

High Speed Rail (West Midlands - Crewe) Bill



Preparing for House of Lords Select Committee Virtual Hearings

A Guide for Petitioners

July 2020

Contents

Introduction	3
Hybrid Bills	3
Select Committee appointment and powers	3
Select Committee members	4
Appearing before the Select Committee	4
Withdrawing a petition	5
Programming of appearances before the Select Committee	5
Exhibits and witnesses	5
Exchange of exhibits and witness names	6
Invites to virtual proceedings	8
What to do if something goes wrong during the virtual proceedings	8
Using exhibits during the hearings	9
Rights of parties	9
Order of proceedings in Select Committee itself	10
Conduct of the Select Committee	11
Taking part in virtual proceedings	11
Communication with others during virtual proceedings	12
Rules observed during Select Committee proceedings	12
Giving oral evidence	13
Glossary	14

Introduction

The purpose of this document is to provide a general overview of the arrangements and procedures of the High Speed Rail (West Midlands - Crewe) Bill Select Committee (“the HS2 Bill Select Committee”) in the House of Lords. The Bill received its Second Reading in the House of Lords on 9 September 2019. The Bill has now been committed to a Select Committee who will consider the petitions deposited against it.

Hybrid Bills

Although of general public interest, the High Speed Rail (West Midlands - Crewe) Bill (“the HS2 Bill”) significantly affects the private interests of specific individuals and organisations, giving it characteristics of both a Public and a Private Bill. As such, the HS2 Bill is a hybrid Bill.

The most recent hybrid Bill used to authorise a new railway was the High Speed Rail (London – West Midlands) Bill, introduced into Parliament in 2013, with Royal Assent in 2017.

Select Committee appointment and powers

The HS2 Bill Select Committee was appointed after the Bill was revived in the new Parliament. The purpose of the Select Committee is to consider petitions which have been submitted against the HS2 Bill. The Select Committee cannot, however, consider any objections to the principle of the Bill. This was a matter settled at Second Reading. The principle of the Bill includes the route (within the limits of deviation) as proposed in the Bill.

In relation to Additional Provision, the House of Lords guidance on petitioning against the HS2 Bill (July 2019) states the following:

“Two additional provisions [to the HS2 Bill] were submitted and considered by the House of Commons Select Committee. However, under the rules governing private bill procedures, it is expressly forbidden to introduce an additional provision in respect of a bill in the second House – in this case, the House of Lords. The Lords Select Committee on the High Speed Rail (London – West Midlands) Bill heard extensive procedural argument on the issue concerning its application to a hybrid bill and concluded that it would be contrary to well-established practice for an additional provision to be included. It can therefore with some confidence be expected that the same would apply to the High Speed Rail (West Midlands – Crewe) Bill.”

The guidance can be found at:

<https://www.parliament.uk/business/committees/committees-a-z/lords-select/high-speed-rail-west-midlands-crewe-bill-select-committee-lords/petitioning-guidance-17-19/>

The Select Committee has a dedicated website that contains all the petitions submitted against the HS2 Bill. It contains details of the Select Committee members, the future programme, transcripts of proceedings, statements by the Select Committee, video footage of evidence sessions and a range of FAQs. The website can be found at:

<https://www.parliament.uk/business/committees/committees-a-z/lords-select/high-speed-rail-west-midlands-crewe-bill-select-committee-lords/>

Petitioners are strongly advised to check this website regularly for the latest updates from the Select Committee.

Select Committee members

Membership of the Select Committee was agreed by the House of Lords after the Bill was revived in the 2019-21 Session. The membership is drawn from the Conservative, Labour and Liberal Democrat parties in the House and the crossbenches. Details of the members can be found on the Select Committee website.

The Chairman, with the agreement of the other members of the Select Committee, will set the direction and pace of the programme and evidence sessions.

The Select Committee conducts itself in a non-partisan way.

Appearing before the Select Committee

The Select Committee will normally sit four days a week:

- Monday afternoon
- Tuesday all day
- Wednesday all day
- Thursday morning

The future programme of evidence sessions can be found on the Select Committee website.

