion except for breach of condition or in accordance with the order which made it.

(7C) The Secretary of State may, after consultation with the Passengers' Council, make an order providing that the duties imposed by this section apply to services of a particular class or description, particular services or services provided by a particular person—

- (a) only to such extent as is specified by the order; or
- (b) with such modifications as are so specified.

(9) In this section, any reference to railway passenger services includes a reference to bus substitution services required to be provided in place of any such services.

76A Delegation of duties under section 76(7A)

(1) The Passengers' Council and any other public body may enter into an agreement for that other body to be responsible, in accordance with the agreement, for —

- (a) determining what is expedient for the purposes of subsection (7A) of section 76 above in relation to an area specified in the agreement; and
- (b) otherwise performing that Council's duties under that subsection in relation to that area.

(2) So long as an agreement under this section is in force—

- (a) the duties of the Passengers' Council under subsection (7A) of section 76 above shall be deemed, in relation to the area specified in the agreement, to fall on the other party to it, instead of on that Council; but
- (b) that Council is not to be prevented from doing anything mentioned in that subsection in relation to that area.

(3) An agreement under this section—

- (a) may be entered into on such terms and conditions as the parties to it may agree; and

- (b) may contain provision for determining for the purposes of this section in what circumstances things done under or for the purposes of section 76(7A) are to be treated as done in relation to the area specified in the agreement.
- (4) The consent of the Secretary of State is required before the Passengers' Council and another public body may enter into an agreement under this section.
- (5) In this section "public body" means any authority or other body on which functions are conferred by or under an enactment.
- (6) In subsection (5) "enactment" includes an enactment comprised in an Act of the Scottish Parliament."

78 Functions under section 56 of the Transport Act 1962

- (1) In consequence of section 76 above, subsections (4) to (6) of section 56 of the Transport Act 1962 (which make provision with respect to the functions of the former Central Committee with respect to services and facilities provided by certain Boards and, as applied or amended, by certain other persons) shall not have effect in relation to matters affecting the services or facilities which are for the time being provided by the Board or a subsidiary of the Board or under a franchise agreement.

THE RAILWAY (LICENSING OF RAILWAY UNDERTAKINGS) REGULATIONS 2005

2 Interpretation

- (1) In these Regulations, except where the context otherwise requires—
"the 1993 Act" means the Railways Act 1993;

"the 1995 Directive" means Council Directive 95/18/EC dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive 2001/13/EC dated 26th February 2001 and Directive 2004/49/EC dated 29th April 2004, both of the European Parliament and of the Council;

"EEA State" means a member State, Norway, Iceland or Liechtenstein;

"European licence" means a licence granted to a railway undertaking pursuant to these Regulations (valid throughout the territory of any EEA State) by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA States such train services as may be specified in the licence;

"ORR" means the Office of Rail Regulation, being the body established under section 15 of the Railways and Transport Safety Act 2003;

"SNRP" means a statement of national regulatory provisions, issued pursuant to regulation 10.

17 General duties of the Passengers' Council

- (1) Subsection (5) of section 76 of the 1993 Act (general duties of the Passengers' Council) has effect in relation to holders of European licences and to SNRPs as if—
- (a) the reference to the holder of a passenger licence included a reference to the holder of a European licence which authorises the carriage of passengers by railway;
 - (b) the reference to any condition of the licence included a reference to any condition of a SNRP held by the holder of the European licence;
 - (c) the reference to the Secretary of State, in the second and third places where it occurs, included a reference to the ORR; and
 - (d) the reference to the Secretary of State exercising such of his powers as he considers appropriate included a reference to the ORR exercising such of its powers as it considers appropriate.
- (2) In paragraph (1), the expression "European licence" includes a licence granted pursuant to any action taken by an EEA State for the purpose of implementing the 1995 Directive.

