



HOUSE OF COMMONS

Transport Committee

Oral evidence: [Railways Bill](#), HC 1472

Wednesday 26 November 2025

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Members present: Ruth Cadbury (Chair); Steff Aquarone; Dr Scott Arthur; Jacob Collier; Olly Glover; Alex Mayer; Baggy Shanker; Rebecca Smith.

Questions 1–50

Witnesses

I: John Larkinson, Chief Executive, Office of Rail and Road; and Stephanie Tobyn, Director of Strategy, Policy and Reform, Office of Rail and Road.

Examination of witnesses

Witnesses: John Larkinson and Stephanie Tobyn.

Chair: Welcome to this evidence session, the first in our scrutiny of the Railways Bill, which was introduced to the House of Commons on 5 November. We will host two panels today: first, the independent regulator for Britain's railways, the Office of Rail and Road; and, secondly, representatives of the rail passenger and rail freight sectors. I ask the first panel to introduce themselves, please.

John Larkinson: Good morning. I am John Larkinson. I am the chief executive of the Office of Rail and Road.

Stephanie Tobyn: Good morning, everyone. I am Stephanie Tobyn. I am the director of strategy, policy and reform at the Office of Rail and Road.

Q1 **Chair:** Welcome. As the regulator, do you think that the functions and duties of Great British Railways as set out in the Bill will enable it to be an effective system operator?

John Larkinson: Yes, they will certainly enable it, because GBR is being given some considerable powers. It is set up as a directing mind for the railway that it is responsible for. It is set up as an empowered organisation. The Secretary of State, too, has quite strong powers to give directions, if necessary, to course-correct or steer it in a particular direction. If you look at particular areas, like GBR's role in access, it is given a very strong role there and determines who gets access to the network. I think it is set up as a strong system.

I suppose you then have to look at what else—what the other pieces of the jigsaw are—because within that broad, enabling role, quite a lot of policy development is still to be done. A long-term rail strategy will sit above that and, when you drill down into any particular area like access, a whole series of decisions will have to be made about the policy on access.

The short answer is yes, but there are a lot of pieces in the jigsaw. I guess the only other thing would be that, in terms of the system operator, there are people inside GBR and people outside, hence the interface—25% of train kilometres are outside GBR, so that interface role for the system operator, within and without, is crucial.

Q2 **Chair:** That is helpful. Is anything missing from the proposed functions and duties of GBR that, in your view, would better enable it to fulfil the Government's objectives to produce better services for passengers and other customers?

John Larkinson: Our overall view—I will bring in Stephanie in a second—is that the duties are now aligned between, for example, ourselves and GBR. The duties have been simplified and aligned. The functions of GBR are very wide-ranging: literally, the operating and maintaining of the railway, the running of services, the fares—the scope is enormous. This is



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100,000 people with a £20 billion-plus turnover, so GBR has huge scope. But that is the starting point, because we have to think about how the process will work.

To take one process, the funding process, the Secretary of State and Scottish Ministers will need to set out what they want to see from the railway. They will need to talk about the funding. Great British Railways will have to produce an integrated business plan. Personally, I think that will be one big feature of this system, that we will have an integrated track and train business plan. Effectively, that is when this framework will be given its practical effect—through all those things yet to happen, particularly the business plan, which will set out what GBR is going to do. Stephanie, do you want to add anything?

Stephanie Tobyn: That point about the framework and the different parts of, if you like, the jigsaw is very important. You asked about the functions, and the duties are about how to apply the functions. There are other key things—for example, directions from the Secretary of State, guidance from the Secretary of State, the GBR licence, and all of those other policies. It is a far bigger picture than just looking at the Bill. You have to look at the whole thing in context, which is very powerful.

Q3 **Alex Mayer:** The general duties that apply to GBR are the same as those that apply to Ministers and the ORR. If the duties apply to all, are they not going to be so vague as to be rendered meaningless?

John Larkinson: I can see why you might think that if everyone has all the same duties, you might end up with groupthink almost across all the duties. I can see that, but in practice, I think not. If you look at the nature of the duties, they cover all the sort of areas that you would expect to see people like GBR and ourselves covering. If we map our new duties on to our old duties, effectively what they really do is put the duties in plainer English than some of our old duties, and remove the ones that were, frankly, probably a bit dated, because they were drawn up more than 20 years ago.

In practice, therefore, in terms of the way the system operates, we do not see the duties or their alignment as a particular problem area. It all depends, of course, on how we use those duties and deploy them in practice, because none of them sits above the other. Just as we have to decide what weight to give to our duties, GBR will need to decide what weight to give to its duties. Again, that goes back to the same thing we were talking about—this is a framework that gets us to the start line, but then there is the question of how it all happens in practice, and there is a long way to go on that.

Stephanie Tobyn: I will just add, I think it is positive to have the shared general duties, because it reduces that potential for friction in the process. Everything is meant to operate more smoothly and to be more streamlined, so making everyone aligned with the same duties is quite a positive, powerful tool.



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Q4 Alex Mayer: Alongside its shared general duties, the Office of Road and Rail also has specific duties on safety and promoting competition. Those duties already exist in statute—I think you were just saying that they were a bit dated—so what does the Bill do to modify them?

John Larkinson: On our health and safety functions, the Health and Safety at Work etc. Act still applies. Largely speaking, our health and safety role is unaffected. The overall impact on us of the Bill includes some major changes to what we do, which we will probably come to later, but large sections of what we do are unaffected. The reference there is just to make sure that we co-ordinate our economic work and our health and safety work—the actual powers are wholly unaffected by the Bill.

Our powers as a competition regulator are unaffected. We took action a couple of years ago in the rail signalling market, which we thought was overconcentrated. We have also taken action in the rail catering market. All those powers are still there. The big change in our competition powers is that we cannot use our competition power in the access area. That is clearly related to where we have used our competition powers in open-access decisions, so that bit goes.

Broadly speaking, however, competition powers, and health and safety powers are unaffected. In fact, lots of other things that we do such as our consumer law powers—we have the power to step in, as we did recently on what you might see as mis-selling of tickets—are all still there, so no, there is no big overall effect on our other roles.

Q5 Rebecca Smith: The Bill also places a duty on the ORR to have regard to guidance given to it by the Secretary of State. Will that duty inhibit your independence?

