



Transport Committee

Oral evidence: [NATS: failure in air traffic management systems](#), HC 897

Monday 15 December 2014

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Members present: Mrs Louise Ellman (Chair); Sarah Champion; Jim Fitzpatrick; Mr Tom Harris; Karen Lumley; Jason McCartney; Karl McCartney; Mr Adrian Sanders; Chloe Smith; Graham Stringer; Martin Vickers.

Questions 1-57

Witnesses: **Rt Hon Mr Patrick McLoughlin MP**, Secretary of State, Department for Transport, and **Philip Rutnam**, Permanent Secretary, Department for Transport, gave evidence.

Q1 Chair: Good afternoon, Secretary of State. Welcome to the Transport Select Committee. For our records, could you tell us who you and your colleague are?

Mr McLoughlin: I am Patrick McLoughlin, Secretary of State for Transport. I am accompanied by Philip Rutnam, the permanent secretary to the Department.

Q2 Chair: Thank you very much. We want to ask you some questions about the position of NATS and the breakdown over the weekend, and subsequent activities.

Mr McLoughlin: I want to make a few opening comments, if that is okay.

Chair: Yes.

Mr McLoughlin: First and foremost, I want to say a few words about the technical failure last week at Swanwick. I also want to highlight Network Rail's biggest ever engineering investment programme about to take place over Christmas and the new year period.

Q3 Chair: Could we talk first about NATS, and I will ask you to make a statement on the rail issue when we come to that section of our questions?

Mr McLoughlin: Yes; fine. As I said at the weekend, the failure on Friday last week at Swanwick was unacceptable. It is absolutely right that we get to the bottom of what went wrong. I very much welcome the setting up this morning of the independent inquiry. I want the terms of reference and, hopefully, the chairman of it appointed by the end of this week so that work can start very quickly to find out, in the first instance, what happened, perhaps with an interim report, which obviously the Committee will also be interested in,

and a fuller report later—in the early part of next year. I think we are looking to have the fuller report some time in March but an interim report by the end of January.

Q4 Chair: You referred to an independent report and to what we could expect. Is this really an independent report? It has been announced by NATS, who are responsible for whatever happened, and the CAA, who are in charge of NATS. It appears that the members of the inquiry are being appointed by them. The chair is being appointed by the CAA, and NATS members will be on the inquiry. In what sense is that an independent inquiry?

Mr McLoughlin: What we need to do is get to the bottom of what went wrong and see what lessons were learned. I think lessons were learned from what happened last December. Once that was looked into, it was said that there needed to be quicker resilience.

Q5 Chair: But, Secretary of State, I am asking you first about the inquiry. You referred to an independent inquiry being set up. This does not look very independent to me. It is set up by NATS, who are responsible for what happened, with the CAA, who are in charge of overseeing NATS. They have set up their own inquiry. Are they appointing their own members to it? Who is appointing the chair of the inquiry and who is appointing the members?

Mr McLoughlin: I want the answers as quickly as possible.

Q6 Chair: But who is appointing the members of the inquiry, and who appoints the chair?

Mr McLoughlin: The CAA will come forward with some recommendations as to who should be the independent chairman. They will do that in consultation with the Department for Transport. It is important to get to the bottom of this very quickly. It is a very specialised and technical area. There will be a limited number of people with the time available—I want this done quickly—who would be in a position to do this, so that is the role of the CAA. The way NATS is set up at the moment and its governance was set out in the Transport Act 2000. I am guided by what the Act did as far as setting up the position with the company as it now stands. The people at air traffic control will be the first ones who will want to get exactly to the bottom of what went wrong as far as this is concerned.

I also think it is worth taking on board, and in no any way trying to minimise what happened last Friday, that the average delay in this country is two and a half seconds per flight. The average delay in the rest of Europe is 30 seconds per flight. Overall, we have a very good and sound air traffic control system, but when an incident like the one last Friday happens it is right that we get to the bottom of it as quickly as possible. I do not want to spend too much time worrying about who is chairing it. The CAA will be best placed—

Q7 Chair: But I am concerned to understand in what sense this inquiry is independent, and I still do not have a clear answer. In what sense is it independent? Who is it independent of?