TRANSPORT ACT 1962

56 The Transport Consultative Committees

- (4) Subject to the following provisions of this section, it shall be the duty of the Passengers' Council ... to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities provided by any of the Boards—
- (a) which has been the subject of representations (other than representations appearing to the committee to be frivolous) made to the Passengers' Council ... by or on behalf of users of those services or facilities, or
 - (b) which has been referred to the Passengers' Council ... by the Minister or by a Board, or
 - (c) which appears to the Passengers' Council ... to be a matter to which consideration ought to be given.
- (6ZA) If the Secretary of State so directs subsections (4) to (6) of this section shall have effect in relation to the Passengers' Council ... as if the reference in subsection (4) of this section to services and facilities provided by any of the Boards included a reference to any such ferry service as may be specified in the direction, whether provided by a Board or by some other person; and, in the application of subsections (4) to (6) of this section in relation to any such ferry service, any reference in those subsections to a Board shall be taken to include a reference to the person providing the ferry service.

TRANSPORT ACT 1968

55 Amendments as to Transport Consultative Committees

(1) The services and facilities in relation to which, under section 56 of the Act of 1962, the duty imposed, subject to the subsequent provisions of that section, by subsection (4) thereof on the Passengers' Council ... falls to be exercised—

(a) shall not include any services or facilities provided by the Waterways Board

and accordingly—

(ii) the reference in paragraph (b) of that subsection to a Board shall be construed as excluding a reference to the Waterways Board.

TRANSPORT ACT 2000

Schedule 28

10. Where provision is made for subsections (4) to (6) of section 56 of the Transport Act 1962 (functions of Passengers' Council ...) to apply in relation to any services or any facilities connected with any services—

(a) section 76 of the Railways Act 1993 shall not apply in relation to them unless the services are being provided under a franchise agreement, but

(b) that subsection shall not apply to them if the services are being so provided.

THE RAILWAYS (PASSENGERS' COUNCIL ...) (EXEMPTIONS) ORDER 2003

2 Interpretation

In this Order —

"the Act" means the Railways Act 1993;

"International railway passenger services" has the meaning given by section 41(6) of the Channel Tunnel Act 1987; and

"the Metro" has the meaning given by section 2(1) of the Tyne and Wear Passenger Transport Act 1989.

3 Exemption in favour of the Passengers' Council

Save in relation to the duties imposed by section 76(7A), exemption is granted to the Passengers' Council from the duties imposed by section 76 of the Act in relation to any railway passenger service to which this article applies.

5 Railway passenger services to which article 3 applies

(1) Subject to paragraph (2), article 3 applies to the following railway passenger services –

- (a) railway passenger services which are provided by a passenger service operator which is not required under the terms of its passenger licence to provide through ticketing facilities; and
- (b) railway passenger services in respect of which the passenger service operator is exempted under section 7 of the Act from the requirement under section 6 of the Act to be authorised by licence to operate the railway assets used in the provision of those services.

(2) Article 3 does not apply to railway passenger services specified in the Schedule to this Order.

Schedule

Excluded services

Railway passenger services provided by or on behalf of Docklands Light Railway Limited or London Underground Limited;

Railway passenger services provided exclusively on the Metro;

International railway passenger services.

THE PASSENGERS' COUNCIL (NON-RAILWAY FUNCTIONS) ORDER 2010

New name for Rail Passengers' Council

- 2 (1) The body corporate established under section 19(1) of the Railways Act 2005 is to be known as the Passengers' Council.
- (3) References in enactments, instruments or documents to the Central Rail Users' Consultative Council or to the Rail Passengers' Council have effect after the coming into force of this Order as references to the Passengers' Council.

Conferral of non-railway functions on the Passengers' Council

- 3 (1) After section 112 of the Transport Act 1985(2) insert—

"PART 5A PASSENGERS' COUNCIL: ROAD PASSENGER TRANSPORT FUNCTIONS IN ENGLAND

112A Introductory

- (1) "Road passenger transport service" means—
- (a) a local service(3), so far as operating in England;
 - (b) a domestic coach service, so far as operating in England; or
 - (c) a tramway passenger service, so far as operating in England.

- (2) But a service is not a "road passenger transport service" if—
- (a) it is an excursion or tour(4); or
 - (b) it is provided in a public service vehicle(5) used under a permit granted under section 19.
- (3) "Road passenger transport facility" means a facility in England for road passenger transport services.