Stephanie Tobyn: We already have guidance from the Secretary of State and from Scottish Ministers, so we are quite familiar with working in that sort of framework. We have not found it, so far, to be a problem. Obviously, it will be different in this environment—we expect the guidance to be substantially more detailed and focused on our work with GBR—but we have not found any issue with working under such guidance.

Q6 Rebecca Smith: How do you foresee the duty being used in practice? You have just alluded to the fact that you think the guidance might be more detailed. What happens if that level of detail stops you from being able to do your job going forward?

Stephanie Tobyn: Guidance tends to be focused on how we fulfil our job, and certain aspects that the Minister would like us to pay particular attention to. The reason I say that it could be more detailed is that our role will expand: we will have a broader role across all GBR's functions, so you can see that the duties will need to apply in a broader way. I would not expect it to be quite as specific as you are suggesting; it should be focused on how we fulfil that role under the Bill.

Q7 Baggy Shanker: Will the ORR have sufficient powers to enforce GBR's compliance with its licence?



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John Larkinson: That probably goes to the change in our role. I will take 30 seconds to explain what the big changes are to our role—I will get to the exact answer to your question, but I think it is worth pausing on that, because there are some fundamental shifts in what we do. As Stephanie just said, one big change is the scope of what you might call our monitoring role. At the moment, a lot of our non-safety monitoring role is focused on Network Rail; in the future, it will be focused on Great British Railways, which has a much bigger role than Network Rail. Great British Railways not only does the infrastructure; it does train operations and fares. We will be monitoring Great British Railways and its business plan, which will cover track and train—everything it does. It is a big expansion of our role, and we may get guidance on that from the Secretary of State.

Our enforcement powers will be streamlined and reduced overall from what they are today—in the future, they will be concentrated on enforcing the licence. The Government have made it very clear that they expect the licence to be streamlined—in other words, a narrower licence compared with what it is now. In the licence, there will be a specific condition on long-term asset sustainability, and we would enforce that, but we would not enforce, for example, train service performance. A couple of years ago, we took action on poor performance in Wales and western—we would not do that in the new system; that will be for the Secretary of State. It would not be covered by the licence, which is streamlined.

We now focus on specific things like that, very much around long-term asset stewardship. We think that is absolutely crucial for the role of a regulator, because in any system—this is a sort of political point with a small p—you get a lot of political pressure on the rail system. Rail has a long-term asset life—rolling stock last a long time, and bridges and tunnels last for hundreds of years. That role is designed to make sure that GBR focuses not just on the short term, but on the longer term. That is quite crucial. It really is just a shift in what we do enforce and what we do not.

Then there are entirely new areas that come up. For example, because GBR sells tickets, it has a retail function. Because GBR has a retail function—it brings together 14 train operators' ticket systems into one place—the question is: if you are a private sector ticket seller, where does that leave you? There will be, for example, a code of practice around ticket selling, which we will work on with DfT. Ultimately, when that has been agreed, we will have an appeals role—an enforcement role—in that. That is an area where there have been very big changes; that is where the system brings in really different roles for the ORR.

Q8 Baggy Shanker: That is helpful in setting the scene, but what levers will you have at your disposal? What will it look like to the public in practice?

John Larkinson: Going back to that question of long-term asset sustainability, if it looked from the way that GBR were performing that they were effectively focused too much on the short term and not enough on the long term, you might end up in a place where it looked like you were building up unsustainable amounts of work to do in 10 years' time because you were not looking after the assets properly. We would have



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the power to intervene and to issue an improvement plan that says, “You need to do this differently.” There will be teeth to those specific areas. I think that goes back to Stephanie’s point about the streamlined licence; it is about very specific areas where we would be able to intervene.

- Q9 **Olly Glover:** I am very interested in what you said, John, about the fact that the ORR will not regulate performance; the Secretary of State will. There is lots of stuff in the Bill, which we are going to get into, about how the Secretary of State will have various powers and jurisdiction, and how GBR will be a body of the state. Yet, of course, GBR will also oversee performance for lots of things that are not bodies of the state—freight operators, open access and so on. Do you have any thoughts on how it will work in practice if the Secretary of State—or the Department presumably—takes over responsibility for regulating on performance?

John Larkinson: I will bring Stephanie in on this as well, but it comes back to the underlying philosophy of the Bill, which is that GBR is ultimately accountable to the Secretary of State. That is the design of the system. As we said earlier, GBR has lots of functions—things it has to do, one of which is operate the railway and look at its performance—but the Secretary of State is effectively overseeing those functions in terms of enforcement powers.

Within all that, our role goes to back to our expanded monitoring role. We would be expected to monitor all those areas and report to the Secretary of State. Crucially, from our perspective, we do that in the way that we do it now: we are independent, we can basically choose what we want to monitor, and we have the ability to report publicly. That public reporting is important, because it brings in other people, who can debate whether we are right, and we can escalate issues with Great British Railways.

If we get to the point where we just disagree, the next step is that we would have to go to the Secretary of State or Scottish Ministers and decide what to do. It is a different system in that sense. I will bring in Stephanie, in case she has anything to add.

Stephanie Tobyn: We have been described as independent, trusted advisers, so we are very much in the role of giving advice to the Secretary of State. The monitoring role will help us to provide that advice. It is very much designed to create ORR as, if you like, a counterweight to what is going on, so we can channel our expertise into the Secretary of State, who then decides whether to take action. On John’s original point, we will not be taking action under the licence as we do now; we are very much directing the Secretary of State to where we think they need to consider things further. We can expand on that as appropriate.

John Larkinson: Some of that counterweight is the longer-term piece. You have the short-term issues, but if we felt that there was too much focus in the system just on short-term performance, and not enough on what is happening to keep the system going for passengers and freight 10 years from now, we would be able to step in, using our powers under the licence.

Q10 Alex Mayer: You seem to be referring to GBR as one great big cohesive body, but presumably it will have a regional structure of some description, because all big organisations do. Do you see your role as enforcing standardisation to make GBR into a cohesive whole?

John Larkinson: You are almost certainly going to be right. I do not think much or anything has been said publicly about the internal structure of GBR, but given that it is an integrated track and train body, and given that you would expect, in the organisational design, the integration to take place somewhere near the frontline—you would have operational business units near the frontline on a geographical basis—I am sure that that will be the case.