The contact details for the Clerk to the Committee are as follows:

Private Bill Office
House of Lords
London
SW1A 0PW
Tel: 020 7219 3231
Email: hlprivatebills@parliament.uk

Withdrawing a petition

Petitions can be formally withdrawn by informing the Private Bill Office of the House of Lords, by email or letter, informing the Clerk to the Committee that the Petitioner wishes to withdraw their petition.

Programming of appearances before the Select Committee

The latest programme for the Select Committee evidence sessions will be available on the Select Committee website.

Programming of Petitioners is being handled by David Walker, on behalf of the Select Committee. David Walker's contact details are as follows:

David Walker
Senior Legal and Parliamentary Clerk
Winckworth Sherwood
Minerva House
5 Montague Close
London
SE1 9BB

Tel: 020 7593 5013
Fax: 020 7593 5199
Mobile: 07765 408 936
Email: dwalker@wslaw.co.uk

Once a Petitioner's appearance before the Select Committee has been programmed they should consider it fixed; changes will only be agreed in exceptional cases. Petitioners are expected to be reasonably flexible on the timing of their petition hearings, subject to unavoidable commitments, as it will help the Select Committee to hear petitions from each locality together as far as possible.

If a Petitioner decides not to appear before the Select Committee to present their Petition they should notify the Clerk to the Committee and let David Walker know as soon as possible.

Exhibits and witnesses

Petitioners are strongly encouraged to watch video footage of a previous evidence session to see how the Select Committee functions, although for virtual proceedings some things will inevitably be different. Archived sessions from Phase 1 of HS2 can be found [here](#) on Parliament's website.

Recordings of sessions from the HS2 Bill House of Commons Select Committee can be found [here](#).

Both the Promoter and Petitioners are free to use written material, maps, pictures and drawings etc. to illustrate their case before the Select Committee (these are collectively known as exhibits). The Promoter will generally orientate their maps in a north/north-westerly orientation, and it would be useful for the Select Committee if any Petitioner maps submitted followed a similar orientation.

Both sides can also call witnesses (for example, engineering experts) to support their case.

Between 5 and 25 pages of evidence will almost always be sufficient. More than that risks diluting its impact.

If a Petitioner wants to submit more than 50 pages of evidence they should contact the Clerk to the Committee to explain the special circumstances that they believe merit a more extensive submission.

Select Committee evidence sessions are a matter of public record and all written evidence submitted for these sessions will be published on the Select Committee website. Please do not include personal or sensitive information in your submission (e.g. personal email addresses).

If Petitioners have any information relevant to their submissions which is sensitive or confidential, they should write to the Clerk to the Committee who will be able to advise on the best way to ensure that this sensitive or confidential information is taken into account rather than read it out in the public evidence session. If the information is considered significant, the Select Committee may need to take a different approach, and will seek permission from the Petitioner to share the information with the Promoter.

The Promoter has produced a computer visualisation of the HS2 route (a so-called 'fly-through'). This was produced prior to the promotion of the Additional Provisions, AP1 and AP2, to the HS2 Bill in the House of Commons and therefore does not include these amendments. This is available on Youtube at: <https://www.youtube.com/watch?v=wWWEWZYWs58&feature=youtu.be>

Exchange of exhibits and witness names

To ensure openness and fairness, both sides are required to exchange copies of their exhibits in advance of the relevant evidence session, as well as to disclose the names of any witnesses that they may be calling to support their case. This also ensures that there is time to forward the information to the Select Committee members and to prepare it for display during the evidence sessions.

The requirement for exchange of exhibits and names of witnesses is by 5pm three clear working days before Petitioners are due to appear before the Select Committee. So:

- by 5pm on Tuesday if the hearing is on the following Monday;
- by 5pm on Wednesday if the hearing is on the following Tuesday;
- by 5pm on Thursday if the hearing is on the following Wednesday; and
- by 5pm on Friday if the hearing is on the following Thursday.

Petitioners should send their exhibits and the names of their witnesses to the following email address: PetitionerExhibits@hs2.org.uk.