112B Duty to keep road passenger transport services and facilities under review

- (1) The Passengers' Council must, so far as it appears expedient from time to time to do so—
- (a) keep under review matters affecting the interests of the public in relation to road passenger transport services and facilities; and
 - (b) make representations to, and consult, such persons as it considers appropriate about those matters.
- (2) The Council and any other public body may enter into an agreement for that other body to be responsible, in accordance with the agreement, for—
- (a) determining what is expedient for the purposes of subsection (1) in relation to an area specified in the agreement; and
 - (b) otherwise performing the Council's functions under subsection (1) in relation to that area.
- (3) So long as an agreement under subsection (2) is in force—
- (a) the duties of the Council under subsection (1) in relation to the area specified in the agreement fall on the other party to the agreement instead of on the Council; but
 - (b) the Council is not prevented from doing anything mentioned in subsection (1) in relation to that area.
- (4) An agreement under subsection (2)—
- (a) may be entered into on such terms and conditions as the parties to it may agree; and
 - (b) may contain provision for determining, for the purposes of this section, in what circumstances things done under or for the purposes of subsection (1) are to be treated as done in relation to the area specified in the agreement.
- (5) The written consent of the Secretary of State is required before the Council and another public body may enter into an agreement under this section.
- (6) In this section "public body" means any authority or other body on which functions are conferred by or under an enactment.

112C Duty to investigate road passenger transport services and facilities

- (1) The Passengers' Council must investigate any matter relating to the provision of road passenger transport services or facilities if—
 - (a) the matter is the subject of a representation made to the Council by a user or potential user of road passenger transport services or facilities;
 - (b) the matter is the subject of a representation made to the Council by an organisation representative of users or potential users of road passenger transport services or facilities;
 - (c) the matter is referred to the Council by the Secretary of State for investigation; or
 - (d) it appears to the Council that the matter is one which the Council ought to investigate.
- (2) The Council is not required to investigate a matter in a case falling within subsection (1)(a) or (b) if the matter appears to the Council to be frivolous or vexatious.
- (3) The Council is not required to investigate a matter in a case falling within subsection (1)(a) or (b) if, or to the extent that, the Council refers the matter to another body under section 112D.
- (4) The Council must not investigate by virtue of subsection (1)(d) any matter which relates solely to the provision of London road passenger transport services or facilities.
- (5) Subsection (4) does not prevent the Council from so investigating any such matter as part of an investigation of a matter which relates wholly or mainly to—
 - (a) the provision of road passenger transport services or facilities other than London road passenger services or facilities; or
 - (b) the provision of road passenger transport services or facilities in any part of England outside London.

112D Power to refer matters elsewhere instead of investigating

- (1) This section applies in relation to a matter which is the subject of a representation made to the Passengers' Council under section 112C(1)(a) or (b).
- (2) If the Council thinks that it would be more appropriate for the matter to be considered—
 - (a) by an operator of road passenger transport services;
 - (b) by a provider of road passenger transport facilities; or
 - (c) by any body which does not fall within paragraph (a) or (b);the Council may refer the matter to that person or body.
- (3) The Council must refer the matter to the London Transport Users' Committee(6) if, or in so far as, it appears to the Council to relate to the provision of London road passenger transport services or facilities.

- (4) Subsection (3) does not require the Council to refer a matter to the Committee if, or in so far as, it appears to the Council to relate to the provision of a long distance coach service.
- (5) Subsection (4) does not apply in the case of a matter if, or in so far as, it appears to the Council to relate to a London local passenger.
- (6) Subsection (4) does not prevent the Council referring a matter under subsection (3) if, or in so far as, it considers it appropriate to do so.
- (7) In this section—
 - "London local passenger" means a passenger making a journey which begins and ends at stopping places in London;
 - "long distance coach service" means a bus service—
 - (a) which has one or more stopping places(7) outside London; and
 - (b) which would be a domestic coach service, if no account were taken of any London local passengers.