That then comes to how the design structure of GBR is going to work, and the question is what sits above those working frontline integrated units. I do not think much has been said publicly about that. That goes back to the pieces of the jigsaw: how the system works, the organisational design of GBR and its operating framework. Think about all the bits it has to interface with. It has to interface with the Secretary of State, who will definitely agree some kind of framework agreement to govern financial issues and things like that. Then we need to interface with Great British Railways, because this is a massive transformation of the system—it is hard to overstate how enormous this change will be.

We are going to have to transform with that, and we are going to transform with it. We are going to have to decide exactly how we lock into the GBR system. Frankly, I suspect that there is some way to go in designing that system.

Q11 Chair: It sounds like there is something fairly fundamental about going from being a regulator to being an adviser.

John Larkinson: I am not sure that that is quite right, in a sense.

Chair: Maybe that is too simplistic.

John Larkinson: There is no doubt that some of our enforcement powers have gone—that is absolutely clear—but I think the role has been quite extensively reformulated. We do retain enforcement powers in some areas. This relates to GBR as a whole, which is about England, Wales and Scotland—the whole country. We have a crucial role in terms of the interface between GBR and the non-GBR bit. Sometimes the way this question is asked suggests that everyone is in GBR—they are not. A lot of people are outside GBR.

Chair: We will come on to that.

John Larkinson: Okay. So in a sense that interface, around being able to appeal things that you are not happy with if you are outside GBR, is still there, but it is a fundamental redesign of the system.

Stephanie Tobyn: Just one point to complete the circle on that question: the thing that does entail consistency is the GBR licence. That does not



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vary via the business units, and we will still be the regulator enforcing the licence, so we almost have this dual role. I think that is the point you were asking; we are not going to enforce consistency, but that licence does underpin it.

Q12 Rebecca Smith: What I think is really interesting, and will be a theme that we see over the course of the Bill—this goes back to Baggy's point about what difference passengers will see—is that, even in the way you talk about GBR as separate from the Secretary of State, from the passengers' perspective, they are going to think that GBR is ultimately run by the Government, rather than a separate body.

Even on the point you have just made about "the non-GBR bits", I do feel that, to the public, it looks as though you are losing the teeth to be able to hold to account, if you are just "advising", as the Chair has alluded to. I know we are going to come on to open access later, but while we are on this point, if you are just an adviser and you are telling the Secretary of State what you think they should do, surely that is a step back from where we currently are, in terms of offering a railway that passengers want.

At the moment, you are in that regulatory position and you have those powers, but it sounds as though this will be a complete step back from that. From a passenger perspective, that work is not going to be visible. I hear what you are saying about the future and the 10-year strategy, but passengers are not going to be looking at it in terms of a 10-year strategy. How would you respond to that?

John Larkinson: Again, it goes back to the different set-up of the system. Effectively, if you look back to the design of this, you now have the passenger watchdog—

Rebecca Smith: There is a passenger watchdog as well?

John Larkinson: Yes, that will be a part of the system. Indeed, let's take some particular aspects of the passenger experience: at the moment, we have responsibility around issues of accessibility, accessible travel policies, passenger complaints and passenger information, and we have powers, effectively, to set standards in those areas. The idea is that some of those functions will transfer over to the new passenger watchdog, which will grow out of Transport Focus, and that will effectively bring the passenger perspective into that one place.

Going back to the point about, "Well, who is enforcing this?", the way that the system is designed means that, because those things will be in the licence, and we enforce the licence, if the passenger watchdog comes to an impasse with Great British Railways on something, they can then say to us, "Okay, we are referring this to you for enforcement." So some enforcement functions are effectively now consolidated within us, even though other people are doing them.

Your central point was about whether our role has been cut back in certain areas. Yes, it has, particularly in some of the enforcement areas, but our overall monitoring, advice, recommendation, independent publishing and

transparency-type role has expanded. So I think the short answer is that it is a mix.

Chair: Thank you; that is helpful. Baggy, back to you.

- Q13 **Baggy Shanker:** We touched on the business plan earlier; going back to that, the Department has said that the ORR “will be able to scrutinise performance across the full scope” of GBR’s business plan, but will do so “in an advisory rather than enforcing capacity.” What is your reaction to that?

John Larkinson: My reaction is that I am clear on what that means for us and what we have to do. We have had these conversations internally, and what we now need to do is different from what we currently do. It takes us into areas we have not previously been involved in. It requires us to have an understanding of trade-offs, and of the value for money of trade-offs in that business plan. As I said before, I do think that that integrated business plan is an absolutely fundamental feature of this. It also links to the funding process, which I suspect we might discuss later on.

Therefore, in those areas, our role has changed: what we do and how we do it will be different, and we are going to need to develop new capabilities to do it, because it will involve some skillsets that we do not currently have. The future design of the ORR’s capabilities—where we need to go—is now part of the plan that we will be discussing with our board about what we need to do differently. Crucially, though, we will report about this publicly—our advice on the business plan will be published. As an independent regulator, that ability to publish things that we want to publish and inform what you might call public debate and parliamentary debate about it will remain.

- Q14 **Baggy Shanker:** Fundamentally, though, in your view, can a regulator hold a public body to account for its performance if it has no enforcement power?

John Larkinson: In that sense, no, because we would not be doing it. That is, again, a design of the system; effectively, the Secretary of State now takes a stronger overall accountability. This system is designed around the Secretary of State, and ultimately accountability goes through her, with some areas where effectively there is what you might call a specialist enforcement role that we do. It is subject to a wider range of advice, drawing on the fact that the Government want an independent regulator—they want a source of expertise. One of the things we have is deep expertise in some areas, and we also have the power to speak out. It is just a different system by design.

- Q15 **Baggy Shanker:** If the Secretary of State, for example, does not take the advice and does not listen to you, should there be a mechanism to be able to challenge that? Or do you think that putting stuff in the public domain would be sufficient?

John Larkinson: Ultimately, we support Government policy. If this is the direction of travel in legislation, generally speaking, I do not think it is my

job to say, "No, the Government ought to do it differently," in that way. The system will be what the system will be, and we need to make sure that we are ready to fulfil our role in the best possible way we can. It is just different.

- Q16 **Olly Glover:** We have alluded to some of this already; the Bill allows for the Secretary of State to issue guidance and direction to GBR. Do you envisage that the ORR will have any role in that issuing process, or in scrutinising that guidance and direction?

