
Secretariat memorandum

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Agenda item: 6

LTW419

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Matters arising

1 Purpose of report

- 1.1. To record responses to or further information received on matters arising from previous meetings.

2 Recommendation

- 2.1. That the report is received for information

3 Information

- 3.1. The current position is set out in the accompanying table (Annex A). Updates for inclusion in this report are invited five working days in advance of the meeting, in writing to the Committee Services team, rather than in person at the meeting.
- 3.2. Annex B sets out London TravelWatch's response to the Department for Business, Innovation and Skills' consultation on the implementation of the Consumer Rights Directive 2011/83/EU, in particular the provision which specifies that helplines should be charged at the basic rate.
- 3.3. Annex C sets out London TravelWatch's response to the Department for Transport's consultation on Maritime passengers' rights.

4 Equalities and inclusion implications

- 4.1. None – report is for information only.

5 Financial implications

- 5.1. None – report is for information only.

6 Legal powers

- 6.1. 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 the Committee 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 same Act (as amended by Schedule 6 of the Railways Act 2005) places a similar duty upon the 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.

Annex A: Matters arising from previous London TravelWatch meetings

No	Date	Minute	Action	London TravelWatch owner	Status	
1	22.03.11 15.11.11 27.03.12	12 6.1 6.1	Report on redress when pedestrians trip on pavements on the TLRN and on likely condition of pavements in future. To confirm position relating to issuing reference numbers.	Policy Officer	A meeting with TfL streets maintenance officers is still being pursued to discuss this. Reference numbers are automatically generated for complaints submitted online.	In progress
2	22.03.11 15.11.11 27.03.12	12 6.1 6.1	To consider whether there should be more information on the London TravelWatch website about redress when pedestrians trip on pavements on the TLRN.	Communications Officer	The wording for the website is being finalised.	In progress
3	25.09.12	4	Review the process for derogation and whether the derogation had been fully explored in relation to improvement works at Alexandra Palace station and the installation of a lift.	Director, Policy and Investigation	Further letters from the Acting Chair to Department for Transport and Office of Rail Regulation were sent in November 2012 and responses are awaited.	In progress
4	25.09.12	6.1	Write to Isabel Dedring to explain why London TravelWatch should be represented on the Roads Task Force.	Chair	The acting Chair has been appointed to the Roads Task Force.	Complete
5	25.09.12	8	Review the potential legacy benefits from the Olympic and Paralympic Games in Summer 2013.	Executive Assistant	The action has been included on the agenda planning forward programme.	Complete
6	25.09.12	9	Circulate copies of the new Big Red Bus book to members.	Executive Assistant	This was sent to members on 15 October 2012.	Complete

No	Date	Minute	Action	London TravelWatch owner	Status	
7	25.09.12	9	Consider reviewing problems with ticket vending machines on Docklands Light Railway not giving change and general concerns about DLR, Overground and Tram ticket machines being unable to top up Oyster.	Executive Assistant	The action has been included on the agenda planning forward programme for the Consumer Affairs committee.	Complete
8	25.09.12	9	Consider further work based on TfL's complaints data, including isolating the areas for greater analysis and reviewing specific areas.	Executive Assistant	The action has been included on the agenda planning forward programme for the Consumer Affairs committee.	Complete
9	25.09.12	10	Produce the 2013-14 budget in a format compatible with the monthly accounts for the October Governance committee.	Executive Assistant	This was completed for the October Governance committee.	Complete

Annex B

London TravelWatch's response to the Department of Business and Skill's consultation on the implementation of the Consumer Rights Directive.

Scope of application of CRD

Q10: We are not aware of problems which would indicate the need to extend these provisions to excluded sectors beyond those set out above (healthcare, social services, package travel and timeshare). Do you have any comments on this or other areas, including any not addressed in the proposals?