Please note that there is a restriction on the size of email plus attachments that most email systems will allow. HS2 Ltd can only accept an email and attachments up to a total size of 25 MB. Petitioners' emails that exceed this size will receive an email from their email system advising them that it was unable to deliver their email successfully. If an email exceeds this size, Petitioners should consider breaking the email down into a number of smaller emails that are less than 25 MB. If Petitioners are unable to break an email down below the size limit they will need to contact HS2 Ltd to discuss how they intend to provide HS2 Ltd with their exhibits.

The Promoter is required to provide its evidence and witness names in accordance with the same deadlines, and these will be sent to Petitioners using the contact information for Petitioners provided when they submitted their petition, unless HS2 Ltd have been notified of a change in contact details. It is therefore important that if a Petitioner's contact details change, they let the Clerk to the Committee, David Walker and HS2 Ltd know.

Evidence will be exchanged electronically. However, should the petitioner require hard copies in advance of their hearing, they should inform HS2 Ltd at the time of exchange to allow sufficient time for the material to get printed and sent out. They will at the same time also need to provide HS2 Ltd with an address to which hard copies would need to be sent.

Petitioners will also need to tell the Clerk to the Committee who will present the Petitioner's case, by the same deadline as that for the exchange of exhibits.

David Walker will ask Petitioners to provide the contact details – email and telephone – that they will be using on the day of their evidence session, for the person presenting the petition and any witnesses giving evidence to the Select Committee. Invites to participate in virtual proceedings will be issued by the Committee secretariat using these contact details.

Invitations to virtual proceedings

Invitations to virtual proceedings will be managed and issued by the Parliamentary broadcasting team and the Committee secretariat.

The virtual proceedings will use Zoom (see <https://zoom.us/>). Petitioners will not need to have a subscription to Zoom to participate in the virtual proceedings, but those that are unfamiliar with Zoom may want to sign up for the free basic service and practice with the system in advance of their evidence session.

All Petitioners will need to do is click on the link provided in the email invitation and enter the provided password. The email invite will also include dial-in details (a telephone number and meeting code), should it be necessary to join the virtual proceeding by telephone instead (see section below on what to do if something goes wrong during the virtual proceedings).

It may be necessary for the Parliamentary broadcasting team to test the broadband/audio visual connection of Petitioners and their witnesses prior to the evidence session. If needed, they will be in touch when issuing invites to the evidence session to arrange this.

Only those presenting the petition or giving evidence to the Select Committee as a witness should join the hearing using the invite issued by the Committee secretariat. When you join you will need to wait to be admitted to the call by the Parliamentary broadcasting team.

The hearings will be broadcast live so that members of the public can watch the evidence sessions. The live stream can be found at:
<https://parliamentlive.tv/Lords>.

What to do if something goes wrong during the virtual proceedings

If Petitioners experience video picture or audio visual quality issues during the virtual proceedings because of internet connection issues etc it can sometimes help to switch off the video and use audio only.

If Petitioners momentarily lose their internet connection during the virtual proceedings they should resolve the problem and then re-join the virtual proceedings as soon as they can using the original invite issued by the Committee secretariat.

If the problem persists, someone from Parliament will try to get in touch with the Petitioner using the details they have supplied. Alternatively the Petitioner should call or text the Committee secretariat and HS2 Ltd to advise them of the issue.

The Clerk to the Committee will decide on the appropriate course of action on a case by case basis, in discussion with the Select Committee; this may be to arrange for the evidence session to continue using audio only, to pause the evidence session for half an hour or so, to arrange for the evidence session to resume at a set time later the same day, or it may be to ask David Walker to re-arrange the evidence session for another day. Time in the programme has been allocated each week for such 'spillover' sessions and Petitioners are asked to be flexible should it be necessary to re-arrange disrupted evidence sessions.

Using exhibits during the hearings

HS2 Ltd will email Petitioners an electronic version of their exhibits, to which reference numbers will have been allocated. These reference numbers are for Petitioners to use during their session, to identify which exhibit they are referring to.