John Larkinson: Yes, I think we would in terms of—I will bring Stephanie in on this one in a minute—particular aspects of any directions that were given that we would expect to have a role in. Looking at how it works now, even when the Secretary of State issues guidance to us or Scottish Ministers, generally speaking, you see a draft—there is a conversation; it does not come out of the blue, as a practice. In that sense, this would not be done lightly; you would expect there to be a process around it, and of course, it would have to be public. We would expect a process to be set up to determine how that would be done.

- Q17 **Olly Glover:** In what circumstances would you see the Secretary of State issue directions and guidance to GBR? Is the Bill clear on that?

John Larkinson: I do not think it is on the face of the Bill in that sense, but certainly in the Government's explanatory notes, there was a particular phrase that was used: that this is not so much a forward-looking direction as what I think was called "course correction"—in other words, broadly speaking, "We don't like the direction you're going on here. We want you to do something different."

I guess from the perspective of GBR, the question would be, as I think you have already seen in some of the debate that led up to the Bill, that it really depends how many times you do it. Clearly if you were issuing directions every day to the point of absurdity, the system would break down, wouldn't it? Directions are only really meaningful if you use them reasonably sparingly. I would have thought if you were looking at the perspective of GBR seeing itself as an empowered body—a guiding mind—you would not want to issue too many sets of directions.

Chair: We are going to move on to the funding of the whole thing.

- Q18 **Baggy Shanker:** Are you content with the role that the ORR will have in relation to GBR's funding process?

John Larkinson: Yes; I am clear on this, in the sense that it is in some ways really similar to the current funding process. The Secretary of State and Scottish Ministers will have to set out what they want and how much money they have, which is pretty similar to how it works now. We will continue to run the process, and that means things like setting the dates of the process and so on.

This is a slight digression, sorry, but you might think, "What is the big deal about that? Why would the Government want someone, the regulator, to run the process?". I think, frankly, because it has been shown to work: we



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are able to name a timetable and force everyone to stick to it, but a politically driven timetable is, bluntly, probably a bit harder to stick to. This has been shown to work—if we say, “It all has to be done by this date”, people do it—so we will continue to run it.

The fundamental change in the system is going back again. Whereas in the previous funding process, it was just about Network Rail, now it is about the whole of GBR. It is the operations plus the infrastructure—it is a much bigger business plan—so that is fundamentally different. There is also a technical difference. At the moment, it is called an access charges review, but it will not be called that in the future, because we will not set access charges. We might come on to that later, but it is a technical digression. We will now have a Great British Railways integrated business plan, however, and when that is set up, the question is, what does Great British Railways need to assume? Again, that is a fundamental difference from now.

The big difference is, where does Great British Railways get its money from? The big difference, compared with Network Rail, is that Great British Railways will get some of its money from fares. It now has an income stream from fares, from commercial operations such as property or something like that, and from people outside GBR; if you are running a train outside GBR, you pay access charges to GBR, if it has one of them, plus it has whatever grant the Government decide to give it for operations and for infrastructure. That brings us to the final point: at the end of the day, where does that leave us on the funding certainty that GBR has?

The Bill makes it clear that GBR will get five years’-worth of infrastructure funding to operate, maintain and renew the railways. That is the same as Network Rail gets now. That is certainty, and that certainty is really important. It is really important for the supply chain and for everyone else. But the other bits of funding for its operations are not fixed for five years. They will be determined, ultimately, through the spending review process, so there are quite a few subtleties in the way the system will work. In terms of your question, however, yes, I am clear how it works. Clearly, it is a big task to set that all up in practice, but I can see how this is going to work and what needs to be decided to do it. Stephanie, have I missed anything?

Stephanie Tobyn: No, I think that covers it all.

Q19 Baggy Shanker: For the time being, is the Department right to exclude funding for passenger services from the periodic review process?

John Larkinson: That is a choice that the Department has to make. I can see why it would do that. It also said that the system may evolve over time, which presumably will depend on how successful it is. That is a choice, rather than something we have a strong view on.

Q20 Baggy Shanker: Finally on funding, should or should not any other provisions for funding be set out in primary legislation?



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John Larkinson: I cannot think of anything that probably should be in the legislation. The only thing I would add is about the timing. The funding system is one of the things with the biggest time lags built into it. The current funding system for Network Rail runs out in April 2029, so we need to work back from there and think, “What do we need to have in place, effectively, to have the new system in place in time?” There is a timing element, which could have quite a big impact on the overall timetable for setting up GBR. If we are putting key points on the timetable grid, getting to the point where the new GBR is funded under a new regime—which will have to be designed—I think is a key bit of the project plan. That is my only comment, but I do not think that it is an issue of legislation.

Q21 **Rebecca Smith:** On that funding piece, do you think that there should be measures in the Bill to ensure that the private sector still has confidence in investing in open access or across the wider rail network?

John Larkinson: I am not sure about the Bill. Specific requirements have been put on us to look into whether, for example, the access regime is encouraging private sector investment. We have particular jobs to do in that area. As for being on the face of the Bill, that is probably, again, a design point of the system.

Stephanie Tobyn: It is quite hard to envisage what that would look like. I am sure you will come to the access regime, but there are key elements that will give confidence or potentially undermine confidence in the Bill. One of them is the capacity duty, which as currently drafted would appear to ensure that GBR retains capacity for passenger services first, as a priority, before it thinks about its other duties. You need to ask other parties about this, but that capacity duty may give concern to people, outside GBR, who are wondering at what point they will be thought about in relation to getting capacity on the network.

John Larkinson: If you think about the different private sector interests, you have private sector in terms of freight and open access, and private sector in terms of the supply chain, which is a huge part of the private sector. Then—going back to one of the earlier questions—you may be a private ticket seller competing against GBR to sell tickets; what are the protections on you? It is probably useful to see this in the context of the different elements of the private sector. Again, this is probably more a design issue, but in some cases, as Stephanie was saying, there are very specific provisions that would impact differentially on different people outside the system. We will probably get on to that in relation to access.

Q22 **Chair:** Infrastructure in this country seems to revolve around five-year funding periods. We have sometimes heard people talk about a 30-year plan for rail. Certainly private sector investors, and customers of all types of rail, are surely looking for a longer-term period. How do you see the five-year funding cycle fitting into a rather vague commitment to 30-year investment plans?