London TravelWatch is the independent, statutory watchdog for transport users in and around London. We speak for all London transport users on all modes of transport. We look into complaints from people unhappy with the response they have received from their transport provider with the aim of achieving a better outcome. We also conduct research on specific passenger related issues. Article 21 of Directive 2011/83/EU, Communication by telephone is an area of concern to passengers, and it is of great concern to us that passenger transport is excluded from this provision when our casework and research shows that passengers want the same protection that is provided for other consumers.

The consultation on this directive states that the Government's preferred option would be to extend the requirement to social services, healthcare services, package travel and timeshare contracts. However, London TravelWatch would strongly call for the basic rate call provision to be made applicable to passenger transport. Whilst we appreciate that the Government wants to be careful about placing burdens on businesses, there seems to be no reasonable explanation for excluding passenger transport. To exclude this sector would be injurious to the consumer; passengers are consumers after all and it is only fair that this provision be applied equally to all consumers.

Within the transport industry, most transport providers have 084/087 and other similar numbers which passengers have to use if they wish to contact their transport provider. The cost of the call can vary greatly depending on whether a mobile or landline is used; the cost is set by the call provider and the number being called. Mobile and home phone packages often include a certain number of 'free' calls (usually to 01, 02 and in some cases to 07 numbers). However, these 'free' mobile and landline minutes almost always exclude calls to 084/087 and other similar numbers and some phone providers charge a premium to call those numbers. The cost from a mobile phone could be as much as 40p per minute ([source: Which?](#)) and as consumers will often need to wait some time before their call is even answered, the cost could quite easily add up.

There needs to be more of a focus on how technology is moving, and the increased use of mobile phones. Most passengers today use their mobile phones to contact their transport provider. This is particularly the case when a problem with their ticket/ Oyster card has occurred as they will need to contact the transport provider straight away to rectify the problem to enable them to travel. Other reasons why consumers will need to contact their transport provider include (and are not limited to):

- Travel information
- Complaints about the service

- Ticket refunds and/or compensation

The Casework Team at London TravelWatch have direct experience of passengers being put off from complaining by having to call 084/087 numbers. When the contact details of the relevant transport provider are given to the passenger, the first question some passengers will ask is if there is an 01/02 number to call. Many people still prefer to be able to speak to someone regarding their complaint/query; during the year 2011/12, Transport for London received 2,077,351 calls to their Customer Experience department.

Furthermore, the contact number for London TravelWatch (an 0207 number) used to be displayed on buses all over London, and our experience was that many passengers would contact us instead of Transport for London's 0845 number in the hope that we could transfer them to London Buses. Once our number was removed from the buses, there was a significant drop in the calls we received from passengers, to the extent that we were able to significantly reduce the amount of staff time we needed to allocate to deal with the incoming phone calls.

Transport providers rely heavily on the internet, and passengers are always being advised to check online for service information or to make complaints. Whilst we accept that many people now use the internet and find it easier to contact transport providers online, we must represent all London transport users and there are still many in society who do not have access to the internet or prefer to speak to someone over the phone. It is therefore important that all passengers can have access to their transport provider without having to incur an expensive phone bill.

In June 2011, London TravelWatch conducted research amongst Oyster users on this subject, [Incomplete Oyster Pay As You Go journeys](#). One of the key recommendations was to change the 0845 Oyster helpline number to a geographical number. One of the key findings was that the time and cost of using the 0845 helpline number represented a significant disincentive to passengers. One passenger said "It's an 0870 number so it would cost a lot to call even from a landline so that's not fair because it puts you off" while another commented that "the problem is that there is a cost to get your money back".

Some passengers objected to paying for what they assumed was a premium rate number, however even those who were aware that that calls would not be charged at premium rate often expected that the cost of a (lengthy) call would be more than the refund they were entitled to. One passenger taking part in our research informed us that he had lost £8 but had to call several times, the cost of which probably amounted to £4. It therefore seems that in some cases the choice for the passenger is either to incur an expensive phone bill to get the information they need or to resolve their complaint, or to not bother pursuing the issue in the first place.