112E Investigations: power to obtain information

- (1) This section applies if the Passengers' Council is carrying out an investigation under section 112C in relation to road passenger transport services or facilities.
- (2) If the Council requests an operator of services, or a provider of facilities, to provide any information which the Council considers necessary for the purpose of carrying out the investigation, subsection (3) applies.
- (3) A person who receives such a request must provide the information unless—
 - (a) the person does not have, and cannot reasonably obtain, it; or
 - (b) the provision of the information would impose an unreasonable burden on the person.
- (4) A person who relies on paragraph (a) or (b) of subsection (3) must notify the Council in writing of that fact, stating the reason why the paragraph in question applies.
- (4) If the Council—
 - (a) has requested information from an operator of local services or domestic coach services, and
 - (b) considers that it has not received a satisfactory response to that request, the Council may refer the matter to a traffic commissioner.
- (5) If the Council—

- (a) has requested information from an operator of tramway passenger services, and
 - (b) considers that it has not received a satisfactory response to that request, the Council may refer the matter to the promoter.
- (7) If a matter is referred by virtue of subsection (5) or (6), the traffic commissioner or, as the case may be, the promoter may require the recipient of the request mentioned in subsection (2) to provide such of the information as the traffic commissioner or promoter considers appropriate.

112G Investigations: representations

- (1) Having investigated a matter under section 112C the Passengers' Council may, if it considers it appropriate to do so, make representations to—
- (a) an operator of road passenger transport services;
 - (b) a provider of road passenger transport facilities;
 - (c) a local traffic authority in England;
 - (d) the Highways Agency of the Secretary of State for Transport;
 - (e) a local transport authority in England.
- (2) If the Council makes representations to a person under this section—
- (a) the person must have regard to those representations; and
 - (b) the person must, within a reasonable time, send the Council a written statement describing any actions that the person has taken or intends to take in response to the representations.

112H Referrals following investigation

- (1) This section applies if the Passengers' Council—
- (a) has made representations under section 112G; and
 - (b) considers that it is unable to achieve a satisfactory outcome by that means.
- (2) If the representations were made to any operator of local services or domestic coach services, the Council may refer the matter to a traffic commissioner.
- (3) If the representations were made to any operator of tramway passenger services, the Council may refer the matter to the promoter.
- (4) If the representations were made to a local traffic authority and the Council considers that it may be appropriate for a traffic commissioner to exercise powers under section 27A (additional powers in relation to local traffic authorities where service not operated as registered), the Council may refer the matter to a traffic commissioner.
- (6) If the representations were made to a local traffic authority and the Council considers that it may be appropriate for the Secretary of State to exercise powers under Part 2 of the Traffic Management Act 2004 (enforcement of

network management duties), the Council may refer the matter to the Secretary of State.

112I Referrals in cases where investigation identifies other failings

- (1) This section applies if, on investigating a matter under section 112C, the Passengers' Council has reason to believe that—
 - (a) an operator of local services has failed to operate a local service registered under section 6 or has operated a local service in contravention of that section; or
 - (b) the holder of a PSV operator's licence⁽¹¹⁾ is contravening, or is likely to contravene, any conditions or requirements of that licence.
- (2) The Council may refer a matter described in subsection (1) to a traffic commissioner.

112J Traffic commissioner's duty following referral

- (1) This section applies if the Passengers' Council refers a matter to a traffic commissioner under section 112E, 112H or 112I.
- (3) The traffic commissioner dealing with the matter must consider whether, in connection with the matter, it would be appropriate to exercise any of the powers of a traffic commissioner in respect of—
 - (a) an operator of local services;
 - (b) a holder of a PSV operator's licence; or
 - (c) a local traffic authority.

112K Investigation reports

- (1) This section applies where the Passengers' Council has investigated a matter under section 112C.
- (2) The Council may prepare a report of its findings (an "investigation report").
- (3) The Council may send a copy of an investigation report to the Secretary of State and to such other persons as the Council thinks fit.
- (4) The Council may publish an investigation report.
- (7) In the case of an investigation report prepared following an investigation which is carried out as the result of a referral by the Secretary of State under section 112C(1)(c), the Council must obtain the Secretary of State's consent before—
 - (a) sending the report to any person other than the Secretary of State; or
 - (b) publishing the report.