John Larkinson: It is a matter for the Government to decide what they want to put in the long-term strategy. We do not really have any—



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Q23 Chair: What about the link between strategies and funding in that longer-term period?

John Larkinson: You can set a long-term strategy, but—as I suspect you know better than I do—the Government of the day decide how much to fund it.

Q24 Chair: In some other countries, the operator—the equivalent of GBR—has confidence that it has that longer-term funding, so it is not at the behest of electoral changes. Do you advocate that, or are you saying that that is not for you to say?

John Larkinson: I am going to go with the latter: it is not for me to say. I have had this debate with numerous organisations, including in the supply chain. With the way five-year settlements are presented, it is sometimes almost like you have a cliff edge: you have a five-year settlement, and then we assume there is no money—all my contracts drop away. I have never, ever seen that happen, and I have been at the ORR for 20 years. That has never happened. Broadly speaking, if you look at things like renewals contracts, you do not suddenly have your contracts halved the next year. Contracts run across the control periods.

It is not a perfect system—I have had this discussion—but it is not as if there is no certainty going into year six. Broadly speaking, workflows are in line. Unless you get a Government that have decided something radically and totally different—removing all maintenance work on the railway or something like that—you are talking about percentage variations. It is worth making that point, although when I make it, a lot of people do not agree—so I will make that point, too.

Q25 Chair: I think a lot of people will be thinking about HS2, electrification projects and so on.

John Larkinson: I suppose that that is different, because we are not really involved in the setting of enhancement funding. Enhancement funding will be different; it will be outwith some of the core processes.

Q26 Chair: But it impacts more widely.

John Larkinson: Indeed, yes.

Chair: We have had mention of network access already, so I will go to Scott to start this round off.

Dr Arthur: Just to rewind a bit, the percentage variations that you talked about, and the uncertainty that generates them, basically lead to higher ticket prices for passengers, which means that fewer people use the railway. That is the challenge, isn't it?

John Larkinson: In terms of the amount of work—

Q27 Dr Arthur: We are talking about the control period, the uncertainty and percentage variations. That leads to higher ticket prices and fewer people use the railway, so a longer control period makes sense.



John Larkinson: It could make sense, but the downside is that you lock yourself into something where you cannot predict. As you get further out, you do not know where the circumstances are. There has always been a tension between the longer you lock yourself in for—yes, in one sense you give more certainty, but on the other you give yourself less flexibility to adjust to changes in events. That is why, inevitably, the argument in my experience has ebbed and flowed—“Should it be shorter?”, “Should it be longer?” Ultimately, that is why you end up in conversations about five. But you are absolutely right in the sense that, even if you think five years is too short, having five years’ certainty is the sort of thing that has generated efficiencies in the rail networks. We would not have had the Network Rail efficiency gains that we have seen over the last 10 years without that funding certainty, because it allows the supply chain to plan, like you say.

Q28 **Dr Arthur:** I guess parliamentary terms being five years as well does not help. On open access, earlier you were quite matter of fact. You said that the ORR would no longer be the gatekeeper for open-access operators. Is that in the interests of passengers?

John Larkinson: Again, it comes back to this feature of the design of the system. The system is designed to give GBR an integrated and powerful role. It is designed effectively to shift to a system where GBR is doing a forward-looking timetable, with an ability to redo the whole timetable. Whether you think that is in the interests of passengers depends on where you think that is all going to lie—

Q29 **Dr Arthur:** I am asking you what you think, though.

John Larkinson: It is really hard to answer that question in the round. There are 17,000 or 18,000 train services a day. Passengers are a massively diverse group. If you were sitting on an open-access service and thinking, “I really like this particular service,” clearly you might think that is not in your interest. If you look at the system as a whole, you might think to yourself, “Okay, the question is: am I concerned that open-access operators are taking money off my publicly-run services?” People have different perspectives on it. I am not trying to duck the question; I just think it is very hard to answer it categorically.

Q30 **Dr Arthur:** You are very diplomatic. I guess that, from the public’s perception, GBR is going to own the infrastructure and will be running the services, so it does make sense, doesn’t it?

John Larkinson: Well, yes, that is the design. It owns virtually all the infrastructure in Britain, apart from things like the High Speed 1 network and the Cardiff lines and things like that. It runs most of the services. Some 25% of train kilometres are outside GBR, including Scotland and Wales. But that is the model that GBR has.

Q31 **Dr Arthur:** I guess if I was cynical I would be worried that in a poorly run GBR, the first casualty would be to force out ORR operators. Is that a legitimate concern?

John Larkinson: That comes to things Stephanie mentioned earlier about the fundamental design of the system. On what basis is GBR deciding how to allocate capacity on the network? There are particular clauses in the Bill. I will bring Stephanie in to talk to some of those clauses. The question is: how are they perceived if you are sitting outside GBR, or if you are an open-access operator, say, or any operator outside GBR? It is worth pausing that in a second.

The crucial document in all of this is the access and use policy. GBR has to write an access and use policy, and that decides the basis on which it will decide to allocate capacity. Within that, it has to determine a test for doing it. That test has been called an economic or best value test. Based on this test, we are going to allocate services. They are fundamental design issues, which will get to the heart of answering your question. Until you have seen those bits set out and also seen our appeals role, for example, around it, it is really hard to say what would be the impact of this system. I am not ducking the question. I just do not think we are there yet. Can we pause for one second and run through some of the key bits of the Bill?

Stephanie Tobyn: We have not really talked about clause numbers—apologies for not doing that. The access and use policy is absolutely crucial. It is in clause 59 in part 3 of the Bill. It is what a lot of the people who you are talking about will be paying great attention to. They want to know how they get access to the network, how the criteria will be set for that and what that test is that John talked about. That is going to be a public consultation, which can happen before Royal Assent. Network Rail has already started working on that now. We expect to see a discussion document on that put into the public domain on how this is going to work in future, because it is going to be extremely different.

We will also have to design at the other end of this; on one end, they are granting access, and at the other end, we are now an appeal function, whereas now we have quite a significant role in granting access to open-access operators and that will completely change. Looking at those key documents on the access and use policy and at how the appeal function will work will be key for all those operators.