It is particularly unfair that consumers have to pay to call a more expensive phone number to complain about an issue of the transport company's own doing. However, what would be worse than this is for the Government to recognise the issue but not to apply Article 21 to all industries, particularly the transport industry where consumers pay increasingly higher fares.

Annex C
London TravelWatch response to
Maritime passengers' rights consultation



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14 November 2012

Damian de Niese
Department for Transport - Zone 2/29
Great Minster House
33 Horseferry Road
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Dear Mr de Niese

Maritime passengers' rights consultation

I am writing on behalf of London TravelWatch in response to the Department for Transport's current consultation on "the implementation of EU Regulation 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004."

By way of introduction, I should explain that London TravelWatch (whose full legal title is the London Transport Users Committee) is a statutory body established to reflect the concerns and promote the interests of the travelling public in and around London. Its origins date back to the late 1940s, but it was reconstituted in its present guise under the Greater London Authority Act 1999. Section 248 places on it a duty to consider and make representations regarding matters brought to its attention by users of services provided, procured or licensed by Transport for London (TfL). The relevant section of the Act is attached as annex A.

This means that a major part of our work is to take up comments, suggestions and complaints brought to us by users of any TfL service. This includes those branded as London River Services, although these form only a small part of our case load, since our remit includes the whole of London's bus and rail networks as well as TfL's streets.

By long standing agreement with TfL all initial or "first stage" representations we receive are referred to it for consideration and direct reply. We become directly involved only when and if the complainant is dissatisfied in any way with TfL's response, or its handling of the matter, and asks us to pursue it further. We will then investigate the problem, and make recommendations as to the further action (if any) we believe that TfL should take to resolve it.

We have no enforcement powers, but if we in turn are dissatisfied with TfL's response and believe that it would be appropriate for the Mayor to intervene, we are able to make such a

recommendation This is a power which we use very sparingly, because we believe that it is generally more productive to work by diplomacy and persuasion than by open confrontation.

As you will be aware, the Department has already implemented (or is in the course of implementing) similar EU legislative initiatives relating to the rights of passengers using other transport modes. London TravelWatch has no role in relation to air travel, but in the case of both rail and bus/coach users' rights, the Department has explicitly confirmed our role as the "second stage" complaint-handling body for such services in (and, in the case of main line rail, around) London. And although the precise details of the legislation differ, in most practical respects our functions are replicated – in relation to surface transport modes – by those of the Consumer Council in Northern Ireland, a body of which mention is made in your consultation paper.

Under the banner of London River Services, TfL provides, procures or licences a variety of services on the Thames between Hampton Court and Woolwich, together with most of the piers from which these operate. Some are branded as tours, and are aimed principally at sightseers. But most run under the label of River Bus, and provide regular passenger transport links. There are also two cross-river ferries, one of which (at Woolwich) also carries vehicles.

We have considered the extent to which users of London River Services will fall within the scope of the maritime passengers' rights regulation. We note that the regulation covers both regular ferry services and longer-distance cruises, but not "excursion and sightseeing tours". Services are excluded if (inter alia) they carry 12 or fewer passengers, have crews of three or fewer, or the distance covered is less than 500 metres.

No London River Services would qualify as cruises, and some may be excursions or sightseeing tours depending on the meaning of these terms (which are not defined). There are also some services which would be out of scope by virtue of the exclusions relating to carrying capacity, crew numbers and/or journey length. But there remains a core of River Bus services to which, on our understanding of the regulation - and what we believe to be that of TfL - it will apply. Our responses to your questions which follow therefore relate only to this part of London River Services' activities, although this distinction is otherwise irrelevant to us because there are no similar exemptions from our statutory remit.

Question 1 : Do you agree with the proposed approach for complaint handling? If not, please provide your reason(s).

