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## **Secretariat report**

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Agenda item 10

CA038

Drafted 4.1.10

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### **National Rail related casework in the London area**

#### **1 Purpose of report**

- 1.1 To explain how National Rail related casework in the London area is shared between London TravelWatch and Passenger Focus.

#### **2 Recommendation**

- 2.1 That the report is noted.

#### **3 Background**

- 3.1 At its meeting on 27 January 2010 (minute 4) concern was expressed that London TravelWatch might be handling rail related casework which should be dealt with by Passenger Focus. Accordingly this report gives more detail on the relevant statutory remits of each organisation in this respect, and explains how in practice work is shared between them.

#### **4 Information**

- 4.1 Prior to 2005, the (then) Rail Passengers Council (RPC) had a federal structure, its membership being composed primarily of the chairs of the eight area rail passengers committees which collectively covered the whole of Great Britain, apart from London and its environs. This formed the "London railway area", in which the London Transport Users Committee (LTUC) performed an identical role, in addition to its other functions vis-à-vis Transport for London.
- 4.2 Appeals handling was primarily the responsibility of the area committees (including LTUC). The national body, RPC, handled only the very small minority of cases which raised issues of generic, network-wide application (such as the terms and conditions of railcards). Each committee dealt autonomously with cases relating to stations in its defined area or to journeys made wholly within its area.
- 4.3 The law simply required the committees to consider cases referred to them by users, and was unspecific as to how cases involving journeys across their boundaries should be dealt with. So a pragmatic agreement was reached between them that such cases should be handled by whichever committee covered the station at which the journey originated, seeking advice and information from the other(s) concerned if required, unless the problem

was specific to a point en route in another committee's area. Cases relating to timetable changes were normally handled by the committee covering the locality in which the appellant's address was located. This arrangement was equitable and gave rise to no difficulties.

- 4.5 In 2005, the area committees were abolished and their functions were inherited by what then became known as Passenger Focus. The LTUC (soon to rebrand itself as London TravelWatch) remained in existence, as it had a wider modal remit and the Government judged that it was appropriate that there should continue to be a single official voice for all travellers in the London area. Its role with respect to National Rail (including appeal handling) was explicitly preserved and redefined by the Railways Act, in the form of amendments inserted into the Committee's own governing statute, the Greater London Authority Act.
- 4.6 Both Passenger Focus and London TravelWatch have a duty to investigate cases brought to them by or on behalf of users (see appendix). In the case of matters affecting stations, the law is explicit. London TravelWatch must deal with these if the station(s) concerned is/are in the London railway area, and if any cases relating to such stations reach Passenger Focus, it must pass them to London TravelWatch. Similarly, London TravelWatch must deal with cases relating to journeys made wholly within that area, and Passenger Focus must pass on such cases which it may receive. London TravelWatch has no power to consider cases only involving stations and/or journeys elsewhere, and does not do so.
- 4.7 This leaves a small intermediate group of cases, i.e. those involving journeys made into or out of the London railway area and thus falling only partly within it. Passenger Focus is not precluded from handling these. But, at the same time, London TravelWatch has a specific duty to deal with cases affecting journeys made wholly or partly within the London railway area. There is thus an element of overlapping jurisdiction, and the two organisations have had to come to a pragmatic working agreement about how this situation should be managed.
- 4.8 One way of doing so would be to adopt a narrow interpretation of the law, and for each body simply to consider those cases that happen to be referred directly to it. But this would introduce an element of chance and create the risk of duplication if each was dealing independently with the same issues. And it would not offer a solution on the frequent occasions when appellants write simultaneously to both bodies, and where it is self-evidently undesirable that they should both be drawn into a single case.
- 4.9 So the solution that has been reached has been quite simply to continue to apply the rule of thumb that operated nationwide until 2005, and to "trade" such cases between the two bodies, primarily by reference to the location of the journey origin (but taking due account of their respective areas of expertise – so that, for example, London TravelWatch would normally take on any case involving an element of Oyster ticket pricing because Passenger Focus does not have any direct relationship with Transport for London). This is done routinely, without difficulty, and has never given rise to any objection from an appellant whose case has been referred on in this manner. If such an objection was raised, London TravelWatch would have to retain and handle the case because, unlike Passenger Focus, it does not have power to delegate any of its functions to another body. Failure to do so could expose it to the risk of judicial review, leading to the possibility of being served with a mandatory order under Part 54 of the Civil Procedure Rules 1999.

- 4.10 We have not kept detailed records of cases passed between the two organisations but retrospective analysis of casework over the period October 2009 – February 2010 shows that 172 pieces of cases were sent to us from Passenger Focus. Our records show that, of these, 81 were appeal cases and the remainder were enquiries or initials. The number of cases passed from London TravelWatch to Passenger Focus was negligible. The Casework Manager who has been the ‘gatekeeper’ of such trading for many years confirms that these figures reflect the kind of ratios she would have expected.

## **5 Equalities implications**

- 5.1 There are no specific equalities implications in this report.

## **6 Legal implications**

- 6.1 The Greater London Authority Act 1999 (section 252B) details the duties in of the London Transport Users Committee (known as London TravelWatch) in relation to the National Rail network. The Railways Act 1993 (Section 76) sets out the general duties of the Rail Passenger Council. Both acts were subsequently amended by the Railways Act 2005. The full text of the clauses relating to the duty to handle representations received from or on behalf of users is shown in the Appendix.

## **7 Financial implications**

- 7.1 Whilst there are no immediate financial implications arising from this report, its purpose is to demonstrate that London TravelWatch is not engaging in casework that it is not legally required to undertake (or that it has any power to refer elsewhere), so that members can be satisfied that the resources available to the organisation are deployed properly and effectively.

## Appendix

### REMIT OF LONDON TRAVELWATCH

#### GREATER LONDON AUTHORITY ACT 1999

##### 252B References to Committee in relation to railways

- (1) *It shall be the duty of the Committee to investigate any matter relating to a relevant railway matter if—*
- (a) *it is the subject of a representation made to the Committee by a user or potential user of railway passenger services;*
- (2) *A matter is a relevant railway matter for the purposes of subsection (1) if it relates to—*
- (a) *the provision of railway passenger services wholly or partly within the London railway area; or*
  - (b) *the provision of station services within that area in a case in which the operator of the station is authorised by a licence under Part 1 of the Railways Act 1993.*

### REMIT OF PASSENGER FOCUS

#### RAILWAYS ACT 1993

##### 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;*
- (2A) *If any matter falling within subsection (2)(a) appears to the Rail 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.*

**Note :** The statutes cited do not apply to Eurostar, but the Channel Tunnel Act 1987 provides for a similar division of functions. London TravelWatch is responsible for cases relating to – or to journeys made to or from – stations in the London railway area, although all such journeys necessarily begin or end elsewhere.