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## **Secretariat memorandum**

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LTW409  
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### **Closure of scheduled passenger services between Wandsworth Road, Kensington Olympia and Ealing Broadway stations consultation**

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

- 1.1 To agree a response to this consultation.

#### **2 Information**

- 2.1 Members will be aware that a formal closure process has been started regarding the 'rail replacement bus service' that operates between Ealing Broadway, Kensington Olympia and Wandsworth Road stations, and a Monday to Friday train service that operates between Kensington Olympia and Wandsworth Road. As noted at the last board meeting the closure process for this National Rail service follows the national procedures for closures rather than the 'London' process that took place for the recent Watford Met station proposal.
- 2.2 These services are in place to cover 3 sections of railway track that would otherwise have no other public franchised train service.
- 2.3 The sections of track involved are from Longhedge Junction to Latchmere No.1. Junction (between Wandsworth Road and Imperial Wharf stations); Willesden West London Junction to Acton Wells Junction; and Acton Wells Junction to Acton East Junction (both between Shepherds Bush and Acton Main Line stations).
- 2.4 The section of track between Longhedge Junction and Latchmere No 1 junction has third rail electrification, whereas the other sections of track are not electrified at all and so require diesel traction.
- 2.5 The current services provided are outlined in Appendix A.

#### **3 Background**

- 3.1 Up until December 2008 a regular train service of up to 5 trains daily was provided as part of the Cross Country franchise over these sections of line. The trains ran from Brighton to points north of Birmingham, and called at Haywards Heath, Gatwick Airport, East Croydon, Kensington Olympia, Reading, Oxford,

Banbury, Leamington Spa, Coventry, Birmingham International and Birmingham New Street.

- 3.2 In December 2008 a new timetable was implemented as part of the new Arriva Cross Country franchise which withdrew these trains east of Reading, and redeployed the resources employed to other parts of the franchise to relieve overcrowding concerns.
- 3.3 The trains that were withdrawn carried approximately 65 passengers per day on average, according to figures supplied to London TravelWatch in 2007. These were not equally spread across all trains as some trains ran either very early in the morning or very late at night, and were effectively positioning moves to the operator's depot at Three Bridges south of Gatwick Airport. The trains that operated in the off-peak daytime period (one in each direction) did however often carry 30-50 passengers per day. The journey times for these trains were quite lengthy and in most cases a faster journey was possible by interchanging between central London stations or at Watford Junction station using the Southern, West London Line service. On-board observation and analysis of the ticket types sold showed that the majority of passengers were choosing to use these services, because it offered a through journey opportunity without the interchange penalty in central London. These passengers were often either elderly or vulnerable people, or those with significant amounts of luggage for whom the through service was an advantage over the time taken for the journey.
- 3.4 London TravelWatch at the time (in 2006 and 2007), in correspondence with and in consultation responses to, the Department for Transport (DfT) repeatedly highlighted the effect of the change proposed in the DfT franchise consultation on these existing passengers and that if such a change were to be agreed that either a replacement service needed to be procured for the sections of track not served by other services or that closure proceedings needed to be instigated. Other bodies and persons also raised this with the DfT.
- 3.5 However, despite this it was only in early December 2008, with less than a few weeks to go before the change in timetable that the DfT announced that a once a week bus service would be provided covering the legally required sections of route.
- 3.6 Over the period of the next two years London TravelWatch repeatedly raised the issue of this service because it believed that as a matter of principle either a replacement train service or a closure process should be instigated. In addition, as noted in reports to the London TravelWatch governance committee and in correspondence with the DfT, London TravelWatch believed that the DfT did not and does not have powers under the Railways Act 2005 to operate bus replacement services other than of a temporary nature. A temporary nature being of less than one year duration or where a civil engineering project physically prevents rail access. DfT officials were not willing to propose a closure process at the time because they believed that an open access operator might choose to provide a service in the future, and that the Government policy at the time was not to instigate any such procedures<sup>1</sup>.

