



## BRIEFING PAPER

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# Hybrid Bills (Background Paper)

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1. Proceedings in the House of Commons
2. Recent changes to rules on environmental statements
3. Review of hybrid bill procedure



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## Summary

A hybrid bill has characteristics of both a public bill and a private bill, that is, although it is of general application, the content of such a bill would significantly affect the interests of certain individuals or organisations. Speaker Hylton-Foster described a hybrid bill as “a public bill which affects a particular private interest in a manner different from the private interests of other persons or bodies of the same category or class”.<sup>1</sup> In layman’s terms, a hybrid bill gives Parliamentary authority for a scheme. If required, a hybrid bill can grant deemed planning permission for any scheme it provides for.

Bills which propose to undertake works of national importance, but in a local area, have usually been hybrid. Hybrid bills may be introduced by the Government or by a backbencher. They are not particularly common, 13 hybrid bills have been introduced since 1984. However, as the High-Speed Rail project proceeds more are expected. Recent examples include the *High Speed Rail (West Midlands - Crewe) Bill*, on 17 July 2017; the *High Speed Rail (London-West Midlands) Bill*, on 25 November 2013; and the *Crossrail Bill* in 2005.

The procedures followed in Parliament in considering hybrid bills incorporate aspects of both public bill and private bill procedures. Promoters of hybrid bills do not need to prove the need for their bill (promoters of private bills do). Between a hybrid bill’s introduction and Second Reading, time is provided for members of the public to comment on the environmental statement published with the Bill. Following Second Reading, hybrid bills are committed to a select committee to allow those affected by the Bill to petition against aspects of the Bill to which they object. After the select committee has reported, a hybrid bill is considered in Public Bill Committee, on Report and debated at Third Reading, like a public bill. The same stages, including petitioning, are then repeated in the House of Lords.

Erskine May’s description of hybrid bill procedure can be found on pages 652-658 of *Parliamentary Practice* (24th edition, 2011).

### Review of hybrid bill procedure

When it reported in February 2016, the House of Commons High Speed Rail (London - West Midlands) (‘HS2 Phase 1’) Bill Select Committee considered the way in which hybrid bills are scrutinised. It identified some advantages of the hybrid bill process but also acknowledged several criticisms and recommended some changes. It urged the House and ministers “to consider such changes in good time before the next hybrid bill is introduced”.

In May 2016, while the HS2 Phase 1 Bill was being considered by the House of Lords, the Chairman of Ways and Means (Commons) and the Chairman of Committees (now the Senior Deputy Speaker) (Lords), as the Members with responsibility for the oversight of private business, launched a review of hybrid bill procedure. They set out the scope of the review:

The review will consider and make recommendations about possible changes to the procedure and practice of both Houses in relation to hybrid bills so as to make the hybrid bill process simpler and less time-consuming for all those involved, without unfairly curtailing the right of those who are directly and specially affected by such bills to make their case effectively, or the right of the Government to ensure the passage of its legislation through Parliament.

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<sup>1</sup> [HC Deb 10 December 1962 c45](#)

## 4 Hybrid Bills (Background Paper)

Initially submissions were requested by 30 June 2016 but a further opportunity was given to make submissions to December 2016.

The review sought to address concerns raised by petitioners that the petitioning process was onerous and unnecessarily bureaucratic. As part of the first phase of the review's implementation, ahead of petitioning for Phase 2a, the House has agreed to changes to the Private Business Standing Orders to allow electronic petitioning and for a petitioner to allow anyone to represent them without that person having to provide a certificate of respectability and sign the Private Bill Office's Roll B register. The Standing Order changes also give Members of Parliament the right to petition, as well as providing an explicit mechanism for setting the petitioning period and dealing with late petitions.

The review is ongoing and further reforms are expected in the coming year.

### Further information

There are separate briefing papers for each of the three phases of HS2, these can be found on the [Railways Briefings Page](#) of the Parliament website.