Mr McLoughlin: It is an inquiry by the CAA but with NATS co-operating. It is absolutely essential that they do co-operate. I think it is more a matter of making sure that we have a quick inquiry with people who are in the right position to know how to deal with it.

Q8 Chair: Who is going to decide who sits on the inquiry?

Mr McLoughlin: I would expect to be consulted on it.

Q9 Chair: You expect to be. Will you be?

Mr McLoughlin: I will be consulted on it, and I would want to be consulted on it, but, as I said, I want to get it under way and working as quickly as possible.

Q10 Chair: It seems a little unclear to me what independent means in this context. What do you know about what happened on Friday?

Mr McLoughlin: There was not a shutdown; traffic continued the whole time. There was no actual shutdown as far as airspace was concerned, but there was a safety procedure, which naturally bites in, when one of the computers was started up and did not get into the system as it should have done. That led to a safety procedure taking place which reduced the amount of traffic that could be controlled and operated by NATS.

Q11 Chair: Do we know how many airports and passengers were affected?

Mr McLoughlin: As far as the overall delay is concerned, approximately 10,000 passengers were affected by the cancellation of flights at Heathrow on Friday. That was about 5% of the total number of passengers travelling through the airport on that particular day. There were knock-on effects as well at Gatwick and Luton, but I do not have the actual figures for those.

To put it in context, the total delays were estimated by NATS to be 16,000 minutes. By comparison, the 2013 incident resulted in 126,000 minutes of disruption. One of the things learned as a result of the resilience was that they were able to respond a lot quicker than previously to what happened some time ago. For instance, on Friday EasyJet had to cancel 10 flights as a result of the NATS issues. On the same day they had to cancel 76 flights due to the Italian air strike, which also affected air traffic control.

Q12 Chair: Do we know how many flights were cancelled and how many were delayed as a result of the breakdown?

Mr McLoughlin: I do not have the exact figures at the moment.

Q13 Chair: The chief executive of NATS said the problem was caused by one error in a line of code buried in 4 million lines of code. Does that sound credible to you?

Mr McLoughlin: If he said that, I am not going to say he is wrong. I have not counted the lines of code. On that, I think he would be better informed than me.

Q14 Chair: Is NATS waiting to update its software?

Mr McLoughlin: NATS is continually updating its software. Typically, NATS spends £140 million per annum in capital investment on its operational IT systems, so it is always updating its software.

Q15 Chair: NATS is expected to make some changes to its software to update it under the single European sky initiative by a target date of 2020. Is it on course to do that, as far as you are aware?

Mr McLoughlin: Yes. My understanding is that in the next five years they will be spending in the region of £600 million on IT as far as the overall NATS operation is concerned.

Q16 Chair: Does that mean it will be on target to meet the needs of the European single sky programme?

Mr McLoughlin: I believe it will. Some announcements were made last week by the European Commission about bringing forward some of that investment, which NATS will be involved in.

Q17 Chair: You described the situation as unacceptable. Could you tell us exactly what you mean by that? What was unacceptable?

Mr McLoughlin: The way in which people were relying on their journeys and all of a sudden there was a breakdown in the system. We need to understand why that happened. It was an unacceptable incident. I do not think anybody would accept that a breakdown in a system like that is acceptable in any circumstances. That was not acceptable. I am glad they were able quickly to respond to it. If it had been based on what happened a year before, it would have taken a lot longer to get back up to speed.

Q18 Karen Lumley: We know that NATS has lost a couple of its contracts to some of our airports in the UK already. Are you concerned that this blip, or whatever it was, could lead to them losing other contracts?

Mr McLoughlin: I very much hope not. If you compare NATS's overall performance with other European air traffic controls, it is far superior. The average delay this year in NATS is two and a half seconds per flight, whereas for the rest of Europe we are talking about 30 seconds per flight. Over London, they are dealing with the busiest airspace anywhere in Europe.

Q19 Chair: Has NATS breached the terms of its licence?

Mr McLoughlin: I will hear what the CAA are saying on that. I am talking to the CAA. I do not think it has breached its terms of licence, but that is a matter for the Civil Aviation Authority; they are the regulator of NATS.