There is no suggestion that open-access operators will be pushed out of the network; their contracts will continue until they are due to terminate. However, that is where things could change, depending on what GBR looks at in terms of future use of the network. The objective is to get the best use out of the network, and that will be for GBR to decide. That is quite a key difference.

Q32 **Dr Arthur:** On the appeals role, do you feel that the ORR has the power to get the data it needs from GBR to make the right decision on any appeal?

Stephanie Tobyn: We still have the same information-gathering powers and they are quite substantial. We have never had any difficulty getting information out of Network Rail, so I think we can do that. The important thing will be that that appeals process will also happen transparently. We



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will be looking for information from GBR and other operators will be making representations; that should happen and there should be transparency in that, so that people can look as we go through this process of deciding what should happen.

- Q33 **Rebecca Smith:** Before I ask my main question, I want to focus on what you have just said about your changed role. It is coming across quite clearly that your role is going to change quite significantly. That is allowing you to give advice and have binding powers in some scenarios. Could you set out what some of those scenarios are where the ORR would have binding powers in comparison with just offering advice to the Secretary of State?

Stephanie Tobyn: The one we have talked extensively about is what is in the GBR licence. The GBR licence will be set by the Secretary of State, and we will enforce it. We can see some things that are going to go straight into the licence. For example, there was the one John talked about extensively on asset management. There was also the one on the retail code that we mentioned. But until we see the layout of that licence—which should be consulted on before Royal Assent—we cannot guarantee exactly what our enforcement powers will be. Some of our new powers are set out in the part of the Bill that deals with access. I mentioned the access and use policy, and we will be a statutory consultee on that. Our new appeal function is contained in clause 68 and will give us powers over some of the key documents, for example, the access and use policy, and whether the provisions in that are appropriate. It also gives us a power of appeal over decisions taken under that. We have powers to ask GBR to reconsider things, to give it directions on things to reconsider, and we can quash decisions, so there are a variety of powers depending on the circumstances.

- Q34 **Rebecca Smith:** But none of that is going to be clear until you actually see the licence.

Stephanie Tobyn: One would be the licence; one would be developing our own appeal function; the other would be the development of the access and use policy.

- Q35 **Rebecca Smith:** Briefly, the question I was supposed to ask: is there sufficient provision in the Bill for scrutiny and input from stakeholders to the access and use and infrastructure capacity policies? Will you have a formal role in producing those documents? Finally, will that be something that the Bill Committee gets to see as the legislation is going through the process? There is a lot of legislation going through now where codes of practice and guidelines—whatever you want to call them—do not get given to MPs to scrutinise, so we are basically expected to produce the legislation without understanding what the details are.

John Larkinson: It is similarly the case that the access and use policy will be consulted on. My understanding—I do not think the Government has given data on this—is that there will shortly be an access and use policy discussion document published. It will not be the access and use policy; it will basically be on what the issues are around the access and use policy.



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One of the conversations we are having in Government at the moment—and that Stephanie is having—is about trying to get to the point where that access and use policy discussion document is issued, and at the same time we publish a discussion document about our appeals role, so that people on the receiving end of all that can think, “Okay, that’s going to be something about the policy, and this is something about the appeals role.” Over time, the aim will be to get the access and use policy itself published in draft. As Stephanie said, that is a key step. There will be quite a lot of opportunity for consultation, and quite rightly, too—it will be a really important document.

- Q36 Rebecca Smith:** Who makes the decisions, then, on what is in those final documents? There is a whole lot of consultation—the entire Bill is about consultation—so who makes those final decisions? If that is not in the legislation, does it sit with the Secretary of State, you, or GBR’s management?

John Larkinson: Ultimately, the document is read by GBR. In terms of your very specific question about whether the Bill Committee would have an opportunity to scrutinise it, that is a question of timing—I honestly do not know the answer to that.

- Q37 Olly Glover:** Some interesting developments over the last few months have been on things such as certain letters to the ORR about open access—which of course you worded very diplomatically, although I would assess, based on my verbal reasoning, that they were basically telling you to not give any of it. In your view, could clause 63 in the Bill—the capacity duty—as currently drafted allow GBR to override its other duties, which it says are important, such as promoting the interests of rail freight?

John Larkinson: Certainly, as drafted, that is what I would say it appears to do. It is very much an overarching power, and it does not seem to be subject to other duties. On the face of it, that is a very strong power indeed. The question is: what is the actual intent behind it?

Stephanie Tobyn: You also need to read it in conjunction with clause 18(4), which makes everything in the clause subject to the capacity duty that you have just talked about. Reading them together, it would appear to be a very strong power.

John Larkinson: Very strong indeed.

Olly Glover: That is a very clear answer.

- Q38 Chair:** Is the right of appeal on network access decisions via the ORR realistic? Do you feel that the ORR in its new guise will genuinely be able to act as a fair appellate body, given the duties it will be bound by?

John Larkinson: It is our job to effectively define this system. Comparing it to the current role we have, it is narrower in terms of the things we can look at, and it is weaker in terms of the power to actually do things. At the moment, we have extremely wide powers, where effectively we can substitute our decision for somebody else’s decisions, but this will not be like that.

Our aim is, within the design parameters of the system, to produce a robust appeals role, where it is very clear what people need to do to go into the appeals system and how they would do it. That goes back to the consultation document we are going to issue. It will be different. Perhaps one way of looking at it is in terms of what is within scope of the appeals, which is all the documents that are being produced, such as the access and use policy and things like that. Then there is the decision itself, and what decisions are within our scope. Stephanie, do you want to come in on that?

Stephanie Tobyn: Just to talk about what the powers will be for us. We will be assessing whether decisions have been lawful, whether they were reasonable, whether they have been procedurally fair, and whether they are rational. We will be very much applying judicial review principles to those decisions. We can quash decisions—we can make a decision void on the basis of what we find. It is an effective test, but you would expect GBR to be making appropriately lawful decisions—where that is not the case, we have power there.

As John talked about, we can also look at the provisions in these various policies and say, “Well, we’re not sure this is a clear provision. Someone is challenging it for various reasons.” In the two areas where appeals can happen, we can remit the decision back to GBR, and we can give a direction on what we think they should look at. Seeing it in the round, it is still to be developed in much more detail, but you can see the framework there.

Q39 **Chair:** Okay. That might be the answer to my final question in this section. Under the provisions of the Bill, how likely is it that the ORR could overturn an access decision made by GBR?