Separate House of Commons Background Papers review public bill procedure and private bill procedure.<sup>2</sup>

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<sup>2</sup> [House of Commons Background Paper: Public Bills](#), SN/PC/6507; [House of Commons Background Paper: Private Bills](#), SN/PC/6508

# 1. Proceedings in the House of Commons

## 1.1 Preliminary proceedings

It is not always clear whether a bill should be introduced through the public, private or hybrid bill procedure. Every public bill is examined by the Public Bill Office before it is introduced in the House of Commons for its compliance with the House's rules. In determining this Clerks take into account the practice and precedents of many years. If the Clerks consider that private interests may be affected, following the Bill's formal introduction, the House will order the Bill to be considered by the Examiners of Petitions for Private Bills.<sup>3</sup>

The [High Speed Rail \(West Midlands - Crewe\) Bill 2017-19](#) was introduced on 17 July 2017 and referred to the Examiners on 18 July 2017.

### Box 1: Examiners of Petitions for Private Bills

The Speakers of the House of Commons and the House of Lords appoint a member of staff from each House to be Examiners of Petitions for Private Bills. Usually the Clerk of Bills, in the House of Commons, and the Clerk of Private Bills, in the House of Lords, are appointed. They are assisted by Speaker's Counsel in both Houses

Promoters of private bills and hybrid bills have to comply with a number of requirements to advertise their proposals; to inform those affected; to gain certain consents; and to deposit certain documents. The Examiners ascertain that these requirements have been complied with.

In the case of a bill that is thought to be hybrid, the Examiners are required to determine whether the Standing Orders relating to private bills should apply to the Bill. Their determination is based on the test of whether the Bill affects particular private interests of individuals or organisations differently from others in the same class or category.<sup>4</sup> Until the Examiners report, the Bill is described as *prima facie* hybrid. Typically, a bill relating to the construction of a new railway would meet that test, owing to the different effects of the railway on similar categories of person. (Box 2 considers when hybrid bills are used rather than other procedures to provide for the construction of a new railway.)

If the Examiners find that the Standing Orders should not apply, the Bill proceeds as a public bill.

If they find that the Standing Orders should apply, the Bill is confirmed as a hybrid bill. The Examiners then consider whether the Standing Orders relating to private bills, which require promoters to give notice of their proposals and to deposit certain documents, have been complied with.

If the Standing Orders have been complied with, the Bill can be debated at Second Reading stage.

On 12 September 2017, the [Examiners reported](#) that certain Standing Orders had not been complied with. Their report was referred to the Standing Orders Committee.

<sup>3</sup> House of Commons, [Standing Orders of the House of Commons – Public Business, 2017](#), April 2017, HC 4 2016-17, Standing Order No 61

<sup>4</sup> House of Commons, [Standing Orders of the House of Commons – Private Business, 2017](#), November 2017, Standing Order 224

### Box 2: Hybrid bill or Transport and Works Act order

The Department for Transport's guide to *Transport and Works Act* orders states that:

An order made under the Transport and Works Act 1992 (the TWA) is the usual way of authorising a new railway or tramway scheme in England and Wales, except for nationally significant rail schemes in England which require development consent under the Planning Act 2008.<sup>5</sup>

A High Speed 2 briefing paper comments on the reasons for using a hybrid bill:

The Government occasionally uses hybrid Bills to promote major infrastructure projects of national importance. ... Use of primary legislation rather than promoting a development consent order under the Planning Act 2008 allows the Government to seek the full range of statutory powers and authorisations that a project of this size and complexity requires. This may include revisions to the rail regulatory regime and the planning regime, as well as provisions to enable the making of subsequent orders and regulations by way of statutory instrument.<sup>6</sup>

Where the Examiners find that the Bill has not complied with Standing Orders, it is referred to the Standing Orders Committee (as under private bill procedure<sup>7</sup>). The Standing Orders Committee considers whether Standing Orders that have not been complied with can be dispensed with to allow the Bill, or a portion of it, to be proceeded with. Erskine May describes the principles by which the Standing Orders Committee is guided:

... it is the duty of the committee to consider equitably ... whether the bill should be permitted to proceed. Broadly, speaking, the committee takes into account three questions: first, whether it is in the public interest, apart from that of the promoters, that the standing orders should be dispensed with; second, whether the promoters have been negligent; and third, to what extent parties other than the promoter will be adversely affected.<sup>8</sup>

If this Committee decides that the Bill should not proceed because the Standing Orders have not been complied with, the promoters of the Bill usually abide by this decision.