Q20 Graham Stringer: Two and a half seconds is an interesting metric. Often, averages obscure as much as they explain. Do you have figures for the number of worst delays of two, three or four hours in international comparison? You have obviously chosen that metric for a reason.

Mr McLoughlin: I chose that metric because it is an overall metric that I was given by NATS this morning when I spoke to them, but the permanent secretary wants to comment.

Philip Rutnam: We do not have the figures for the projected outturn for this financial year, but you are right. The extent of delay impacts on NATS's performance as well as the absolute quantum of delay. The performance regime for NATS, as I understand it—I am not an expert—encompasses both average delay and the concept of variability. Therefore, if there is a large spike in delay—a variable element of delay—that hits NATS's

performance under the terms of its licence, and in turn that can hit the financial incentives NATS is faced with by the regulator.

Q21 Graham Stringer: I wouldn't care if I was delayed by 30 seconds or two and a half seconds, but I know there are a lot worse delays than that in the system.

Philip Rutnam: It does add up, though.

Q22 Graham Stringer: How does the Department and how do you, Secretary of State, monitor NATS? We have just had some interesting statistics, but how do you look at their investment programme and their overall performance?

Mr McLoughlin: In the main, it is the responsibility of their regulator, the Civil Aviation Authority, to come up with the best accepted criteria. In the main, it is the right and proper body to do that.

Q23 Graham Stringer: It is, but there is another body too, if you do not mind my saying so. Obviously, you are in the firing line when the system goes down, as it did at the end of last week. How do you keep yourself abreast of whether or not there are problems in the system?

Mr McLoughlin: When an incident like this happens, it occupies a lot more of the Secretary of State's time than when it is operating normally. The truth of the matter is that, if you look across the piece and compare it with other air traffic control movements across the rest of Europe, air traffic control in this country does an incredibly good job, with some very difficult places to deal with. London is the busiest airspace over the whole of Europe.

Q24 Graham Stringer: I will take that as your saying that you do not really take a week-by-week interest in NATS. Can I follow that up with a question? This is not a trick question, because I don't expect you read this Committee's report on the setting up of the air traffic control centre at Southampton. This Committee was extremely worried when that centre was set up. We heard evidence from *Computer Weekly* and various other people that, fundamentally, they did not believe that the computer system was fit for purpose. I would have thought the Department would take a much greater interest in the week-by-week, month-by-month performance.

Mr McLoughlin: As I said, I think that is the job in the main of the Civil Aviation Authority, but, Mr Stringer, you voted for NATS to be set up in this way when you voted for the Transport Act 2000. Perhaps I should not be so unkind as to remind you of that.

Q25 Graham Stringer: The fact that NATS is privatised may be a better reason for your knowing what is going on with it. Whether or not the Labour party voted for it, it was a new departure when NATS was privatised and more control was given to the airlines for air traffic control in Europe. What I am hearing—that you are not regularly looking at it—disturbs me. This Committee was concerned about privatisation and about the quality of the computer software going in. What I am hearing—correct me if I am wrong—is that the Department is not looking at this on a consistent basis.

Mr McLoughlin: I think that is wrong. The Department is of course looking at it on a consistent basis, but we have the Civil Aviation Authority there as its regulator. I would

expect the CAA to do its job, get to the bottom of what happened and, if necessary, take some remedial measures.

I also come back to the point that judging by what happened last December, when there was a breakdown in another area of NATS, it took longer to get back. This was 43 minutes when it was out of action, not as long as it was 12 months ago. Lessons were learned from that, and lessons will be learned from this incident. I do not dismiss the inconvenience that was caused to thousands of passengers last Friday night.

Q26 Graham Stringer: Apart from the CAA annual report and the NATS annual report, do you ask for separate monitoring reports of NATS?

Mr McLoughlin: I would expect those to be brought to my attention if there was something out of the ordinary, but in the main that is what the Civil Aviation Authority are there for.

Q27 Graham Stringer: I take that as another no. Do you independently, within the Department for Transport, look at the investment programme for NATS? Do you have a view whether the investment programme is too large, too small or large enough? Do you take a view on that?

Mr McLoughlin: We have not stopped any capital investment that has been requested, nor would we.