Stephanie Tobyn: On the basis of lawfulness, reasonableness and procedural fairness, one would expect that GBR would perform their decisions effectively in that area, but there is scope in other areas for decisions to be pointed back to them with some very direct guidance. We can make it an effective process, but John’s point at the start was that we cannot substitute our own decision. We cannot look through the merits of the decision again, because that would put us in an incredibly powerful role. As John described, that is where we are now, but the power has to shift to GBR to take decisions about the network it is running.

John Larkinson: As a directing mind, going back to the design philosophy.

Chair: Okay, because I think everybody would want to avoid JRs for these kinds of decisions. That is interesting; thank you. We will now move on to a couple of questions about the passenger watchdog.

Q40 **Jacob Collier:** What will your relationship be with the passenger watchdog?

John Larkinson: The passenger watchdog will grow out of Transport Focus. We have a very close relationship with Transport Focus—indeed, in



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London we share an office. We know each other well, and we work together in many areas.

The Committee may want to be aware of some of the key differences. This goes back to the point that we were discussing earlier: a particular set of functions, in terms of what we do, will transfer over to the passenger watchdog. It is about things like making sure each organisation in the railway has an accessible travel policy. It is about guidelines around delay compensation and complaints. It is the rail ombudsman. Those sorts of things will shift over, and the passenger watchdog will basically take on our role of being able to set standards in those areas. There is now, in a sense, a new interface between them and us. We will have a memorandum of understanding to say how we will do it, but we are pretty confident about getting that to work because we already know how we work. We have to design some new bits so that, if the passenger watchdog thinks enforcement action should be taken against Great British Railways, they will come to us and effectively ask us to take it on. That goes back to the streamlining of who does what.

We are reasonably clear on the relationship. We are clear on some things that have to be decided. From my point of view, this is more direct and personal, because this affects some of our staff, who will be moving to a different organisation, so this has a different dimension in that sense for me as chief executive. Broadly speaking, we are clear on what we want to achieve. We have already had some discussions with the passenger watchdog. Of course, they will be working closely with the Government, hence they will be having a conversation about what the Government wants them to focus on.

Q41 Jacob Collier: Some of those functions that are currently provided by the railway ombudsman, like the alternative dispute resolution, are going to be absorbed into the passenger watchdog. What are the advantages and disadvantages of that?

John Larkinson: What the Government wants to do is effectively to consolidate certain things under an expanded transport focus. That goes back to the design philosophy of having a transport focus with a wider scope to represent passengers. That is what the Government aims to achieve. But because the Government also wants to streamline and consolidate things, so that you do not have things across boundaries, the enforcement role will stay with us because it is enforcing against the licence. In that sense, it is clear to us what the aim is. Stephanie, is there anything that you wanted to add?

Stephanie Tobyn: Just that the advantage of moving the ombudsman into the watchdog is that the ombudsman generates information about escalated passenger complaints. The transport-focused role, and indeed the new role of the watchdog, is still incredibly important to gather insight into where passengers are having issues, so bringing that together should help, but the ombudsman has to remain independent. It is a strange sort of world where it will sit with the passenger watchdog, as it sits with us now, but it is its own body. We set a lot of the contractual rules and the

terms of reference and the operating model around it, and that will shift to the watchdog.

John Larkinson: In fact, it is now a contract between us and the ombudsman. It is a separate body in that sense, and we assume that that set-up will be maintained.

Jacob Collier: Do you think the Bill as drafted will provide a harmonious relationship between the ORR and the passenger watchdog, or does it need to be amended to achieve that?

John Larkinson: My general view is that it is clear as a system design. As I said, we all have very good working relations with Transport Focus, which will be the basis for the watchdog anyway. It is not an area that we are particularly focused on. Of all the areas that we think need a lot of work and development, this is probably not the one that needs the most work.

Q42 **Jacob Collier:** Do you think these arrangements with the passenger watchdog will create a better service for passengers who want to complain about poor service and improve the service that they are receiving?

John Larkinson: It goes back to Stephanie's point. You have a bit of a consolidation. The data you are generating within that organisation should in principle allow Transport Focus and the passenger watchdog to have a richer dataset and insight. It also draws a clear line. It has its own escalation procedures for debates with Great British Railways, but it still has a point to go to if it feels that discussion with Great British Railways has broken down. It can still come to us; we can see that in the context of all the monitoring that we do of Great British Railways and in the round when working out how to take any enforcement action. Yes, I do think the design is clear.

Stephanie Tobyn: I have just one thing to add. One of the points of having an ombudsman is to ensure that the industry gets better at dealing with its own complaints. That is effectively the whole ethos: we do not really want a complaint to go to the ombudsman. We can already see that happening in that fewer complaints are getting to the ombudsman because the industry is having to deal with them. In the GBR world, it will completely transform how it deals with complaints overall, I would expect, to try to get more efficiencies and effectiveness out of that. As John said, it should be an important part of the watchdog. It will generate insight.

Q43 **Steff Aquarone:** Let us start with the premise that good accessibility design benefits everyone. It obviously particularly benefits people with specific accessibility requirements. We are seeing some changes. The passenger watchdog has statutory powers for the first time, and your role is changing in terms of the enforcement of accessibility standards. You have given a good description of where it is going from and where it is going to; can you give us a version of that on the topic of accessibility?

Stephanie Tobyn: There are two ways to answer that. The very specific requirement that I think you might have been alluding to is the accessible



travel policies that the operators produce. They are very detailed; they help passengers to understand the services they can expect, and we set guidance around that. That is what is being defined as a standard. It will be for the passenger watchdog to own that standard now. It may wish to change the standard, and it should monitor the standard; if there is an issue with that, it can still come to us for enforcement. That moves from the ORR to the new watchdog.

The other important aspect is that the ORR retains accessibility requirements that are enforced through health and safety law. That probably came from the last Committee that looked at accessibility. Accessibility standards are quite widespread. We have standards for rolling stock, new stations and very specific items—for example, how you deploy a ramp at a certain train. Because it is all enforced through health and safety law, that stays with the ORR. That comes back to the other point: it is essential that the ORR and the watchdog work very closely together.