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<sup>1</sup> Parliamentary answers given to questions put down by Baroness Hanham in 2009.

- 3.7 In late 2009 the DfT announced that Southern would provide a train service between Kensington Olympia and Wandsworth Road stations from the May 2010 timetable, and that discussions were taking place with a view to Southern providing an additional service on this route but extended to Ealing Broadway station. This would have utilised a diesel unit from the London Bridge to Uckfield service which would otherwise have not been in use between the morning and evening peak hours.
- 3.8 The Southern train provided from the May 2010 timetable change was done so, by the expedient of converting an existing (electric) empty coach stock movement to passenger service. This started as a non-stop service, but subsequently additional station stops were made at Imperial Wharf and West Brompton stations (both directions), and Clapham High Street (afternoon only journey) in response to stakeholder requests. In addition during a series of engineering blockades and possessions in the Clapham Junction area Southern services that operate between Milton Keynes, Watford Junction and South / East Croydon have used the Longhedge Junction to Latchmere No.1. Junction section of route as an alternative route so as to maintain through services from South to North London, Watford and Milton Keynes. This train service does not cost Southern or the DfT any additional money to operate as the trains would operate anyway to move trains and crews to suitable stabling points between their main duties at peak times. This is acknowledged in the DfT consultation.
- 3.9 The proposed diesel service would have provided a daytime link over the route with some marginally useful links – such as connections to and from Heathrow Airport via the Heathrow Connect service. The service did in fact run every day Monday to Friday for several months, at the same times as the proposed public service as an out of service driver training and route familiarisation exercise. However, despite no reported problems with this operation and no reported disruption to other services, Network Rail refused to grant Southern permanent access rights for the service, on the grounds of a performance impact on other train services. At the time London TravelWatch contacted the Office of Rail Regulation on this matter, because we felt that this was unreasonable.
- 3.10 An alternative service was therefore proposed in the evenings of Mondays to Fridays. This however, required drivers to be retrained for night time operations and was much more expensive to operate as at this time of day there were less spare units and crew available.
- 3.11 The greater cost of these services and a desire by DfT to reduce expenditure in 2011, together with a decision by Ministers to reverse previous government policy on closures, led therefore to the decision to seek a formal closure in 2012.

#### **4 The formal closure process**

- 4.1 A formal closure process began in May 2012. London TravelWatch has received a number of objections to the closure proposal. A summary of responses received before the meeting will be circulated at the meeting for members' information.
- 4.2 To date the principle emerging concerns relate to;-

- Passengers who used the former Cross Country trains as outlined in paragraph 3.3
- The principles behind the proposed closure and the process by which the DfT has arrived at the decision to seek closure
- The potential future uses that these pieces of track could be used for – such as improved local services within the London area.
- The potential disadvantage to passengers on the Milton Keynes, Watford Junction and South / East Croydon service, if this cannot take its usual route through Clapham Junction for whatever reason. The current one journey in each direction train service between Kensington Olympia and Wandsworth Road stations ensures that crew knowledge of the alternative route via Wandsworth Road and Herne Hill stations is maintained.