Petitioners, witnesses and Counsel should try to refer to specific items of evidence in the exhibits by the reference number given to them. This will help ensure that the Select Committee members and others involved in the hearings are looking at the relevant item of evidence.

Evidence used in the Select Committee evidence sessions is published on the Select Committee website, and Petitioners will see from these that each page has a 'P' reference number for an exhibit from the Promoter and an 'A' number for an exhibit from a Petitioner.

Rights of parties

Unless otherwise agreed with the Clerk to the Committee, for a petition to be considered by the Select Committee, a Petitioner, either in person or represented by Counsel, a representative or agent, must appear before the Select Committee.

There are restrictions on what arguments Petitioners can present to the Select Committee. For example, they may argue for an amendment to the HS2 Bill, but they may not argue that the Select Committee should reject the proposal to build the railway outright. Petitioners cannot raise matters which they did not raise in their petition, and cannot raise the concerns of others who have not petitioned.

The Promoter is represented before the Select Committee by Counsel, and will call witnesses to support its case as required.

Order of proceedings in Select Committee itself

In considering Petitions against the HS2 Bill, the Select Committee is acting in a quasi-judicial capacity (that is, like a Court) and so a degree of formality is inevitable.

The order of hearing Petitions is expected to be:

- A short oral introduction on relevant background facts
- Petitioner(s) main arguments (which may be provided in writing, as explained above)
- *Evidence from any Petitioner(s) witnesses, such as experts on engineering etc:*
 - *Petitioner(s) examines own witnesses first. Leading questions should be avoided as much as possible*
 - *Promoter cross-examines witnesses*
 - *Petitioner(s) re-examines on points arising from cross-examination*
- *Evidence from Promoter's' witnesses:*
 - *Promoter examines own witnesses first. Leading questions should be avoided as much as possible*
 - *Petitioner(s) cross-examine*
 - *Promoter re-examines on points arising from cross-examination¹*
- Closing statement of Promoter, if necessary
- Closing statement of Petitioner(s), if necessary

In broad terms, the hearing starts with a brief introduction with the Petitioner making their case, and then the Promoter responds. The purpose of witness testimony and cross-examination is to help explain the case to the Select Committee, rather than to be a debate between the Promoter and Petitioner, and commentary ought to be directed to the Select Committee, with Promoter and Petitioner each taking their turn to put their case.

Both the Promoter and Petitioners are entitled to make their case uninterrupted by the other side, other than in exceptional circumstances. Select Committee members may intervene with questions at any point.

The Select Committee will at some point make and announce its decision, but it is unlikely to do so on the same day as the Petitioner's hearing (indeed, the taking and announcing of decisions may be postponed until a later stage depending on the order of Petitions and may be done so through a Special Report to the House).²

¹ The part of the process highlighted in italics may operate in part depending on, for example, if the Committee has heard sufficient evidence to come to a view. In such a case the Chairman will move the proceedings along and this part of the proceedings may not operate.

² The First and Second Special Reports of the House of Commons Committee and the Government Responses are available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/high-speed-rail-west-midlands-crewe-bill-select-committee-commons/publications-17-19/>

Where a series of Petitions addresses related issues, the Select Committee may invite the second and subsequent Petitioners to say whether they wish to make points not already addressed by the first Petitioner. These Petitioners will be asked to address only those further points, unless there are exceptional reasons. Petitioners choosing not to speak will be regarded as having formally appeared, provided they or their agent participate in the hearing and identify themselves.

Groups of Petitioners from the same area are encouraged to appoint a lead Petitioner to outline their case, with other Petitioners from the group adding local detail where appropriate, instead of repeating the case.

Conduct of the Select Committee

The evidence sessions are a matter of public record and are transcribed. A record of each day's session is published online and names are searchable. The transcripts will be available on the Select Committee website (these are either uncorrected transcripts or corrected transcripts). Reading these will also give a flavour of the proceedings.

Witnesses are not on trial but are there to represent the issues raised in the petition and to provide the Select Committee with specific details of these issues.