Q28 Graham Stringer: I did not ask you whether you could stop it or not; I have no idea whether or not you have power to do that. It is a private concern. I was asking whether you took a view in the national interest about whether NATS were investing enough or too much.

Mr McLoughlin: My view is that they are investing what they are requesting to be able to invest in the technology that needs to be invested in. It is incredibly important, both in safety terms and for the general wellbeing of the whole industry, that that is the case. Nobody has made representations that we have not got the investment levels right. As I said, it is some £500 million-plus over the next four years.

Philip Rutnam: As the Secretary of State has explained, it is very much a matter for the CAA, the independent expert specialist regulator of the aviation sector, to take a view on the economic performance, operational performance and safety requirements of NATS. It is very much a task for them. As I understand the law—I am not an expert—we have a final role in relation to the determinations of the CAA in relation to NATS, but the substantive role is with the CAA, so we obviously look to their advice when exercising any decisions. To reassure you, I am completely confident that my colleagues in the aviation directorate within the Department keep tabs on the performance of the civil aviation system, including NATS, on a much more frequent basis than annually.

Q29 Chair: Under the arrangements for privatisation when that was set up, the Government, or the Department, was said to have a golden share. Have those powers ever been exercised?

Philip Rutnam: As I understand the arrangements, we have a 48.9% shareholding in the company, and, as I understand it, our consent is also required for a change in the identity of the other members of the shareholder group. The principal other members are the so-

called airlines group. When there is to be a change in the composition of that membership, our consent is required.

Q30 Chair: Has the Department ever stepped in to use those special powers to overrule something that was going to go ahead?

Philip Rutnam: I am not aware we have overruled something, but—

Q31 Chair: Or made a challenge.

Philip Rutnam: But our consent has been sought. For example, most recently part of the shareholding in the airlines group was disposed of to the Universities Superannuation Scheme, known as USS, which came in as a financial investor in the operation. Our consent was sought there, and we went through a proper process of due diligence before giving that consent.

Q32 Chair: Have there been any circumstances when the Department used its powers to change a decision that was going to be made?

Philip Rutnam: I would need to check before giving you a definitive answer on that.

Chair: We would be interested to know whether those powers have ever been used.

Q33 Jason McCartney: I declare an interest. I did some air traffic control training when training as a fighter control officer in the Royal Air Force.

Secretary of State, this morning your Cabinet colleague, Vince Cable, the Business Secretary, said that NATS were “pennywise and pound-foolish”, and also called some of the kit NATS used ancient. Would you agree with that description?

Mr McLoughlin: I am not quite sure where Vince got his briefing from, or what he based his facts on in that answer. Perhaps it was just an answer given in a television studio.

Q34 Jason McCartney: Would you say it is a bit too easy an argument to make when you look at the profit figures? On a turnover of £899 million, NATS had a pre-tax profit of £190 million. When incidents like this happen—we are talking about very old code; I think it was written in the 1960s—the conclusion quickly made is that it is down to a lack of investment. Is that something too easily grasped by people looking at this situation?

Mr McLoughlin: It is perhaps an easy thing to say. Chair, I know that you have been to Swanwick to see the operation there. I do not know which other members of the Committee went, but anybody who goes to Swanwick and talks to the air traffic controllers there will soon appreciate how very seriously they take their job, and how highly professional they are. I do not quite recognise where Vince got his suggestions from.

Q35 Jason McCartney: Richard Deakin, the boss of NATS, is set to get a remuneration package of more than £1 million a year, with performance bonuses. Do you think he should definitely forgo that in the coming year as a result of the glitches that caused so much disruption and chaos last Friday?

Mr McLoughlin: The remuneration is for the remuneration committee of the NATS board, which—

Q36 Jason McCartney: But what is your view?

Mr McLoughlin: I am just saying it is a matter for them. I think they benchmark his position among other people in a business of a similar size and nature, and that is what this is based on. My understanding is that last year there was a reduction of 12% in the bonus based on what happened last December. I imagine that would be reflected in this year's bonus analysis too.

Q37 Jason McCartney: Do you think that in these kinds of circumstances—as someone who travels on the east coast main line I know there is disruption there as well—sometimes it is important that the bosses of privatised transport organisations set a good example, and before being pushed into something maybe they should forgo these bonuses? Do you think they should be setting the example here?