- Q44 **Steff Aquarone:** Pretty much every single element of the railways had to have an accessible travel policy as part of its licence conditions, but presumably what is transferring over to the passenger watchdog is a much broader remit, because there are to be far fewer licences to inspect and presumably far less detail in the travel policies, or are you confident that those ATPs will be just as detailed and specific?

Stephanie Tobyn: There was a desire to reduce the number of accessible travel policies, so that the picture for the passenger was more harmonious; they would be able to pick up one document, and it would apply across the network. Although we have not discussed it in detail, that is probably still an aspiration, but with different areas, different networks and different operating conditions—for example, driver only or step-free stations—we need to have something that covers all the angles of our particular area and train operation. I hope that it will simplify, but it needs to be clear to passengers about what they can expect.

- Q45 **Steff Aquarone:** The ATPs had quite a level of detail in some cases. There is the policy of accessible travel, but then there is, “This lift needs to go from this level to that level at this station,” and I worry that the granularity is what really affects the passenger experience. One bit of that going wrong can make the journey unviable, so the granularity might get lost. From a strategic perspective, John, are you confident about the detail being retained?

John Larkinson: Ultimately, it is up to the new passenger watchdog, but I think our view would be that ATPs have been shown to be effective. As you say, they have a certain level of detail, but each organisation has effectively had some freedom to tailor policy to its own areas to deliver the detail, which makes sense; otherwise, we get over-rigid specifications. Ultimately, that will be a call for the passenger watchdog, but we have worked closely with it on those in the past. Transport Focus has seen what works and what does not work, so I would be a little surprised if it did not now.



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That goes back a little to the interface point. The lift point is a good example, in terms of lift design and things like that, but also because lifts are an asset management issue. We have spent quite a bit of time recently with Network Rail on the fact that the lifts are just failing too often. Again, we have relationships internally on those sorts of things, and we will need to make sure that we use some of our relationships about the assets to help the watchdog out. You can have a lot of policies, but on the ground, if the lifts are failing, you are not really delivering them. That was one of the things that became quite glaring to us, particularly repeat failures. We think that that is now improving, but that is a good example.

- Q46 **Steff Aquarone:** That is great—thank you. Not a duty, but part of your scope has been to promote accessibility. We talked about your new role in enforcement, but whose job is it to promote accessibility? I suppose that builds on some of the comments that we have made so far, in passing, about some colleagues' worry about where the passenger is in all this. Who is going to be on the frontline, leading the charge of the need to be more accessible?

John Larkinson: If you look at the duties of Great British Railways, the passengers are right up there. Indeed, the way in which Great British Railways, in principle, and the Government describe the system is very much giving the passengers a very high priority. I would expect to see that.

To go back to the business plan, I would be very surprised if we had a Great British Railways integrated business plan that did not try to bring together some of the accessibility issues of the train operators and of the infrastructure manager, Network Rail, and to join them up. That again has to be the point of this, and that is why the integrated business plan is a potentially powerful tool. We cannot say, "Well, I am not really taking into account whether it is her job or his job." We have to bring the two together. That should be the driving force. Effectively, GBR should drive it, and the passenger watchdog and we should have a monitoring and potential enforcement role, but if it does not come from GBR itself, it does not work.

- Q47 **Steff Aquarone:** We are going from an advocacy-based approach where, essentially, promoting accessibility is down to advocate groups and specifically tasked duty holders within the ecosystem, to one where, basically the system brings everyone together. That is good, but it is only as good as the direction it is being given from the top. Are you saying that it will be the Secretary of State's job to promote accessibility, ultimately?

John Larkinson: I think it is quite clearly within GBR's duties to do it. The Secretary of State has the ability to issue directions to GBR. If she, or whoever is Secretary of State at the time, wants to send an extra-clear message, that would certainly be one mechanism to do it, yes.

- Q48 **Chair:** Okay, thank you. Our report, "Access denied: rights versus reality", took accessibility on transport far wider than just whether you have level boarding or lifts—it was about more than just the physical spaces. It



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talked about the culture of transport organisations, and it set out an expectation that operators should be responsible for ensuring that services are available—you mentioned the lifts—and that information is there, rather than putting the onus on the passenger to push and then make a decision whether to travel. That goes to things like the availability and competency of Passenger Assist, for instance, as well as clear, real-time information about whether a specific service like a lift is available. Do you think the culture of the sector has adapted yet to take on the wider responsibility that we recommended in our report?

John Larkinson: Stephanie has been quite closely involved in this, so I will turn to her.

Stephanie Tobyn: This reminds me of what happened on Friday, when I was on a trip between Glasgow and Edinburgh with a lady with a visual impairment and her assistance dog. We had a great discussion about culture, and she thinks that staff are dramatically different from how they have been in the past. She thinks that there has been a cultural change. That is not universal, but we witnessed it face to face when there was an issue with her booking; somebody was not being as helpful as they perhaps could have been, but somebody else was walking by and immediately jumped in and decided to help. For me, that was quite eye-opening to see.

We discussed the Passenger Assist service and app at great length. We are still very wedded to the power that it has, and to the idea that it should be rolled out across the network. It is an incredibly good tool. You will be aware that, with the Bill, an accessibility road map was published. I am sitting on the joint board that is being put together to deliver on that road map, and a lot of that deals with moving forward with the app. The app should have the functionality in future for the passenger and member of staff to speak and communicate about what is going on, and just to take it to that next level, so people understand and feel more secure that their assistance will be there waiting for them when they arrive.

Q49 **Chair:** Which is fine if you have a smartphone and the ability to use it.

Stephanie Tobyn: Exactly.

Chair: Olly, was your question answered?

Olly Glover: Happy to move on, Chair.

Q50 **Chair:** I have one final question on passengers that is often raised, and it is about the safety of women and girls and other vulnerable groups in the rail sector. Do you feel that the Bill incorporates that aspect, even if it is not mentioned specifically? Where do you think that should appear? Should it be included in the Bill?

John Larkinson: I do not think that is clear, but it is an absolutely fundamental topic. It is an area that we have all spent quite a bit of time discussing in the past to debate the various options. Whether it is something for the Bill, I think that is probably more a matter for



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Government, rather than us, to be honest. I am not trying to dodge it, but I think the scope of a Bill is really a Government choice.

Chair: Well, thank you very much. That brings us to the end of the first panel with the ORR. Thank you both very much for your evidence today and the time you spent preparing to come before us.