## **5 Discussion about points of principle raised by this case**

- 5.1 This closure raises a number of important principles in relation to consumer representation when service changes occur.
- 5.2 The DfT's consultation states that 'it was only realised late in the process of re-letting the Cross Country franchise' that withdrawal of the service would leave the lines concerned without scheduled passenger services. London TravelWatch advised DfT on a number of occasions in 2006 and 2007 including in the formal response to the consultation on the Cross Country franchise that replacement services would be required on these lines or that a closure process needed to be considered. The advice from London TravelWatch in 2006 and 2007 should have been ample time to procure replacement services or go through a closure process in time for the timetable change in December 2008. However, it appears that DfT had no procedures for ensuring that a situation such as this did not occur. It should be noted that London TravelWatch officers have had to deal with a large number of DfT officials over the years on this issue, many of whom it would appear did not wish to take responsibility for resolving issues raised in this case.
- 5.3 The DfT in replying to passengers who complained about the withdrawal of the Cross Country services relied heavily on its consultation on the re-letting of the franchise as evidence of the public's ability to comment on the proposed withdrawal of the service. However, without the formal requirements of a closure proposal to be published in appropriate places, it is doubtful whether any of the former users of this service would have seen or realised the significance of the proposal, contained within a much larger document.
- 5.4 The role of the Office of Rail Regulation (ORR). The ORR is responsible for ensuring that the DfT, Network Rail and the train operators comply with the requirements for proposing, publicising, consulting and final decision making on closure proposals. However, early in the process, ORR indicated that they could only take action against any party, if a formal closure process had been started, even if the train service had already been withdrawn, and that their role was limited to ensuring that the closure process had been followed correctly.

- 5.5. At a later stage when Network Rail refused access rights for a timetabled service the ORR declined to intervene on the technicality that Southern had not contested Network Rail's refusal of access rights.
- 5.6. Network Rail is responsible for the granting of track access agreements to train operators, and as guardian of the timetable, agreement needs to be given as to when and where trains can run. There is no obligation on them to ensure that parts of the network which should have timetabled train service running do actually do so. As noted above, Network Rail has not been as co-operative or helpful as they could have been in ensuring that there was space in the timetable to ensure that a train service was run over the relevant sections of line.
- 5.7 The above issues show that there are some fundamental flaws in the current railway closure process. These are:
- There is no sanction or means of redress if the DfT fails to initiate closure proceedings or to provide a franchised train service where the law requires one to be provided.
  - The ORR has no means of intervening to ensure that the DfT complies with its' obligations to provide franchised train services, or to ensure that Network Rail makes reasonable efforts to allow a franchise commitment to be adhered to.
  - Network Rail has no obligation to co-operate with other parties to ensure that the legal obligation to provide passenger franchised services is adhered to.
  - There is no means of redress or representation for passengers who are affected by a decision to replace a substantive train service, with one which only provides the bare legal minimum.

## **6 Potential future uses of the lines proposed for closure**

- 6.1 All three sections of line proposed for closure could be potentially used for other services. The sections of line between Willesden West London Junction to Acton Wells Junction, and Acton Wells Junction to Acton East Junction (both between Shepherds Bush and Acton Main Line stations) are proposed for overhead electrification at 25kv under the recently announced High Level Output Specification (HLOS) programme of investment. However, this is intended for the benefit of freight trains running from the Great Eastern Main Line toward the Great Western main line. As yet there is no proposal for regular passenger trains to operate over this route.
- 6.2 However, this electrification scheme or the potential use of diesel traction could allow the provision of a number of different services starting from the Great Western Main Line (Heathrow Airport, Reading, Slough, Hayes and Harlington, Southall and Ealing Broadway stations) and continuing to points either on the North London Line (Barking via Gospel Oak line, Stratford stations), Euston station or via the West London Line to South London (Clapham Junction. East Croydon, Gatwick Airport, Peckham Rye, Lewisham, Dartford, Bromley South, Orpington or Sevenoaks stations). This would be subject to provision of suitable timetable paths on other parts of the rail network.
- 6.3. From the above a number of potential services could be provided. The most useful might be providing a direct train service between Heathrow and Gatwick

Airports calling at interchange stations such as Ealing Broadway, Shepherds Bush, Kensington Olympia, Clapham Junction, Balham and East Croydon stations. Alternatively a link solely between Ealing Broadway and Clapham Junction / Peckham Rye – Lewisham stations would provide major connectivity benefits between West and South London. Either of these options would be compatible with the Mayor's desire to improve orbital rail links around London and relieving pressure on congested central London terminuses.