Mr McLoughlin: That should be looked at by the remuneration committee, and it will be. It will obviously be thought about by the chief executive himself, but at the moment, rather than assigning blame, I am more interested in making sure this does not happen again.

Q38 Mr Harris: On that last answer, is not part of making sure it does not happen again assigning some blame?

Mr McLoughlin: It is finding out what went wrong and making sure that the right procedures are put in place so that it does not happen again. At this stage it is still very early days to be specific as to where the problem was.

Q39 Mr Harris: Do you not think that sometimes we are a bit reticent in coming forward to say that someone is to blame for a cock-up and we should identify who that person is and make sure it does not happen again? Blame is okay.

Mr McLoughlin: Blame and responsibility are certainly okay. I agree with that.

Q40 Mr Harris: Following on from Jason McCartney's question about the 12% reduction in bonuses last year, and your anticipating that there will be a similar reduction this year, what did that 12% reduction mean to the bottom line of the total bonus?

Mr McLoughlin: I cannot tell you off the top of my head; I do not know.

Q41 Mr Harris: Can we assume they had a tough Christmas?

Mr McLoughlin: It is a hugely responsible job and a well remunerated one. NATS have won a lot of business not only in this country but elsewhere. There has to be accountability when things go wrong in this country, and there will be.

Q42 Mr Harris: What is your impression of the culture at NATS? I think it is fair to say that since the new system has been up and running it has been relatively smooth running, notwithstanding last year's incident and this one. For about 10 years or so, it has been going relatively well. I have been reading the history of it this afternoon. It seemed to be quite a dysfunctional organisation, at least up until about 2001. They were insisting that they were a

can-do organisation and therefore they insisted on a set-up date—an “O” date—of 1996, even when everyone else was telling them it should be 2003. Costs spiralled out of control. In 1999, the audit found that completion of the project would cost £180 million more than had been announced at that date. They were not building a Scottish parliament. Did they have an excuse for that level of cost spiralling out of control? Is there a difference between the culture of the organisation in the last 10 years and what it was before? Are you confident that they are not hobbled by arrogance?

Mr McLoughlin: I do not think they are at all. What do you mean by arrogance?

Q43 Mr Harris: There seemed to be arrogance in the putting together of the project before Swanwick was set up. They seemed to be quite obstructive to the Transport Committee’s inquiries. They were over-confident about the set-up date—the “O” date—for the new system, and they were very optimistic about project costs, which were spiralling out of control in 1999. Notwithstanding their decent record in the last decade, before then there was a huge question mark over the culture at NATS. Are you aware that that has improved?

Mr McLoughlin: The company has 4,500 employees, of whom 43% are controllers; 17% are air traffic control support staff and 21% are engineers and others. I know that the average delay is done per second, but it is a good way of seeing what is happening overall in the industry. If you look at the annual report and accounts of 2014 and the chief executive’s review, you will see that up until 2009 the delays were what would be regarded as the European average: in 2007, 22 seconds; in 2008, 25 seconds; and in 2009, 18 seconds. From 2010 onwards, that has come down to well below 10, and in four of those years it was below five. If you are talking about earlier on, lessons have been learned and things have got a lot better. This year, even with what happened on Friday, we are down to very small delays per flight.

Q44 Mr Harris: You mentioned that the directors deserved generous bonuses because they had managed to win a lot of business.

Mr McLoughlin: I did not say that; do not put words into my mouth. I said there was a remuneration committee, which includes a number of people, and they benchmark that company with other companies as well.

Q45 Mr Harris: But you did say in their defence that they had won a lot of new business. Who were the competition in winning that business?

Mr McLoughlin: The competition were other air traffic controllers. I am sure that more could be given as far as that is concerned when you, no doubt, have a broader and wider inquiry into NATS.

Q46 Chair: Did lack of spare capacity at Heathrow hamper efforts to get flights running again?