The general approach is consistent with our current practice, i.e. that complaints are handled by the service operator in the first instance, and then taken up with a complaint-handling body if necessary. We agree that the Maritime & Coastguard Agency is the most appropriate choice as the "backstop" enforcement agency when the complaint-handling process has been exhausted, or it is alleged that a significant breach of the EU regulation has occurred. In this respect, the MCA's role would be equivalent to that already bestowed on (or proposed for) the Office of Rail Regulation and the Traffic Commissioners in the case of mainline rail and of bus/coach services, respectively.

But we do not believe that the Passenger Shipping Association (PSA) is an appropriate body to handle second stage complaints in England and Wales, at least as far as TfL's River Bus services in London are concerned. Our objection is based on the following considerations :

(a) London TravelWatch is an existing agency which fulfils this role, under terms of reference which are embodied in statute law, and will continue to do so irrespective of any voluntary arrangements entered into between the Department and the PSA. It would be an unnecessary duplication of effort, and a potential source of confusion to passengers, if two separate bodies found themselves acting in overlapping (and potentially competing) capacities.

(b) London TravelWatch has a long-established working relationship with Transport for London, dealing with many hundreds of complaints (across all transport modes) in the course of each year, and has accumulated knowledge and experience of TfL's policies and procedures

which enables it to discharge this function in an efficient and effective manner. If this function was to be assumed by the PSA in respect of London River Services, that body would have to create equivalent protocols and working procedures from scratch.

(c) London TravelWatch is not purely a complaint -handling agency. In fulfilment of its statutory remit it is in continuous dialogue with TfL regarding all of the latter's policies, practices and plans, in so far as these impinge on the users of its services, contributing a consumer-oriented perspective to its work. Information gleaned from complaint-handling is an important part of the knowledge base used by London TravelWatch for this purpose.

(d) TfL is the integrated transport authority for London, whose activities embrace all passenger modes except aviation. Its approach to service planning, ticketing and information is multi-modal. A significant proportion of our caseload relates to issues such as Oyster cards or conditions of carriage which do not necessarily lend themselves to single-mode solutions, and it would be difficult for a body such as the PSA to familiarise itself with this wider context when handling cases brought by river travellers.

(e) The government has already identified London TravelWatch as the appropriate body to handle stage-two complaints arising out of the EU's passenger rights initiatives relating to rail and bus/coach travellers, as far as they affect TfL services and facilities (or the national rail network in and around the capital). It would be inconsistent to adopt a different approach vis-à-vis waterborne transport in London.

(f) London TravelWatch's role in relation to TfL is for all practical purposes identical with that of the Consumer Council in Northern Ireland vis-à-vis transport links to and within that province. As the DfT has already identified the Consumer Council as the appropriate second-stage complaint handling body there, under the terms of the maritime passengers rights regulation, it would be inconsistent to treat London differently.

In the case of rail, London TravelWatch deals with complaints regarding passenger rights issues arising in the London Railway Area, and Passenger Focus does so in the rest of England, Scotland and Wales. In the case of buses and coaches, London TravelWatch does so if the complaints arise from services or facilities provided or procured by TfL, and the Bus Appeals Body does so in the rest of England and Wales. We see no difficulty in drawing a similar distinction between TfL (i.e. London River Services) and the rest of England in the case of the maritime passengers rights regulation also.

Question 2 : Do you have any views on the alternative approach outlined in section 6.8?

Paragraph 6.8 is concerned with the possible role of the PSA vis-à-vis complaints from passengers on cruises to and from Scotland and Northern Ireland. Cruises (and Scotland and Northern Ireland) are outside our scope and we have no collective view on this.

We would like, however, to offer one comment on what is proposed in section 6 for England and Wales generally (other than in London, which we have covered in our answer to Question 1). This is that the body charged with the responsibility for handling second-stage complaints should be the Passenger Shipping Association (PSA). The PSA is a trade association representing the interests of shipping operators. This is a perfectly legitimate role, but we do wonder whether a body whose primary purpose is to protect and promote the interests of its members would find it easy to handle complaints against them in an objective and independent manner (or, even if it was able to do so, whether it would be seen in this light by complainants, particularly if and when its findings went against them). You will be aware of the widespread public and political disquiet regarding the adequacy of self-regulation and complaint handling in a number of other economic sectors.