If the information to an answer is not immediately to hand, the witness may offer to come back to the Select Committee in writing on a particular point.

Taking part in virtual proceedings

This section sets out some practical advice for Petitioners on arrangements for participation in virtual proceedings.

In terms of equipment, as well as a laptop or computer, Petitioners may find it useful to have an additional screen available for use (e.g. a television or computer monitor, with a suitable cable for connection).

Petitioner's laptops or computers could be connected to an additional screen. Petitioners should then be able to 'extend' the view of the laptop onto the additional screen.

This additional screen could then be used to display the videoconference and the laptop or computer screen be used to view the exhibits privately (i.e. as if you were referring to your own hard copies). Alternatively, a separate tablet or iPad could be used to view the exhibits.

Using this set up, Petitioners would be able to scroll through and view the exhibits as they are referring to them or as they are being referred to by the Select Committee or others participating in the evidence session. Petitioners should use the highlighted

reference number in order to bring a specific exhibit to the attention of the proceedings.

If using a television for the additional screen, the more powerful speakers may improve the sound quality for when proceedings are quiet.

Communication with others during virtual proceedings

The Select Committee members and Clerk will have a separate means of private communication outside of the videoconference itself, so that they can confer amongst themselves.

The Promoter's Counsel will also have a separate means of private communication with their supporting staff.

Petitioners are free to have a separate means of private communication between the person presenting the petition and their witnesses (e.g. a group in WhatsApp or some other group messaging application such as Microsoft Teams).

It is important to note that any outside means of communication between witnesses and others should not be used by witnesses when they are being examined under oath, either by the Petitioner or the Promoter.

Rules observed during Select Committee proceedings

Petitioners and their witnesses should seek to address the Select Committee in a courteous manner throughout the proceedings. Members should be referred to as "Lord" or "Lady" followed by their title, or more generally as "My Lord", or "My Lady". The Chairman can also be referred to as "My Lord Chairman". Undue formality is not necessary.

In presenting evidence to the Select Committee, Petitioners, witnesses and Counsel must conduct themselves before the Select Committee in a way which does not constitute contempt of the House of Lords. Examples of contempt of the House include knowingly misleading, repetitious and irrelevant evidence, deliberate delay, and refusal to answer questions. All parties are required to be respectful.

There is no formal dress code for virtual proceedings; usual business dress is suggested as a guide, as would be the case in a live hearing.

Giving oral evidence

Petitioners, witnesses and Counsel should speak in layman's terms whenever possible.

Speakers should speak clearly and at a comfortable and audible volume.

The Select Committee will take time to hear and understand Petitioners' arguments. However, unnecessarily lengthy argument on either side will be deprecated, as will reading out of speeches without good reason. Petitioners should feel free to include in their evidence a summary of their arguments of no more than two pages. If they do, they can assume the Select Committee will have read it and that there will be no need to expand on it in the evidence session.

Petitioners are encouraged to keep any opening and closing statements short, and to explain the effects of HS2 on them, through personal illustration with maps and pictures of their locality, along with preferred solutions.

During the virtual proceedings, participants may be 'muted' until invited to speak by the Chair and should be prepared to unmute themselves when necessary. However, they will still be visible to the Select Committee. It is therefore important for participants to remain in place, visible to their cameras and aware that they can be seen. Participants will not normally be broadcast unless they are speaking but should be mindful that this is a possibility.

When giving oral evidence virtually, it may be helpful to pause after making substantive points, to allow time for the Select Committee to ask questions. If you do not pause the Chair may nonetheless intervene at certain points to allow this.

Glossary

Additional Provision

An amendment to the Bill seeking to secure additional powers or to amend the existing powers sought. See HS2 Phase 2A Information Paper B11, Additional Provisions.

Agent

A person appointed by another to represent on their behalf.

Counsel

A barrister.

Division

A vote in the House of Commons or House of Lords.

Parliamentary Agent

A specialist lawyer.

Promoter

Government Minister sponsoring the Bill.

Quorum

The minimum number of members required to be present for the Select Committee to conduct its business.