112L Interpretation of Part 5A

(1) In this Part—

"domestic coach service" means a bus service which—

- (a) carries passengers at separate fares; and**
- (b) is not a local service;**

"local traffic authority" has the meaning given by section 121A of the Road Traffic Regulation Act 1984;

"local transport authority" has the meaning given by section 108(4) of the Transport Act 2000;

"London road passenger transport services or facilities" means road passenger transport services or facilities—

- (a) provided by Transport for London or any of its subsidiaries;**
- (b) provided in pursuance of an agreement entered into by Transport for London or in pursuance of a transport subsidiary's agreement; or**
- (c) otherwise authorised by Transport for London to be provided;**

"promoter", in the case of any tramway passenger services, means the person authorised to secure the provision of those services with whom the operator of the services has entered into an agreement granting the operator the right to operate them;

"road passenger transport facility" has the meaning given by section 112A(3);

"road passenger transport service" has the meaning given by section 112A(1) and (2);

"subsidiary", in relation to Transport for London, has the same meaning as in the Greater London Authority Act 1999 (see section 424(1) of that Act);

"tramway" has the meaning given by section 67(1) of the Transport and Works Act 1992;

"tramway passenger service" means any service for the carriage of passengers by tramway;

"transport subsidiary's agreement" has the same meaning as in the Greater London Authority Act 1999 (see section 169 of that Act)."

THE RAIL PASSENGERS' RIGHTS AND OBLIGATIONS REGULATIONS 2010

Interpretation

3 (1) In these Regulations—

“the European Regulation” means Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23rd October 2007 on rail passengers' rights and obligations;

“the 1993 Act” means the Railways Act 1993;

“the ORR” means the Office of Rail Regulation.

Bodies handling complaints

18 (1) The Passengers' Council is designated as a body to which complaints may be made under Article 30(2) of the European Regulation, in relation to matters that fall within its functions under any enactment (other than this regulation), disregarding any order made under section 76(7B) or (7C) of the 1993 Act (power to exclude specified services from general duties of the Passengers' Council).

(2) In matters for which the Passengers' Council is a body to which complaints may be made under Article 30(2) of the European Regulation, section 76 of the 1993 Act (general duties of the Passengers' Council) has effect as if—

(a) in subsection (5)—

(i) the references to the Secretary of State included a reference to the ORR, and

(ii) in relation to a matter being referred to the ORR under that subsection as modified by paragraph (i), the words “unless representations about the matter have been made to the Secretary of State by the Passengers' Council” were omitted,

(b) subsection (5A) were omitted, and

(c) in subsection (7), the reference to the Secretary of State included a reference to the ORR.

[Note : These regulations give effect to EU regulation 1371/2007 on rail passengers' rights and obligations, the relevant sections of article 30 of which are set out below.]

Article 30 Enforcement

1 *Each Member State shall designate a body or bodies responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that the rights of passengers are respected.*

Each body shall be independent in its organisation, funding decisions, legal structure and decision-making of any infrastructure manager, charging body, allocation body or railway undertaking.

Member States shall inform the Commission of the body or bodies designated in accordance with this paragraph and of its or their respective responsibilities.

- 2 *Each passenger may complain to the appropriate body designated under paragraph 1, or to any other appropriate body designated by a Member State, about an alleged infringement of this Regulation.*

The Infrastructure Act 2015

(1) The Passengers' Council must carry out activities to protect and promote the interests of users of highways for which a strategic highways company is the highway authority.

(2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

(a) how a strategic highways company's exercise of its functions or achievement of its objectives under a Road Investment Strategy affects users of highways for which it is the highway authority, and

(b) any other matters—

(i) relating to highways for which a strategic highways company is the highway authority, and

(ii) which the Council considers to be of interest to users of such highways.

(3) The Secretary of State may by regulations provide that those activities may not relate to a matter—

(a) to the extent specified;

(b) subject to compliance with specified conditions.

(4) The Secretary of State must consult the Council before making regulations under subsection (3).

(5) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.

(6) The Council may by agreement with a local highway authority carry out activities to protect and promote the interests of users of highways for which the authority is the highway authority.

(7) Those activities may include investigating, publishing reports or giving advice to the local highway authority on any matters—

(a) relating to highways for which the authority is the highway authority, and

(b) which the authority and the Council consider to be of interest to users of such highways.

(8) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert—

"The Passengers' Council."