Mr McLoughlin: I cannot recall a time in the last 20 years when there has been spare capacity at Heathrow. Because of technology, the number of air traffic movements at Heathrow has increased. A problem at Heathrow brings problems in the rest of the system; for instance, if we have fog, flights can be rerouted, and you know about that a bit further in advance. The suddenness of this caused the problem. If one knows bad weather is

coming, there is a reduction in the number of flights allowed to go into Heathrow, and that is pre-planned. The problem here was the suddenness of the incident.

Q47 Chair: If there was more resilience at Heathrow, could flights have been restored quicker?

Mr McLoughlin: I do not know. The truth is that 43 minutes was a fairly quick turnaround position.

Q48 Chair: How did what happen this weekend compare with what happens in the rest of Europe in air traffic management systems? Have there been similar breakdowns there?

Mr McLoughlin: I cannot give similar breakdowns, but if you just take EasyJet, last Friday they had to cancel 10 flights because of what happened at Heathrow and 76 flights due to the Italian disruption. Over the year, industrial action in Europe has generated about 1 million minutes of delay and approximately 10,000 flights cancelled in the rest of Europe.

Q49 Chair: You keep putting what happened in the context of things working effectively, yet you say that what happened was unacceptable. What level of disruption would be acceptable in terms of inevitability in a major system of this sort? Would any breakdown be acceptable?

Mr McLoughlin: I do not think there should be any breakdown in systems, and I do not want to see any breakdown in systems. Month on month, the system has operated incredibly well. We need to find out what happened last Friday. As Mr Harris said a few minutes ago, we need to find out if any specific issue was to blame and make sure it does not happen again.

Q50 Chair: In relation to compensation, do you have any views on what might happen? Do you have any powers?

Mr McLoughlin: I do not have powers as such. There will be compensation to the airline companies that have not had the service they should have had, and then it is up to the airlines what recognition they give passengers who have had flights cancelled.

Q51 Chair: If the airlines say that this is something exceptional and beyond their control and passengers are not entitled to compensation—it has been suggested that they might say that—is that something where you feel you ought to intervene?

Mr McLoughlin: Where somebody has had a flight cancelled there needs to be recognition of that, and then it depends on what sort of delays they have had to face. I would like to look at that. Airlines are usually very good at looking after their passengers, and so they should be.

Q52 Chair: If you were not satisfied, would you try to influence what happened?

Mr McLoughlin: I would want to see what they are doing.

Q53 Mr Sanders: To go back to the very first question you were asked, is the report being undertaken for the benefit of the customers of NATS or for the benefit of the passengers?

Mr McLoughlin: I hope for both, because making sure a breakdown like this does not happen again will have benefit for airlines, but it will have benefit for passengers as well. I do not see that I would want to divide either passengers or airlines.

Q54 Mr Sanders: But you do if the inquiry is being conducted by the industry itself and is not fully independent of the various parties—the various stakeholders—involved. How can an airline passenger have confidence that everything will come out, given that there are vested interests to ensure this is dealt with as quickly as possible, and maybe even swept under the carpet?

Mr McLoughlin: Mr Sanders, I do not think anyone is going to brush anything under the carpet; they will not be allowed to, but this is a very technical area. I do not want to prejudge, but I think that what went wrong will prove to be technical in nature. I want it to be done as quickly as possible; I want some speed in this. I do not want a long delay arguing about who should do the inquiry.

Q55 Mr Sanders: There are many people out there with technical expertise who are not necessarily stakeholders within the airline industry and who would give confidence to those outside that independent judgment was being cast on what happened.

Mr McLoughlin: I want to see what the CAA come forward with and the names they come forward with, and then take a view. If I think there needs to be another independent person, I do not see myself having a problem in saying that should be accommodated.

Q56 Chair: Who will decide the terms of reference of the inquiry?

Mr McLoughlin: At the end of the day, it has to be the CAA in conjunction with NATS so that we get the terms of the inquiry right.

Q57 Chair: Does that mean they will be deciding about the inquiry into themselves?

Mr McLoughlin: My understanding is that the CAA will try tomorrow to outline on their website what the inquiry's terms of reference will be, and people will be able to make comments on that. We can finalise that as quickly as possible.

Chair: Comment but not decide. We will be calling the CAA and NATS before the Committee on Wednesday afternoon, so we will be asking these questions directly.