To nominate a trade association in this capacity would be a departure from the precedent set by the government in its approach to complaint handling (including complaints arising under the provisions of passenger rights legislation) in other transport modes. In the case of rail in England, Scotland and Wales, outside the London area, this function is handled by an

independent statutory agency, Passenger Focus (whose legal title is the Passengers Council). In the case of buses and coaches in England and Wales (other than TfL services), it is performed by the Bus Appeals Body. This is a non-statutory organisation sponsored jointly by the Confederation of Passenger Transport (the trade association) and Bus Users UK (a registered charity which protects and promotes bus and coach users' interests), with an independent chair.

We understand that Passenger Focus will be responding to you in its own right on this aspect of the Department's proposals.

Question 3 : Are you able to provide any data or other evidence on the rate of complaints the national enforcement body for this EU Regulation is likely to receive?

We can only comment in relation to London River Services. In 2011/12 it received 62 first-stage complaints, all but eight of which related to the possible withdrawal of services from two piers (and would therefore fall outside the scope of the maritime passenger rights regulation). One of these was elevated to a second-stage complaint handled by London TravelWatch. Some of the remaining seven may also have been out of scope, so it is likely – unless the picture changes radically for an unforeseeable reason – that the practical impact of this element of the regulation will be minimal as far as TfL and London TravelWatch are concerned.

Question 4 : Do you think that the level of penalty is appropriate for each of the offences described above?

Yes.

Question 5: Are you able to provide any additional evidence relating to the costs and benefits associated with the draft Regulations?

For the reasons given in our response to question 3 above, we believe that (in relation to London River Services and London TravelWatch) the number of complaints arising under the provisions of the regulation is likely to be minimal, and that the costs of handling them will reflect this. Such costs would, however, be higher if an additional body (the PSA) is brought into the picture than if existing arrangements are allowed to continue unaltered.

Transport for London is better placed than London TravelWatch to comment on the possible additional costs to it of achieving compliance with the requirements of the regulation generally, e.g. in relation to the accessibility of its services and facilities to people with disabilities, to the provision of information, and to the payment of compensation in the event of service failure. But when account is taken of the exemptions available to operators (e.g. on grounds of physical practicability) we would expect any such costs to be low.

We hope these comments will assist you. Please get in touch if it would be helpful to the Department to have a discussion on any of the points we have raised.

Yours sincerely

(signed)

John Cartledge

Safety and Policy Adviser

ANNEX A

EXTRACT FROM GREATER LONDON AUTHORITY ACT 1999

[References to “the Committee” are to the London Transport Users Committee established under Section 247 of the Act, whose current operating title is London TravelWatch]

248 Representations to the Committee

- (1) The Committee shall consider and, where it appears to the Committee to be desirable, make recommendations with respect to, any matter—
 - (a) affecting the functions of the Authority or Transport for London which relate to transport, and
 - (b) falling within subsection (3) below, other than a matter relating to the transportation of freight.

- (2) The matters falling within subsection (1)(a) above include in particular any matter relating to—
 - (a) services or facilities provided by Transport for London or any of its subsidiaries,
 - (b) services or facilities provided in pursuance of an agreement entered into by Transport for London or in pursuance of a transport subsidiary’s agreement,
 - (c) services or facilities otherwise authorised by Transport for London to be provided ...

- (3) A matter falls within this subsection—
 - (a) if it has been the subject of representations (other than representations appearing to the Committee to be frivolous) made to the Committee by or on behalf of users of any of the services or facilities mentioned in subsection (2) above,
 - (b) if it has been referred to the Committee by Transport for London or the Authority, or
 - (c) if it otherwise appears to the Committee to be a matter to which consideration ought to be given.