- 6.4 London TravelWatch has previously advocated the provision of a limited inter-regional off peak service between Gatwick Airport, East Croydon, the West London Line and Watford Junction, Milton Keynes, Coventry and Birmingham to provide similar links to that previously provided by the Cross Country service. This would be done using resources otherwise not used between peak times by either the Southern or London Midland franchises.

## **7 Potential detriment to users of the Southern West London Line service between Milton Keynes and South Croydon stations**

- 7.1 As mentioned in paragraph 4.4. the train service between Wandsworth Road and Kensington Olympia stations operated by Southern has the benefit of ensuring that crew route knowledge is maintained. Each crew operates this service five times per year. This means that should for any reason the main route between Imperial Wharf and Streatham Common via Clapham Junction stations followed by the Milton Keynes to South Croydon service be unavailable, trains can be immediately diverted to run via Wandsworth Road, Herne Hill and Tulse Hill stations. This knowledge maintains a South London to West London Line service, without the need to substitute replacement bus services or to require passengers to travel via central London stations such as Victoria or Euston stations.
- 7.2 Users of the Milton Keynes to South Croydon service could therefore suffer hardship if crew route knowledge were not maintained.

## **6 Equalities and inclusion implications**

- 6.1 As noted in paragraph 3.3 many of the former users of the Cross Country service were either elderly or vulnerable people, or those with significant amounts of luggage for whom the through service was an advantage over the time taken for the journey. These passengers were significantly disadvantaged by the withdrawal of the through service. The only alternative routes for this group of passengers would be to interchange between central London termini or to use alternative modes.

## **7 Legal powers**

- 7.1 Section 248 of the Greater London Authority Act 1999 places upon London TravelWatch (as the London Transport Users Committee) a duty to consider – and where it appears to it to be desirable, to make recommendations with respect to – any matter affecting the functions of the Greater London Authority or Transport for London which relate to transport (other than of freight). Section 252A of the Greater London Authority Act 1999 places a duty upon London

TravelWatch (as the London Transport Users Committee) to keep under review matters affecting the interests of the public in relation to railway passenger and station services provided wholly or partly within the London railway area, and to make representations about them to such persons as it thinks appropriate.

Section 4 of the Railways Act 2005 outlines the process that has to be undertaken in the event of modifications to the rail network.

## **8 Financial implications**

- 8.1 There are no financial implications arising from this report for London TravelWatch.

## **9 Recommendation**

- 9.1 That members be asked to approve this report as the basis of London TravelWatch's response to the DfT consultation.
- 9.2 The response should highlight the points of principle that this closure process raises, and ask the Secretary of State to consider in future legislation and also in future franchising arrangements to ensure that a similar situation does not reoccur. This means that there should be means of enforcement against failure to start a closure process where one is required.
- 9.3 On the basis of no additional cost to the DfT and Southern of providing a train service over the Longhedge Junction and Latchmere No 1 junction section of route, and of the potential detriment to users of the Milton Keynes to South Croydon service of this line as an alternative to its usual route via Clapham Junction, to recommend refusal of consent to close this section of route.
- 9.4 On the basis that the current bus service is of little or no value to passengers, to recommend that the Willesden West London Junction to Acton Wells Junction, and Acton Wells Junction to Acton East Junction (both between Shepherds Bush and Acton Main Line stations) section of route be accepted for closure, but with the proviso that the DfT should investigate the feasibility of providing other services such as those outlined in paragraphs 6.1 to 6.4 in future.

## **Appendix A**

### Southern train service

Monday to Friday only

Outward

Kensington Olympia (1002). West Brompton (1004), Imperial Wharf (1007), Wandsworth Road (1019).

Return

Clapham High Street (1611), Wandsworth Road (1612), Imperial Wharf (1624), West Brompton (1626), Kensington Olympia (1629).

### Southern bus service

Tuesdays only

Outward

Ealing Broadway (0945), Kensington Olympia (1025), Wandsworth Road (1055).

Return

Wandsworth Road (1315), Kensington Olympia (1345), Wandsworth Road (1425).