Usually when the Government intends to introduce a bill that is likely to be hybrid, it is advised of this by the Department concerned or Parliamentary Counsel (Government officials responsible for drafting legislation). In anticipating that a bill will be defined as hybrid, the Government will seek to ensure compliance with the requirements of the private business Standing Orders (with regard, for example, to advertisements, the drawing up of any necessary plans, etc.) before a bill is introduced.<sup>9</sup>

Standing Orders for private bills set deadlines for the depositing of various documents, these deadlines often need to be dispensed by the

On 20 November 2017, the [Standing Orders Committee](#) agreed that the Standing Orders could be dispensed with.

<sup>5</sup> Department for Transport, [Transport and Works Act orders – A brief guide](#), July 2013, para 1

<sup>6</sup> High Speed 2, [B10: Hybrid Bill Process](#), Phase 2a Information Paper, para 3.1

<sup>7</sup> See [House of Commons Background Paper: Private Bills](#), SN/PC/6508

<sup>8</sup> Erskine May, *Parliamentary Practice*, 24th edition, 2011, p943

<sup>9</sup> However, in 1976, the House approved a motion to set aside any application of the Private Business Standing Orders to the *Aircraft & Shipbuilding Industries Bill* (a Government bill) [HC Deb 27 May 1976 cc632-766]

Standing Orders Committee, given that hybrid bills do not follow the same timetable as private bills.

A list of all hybrid bills introduced since the 1983-84 Session of Parliament is given in the Appendix.

## Private Members' Bills

Private Members may introduce a public bill that the Examiners decide is hybrid. Such a bill has little chance of becoming law. Examples of such bills are the *Epsom and Walton Downs Regulation (Amendment) Bill 1952-53*, which sought to amend charges made to bookmakers on Epsom and Walton Downs; and the *West Midlands County Council (Abolition) Bill 1981-82*, a bill introduced under the ten-minute rule procedure to abolish the West Midlands County Council.<sup>10</sup>

## Bills relating to London

Bills relating to London have sometimes been hybrid, but in recent years most major bills relating to the capital have been considered as public bills, e.g. the *Greater London Authority (Referendum) Bill 1997-98* and the *Greater London Authority Bill 1998-99*. Bills relating to the City of London have usually been private bills but have occasionally been hybrid bills. A number of private bills, relating to transport powers, rather than infrastructure, have been enacted.<sup>11</sup>

## 1.2 Comments on environmental statements

Standing Orders relating to private bills require that an Environmental Statement (ES) has to be deposited if the Bill authorises work to be carried out on land specified in the Bill. An ES is not required in relation to any works for which planning permission has been granted.<sup>12</sup> In the case of a hybrid bill, the ES is deposited at the same time as the Bill is introduced. Parliament's procedures for dealing with ESs also have to comply with the objectives of the EU Directive on Environmental Impact Assessments, which include a requirement that the public are consulted on the formal ES. (The House agreed a new Standing Order (SO 224A<sup>13</sup>) on 26 June 2013 to ensure compliance, see section 2.)

SO 224A ensures that members of the public can comment on the ES before a hybrid bill's Second Reading. It provides that members of the public will have a minimum of 56 days from the introduction of a hybrid bill in Parliament to submit comments on the ES to the Government. It requires that these comments are published and that they are assessed and summarised by an independent assessor, appointed by the Examiner of Petitions for Private Bills. The independent assessor's report must be submitted to the House within a period determined by the Examiner after consultation with the relevant minister. The SO provides that the assessor has at least 28 days from receipt of all comments to complete the assessment. Once the assessment is submitted, a period

The Environmental Statement for the *High Speed Rail (West Midlands - Crewe) Bill 2017-19* was laid on 17 July 2017. Comments on the [consultation](#) had to be submitted by 30 September 2017. The Assessor's [report](#) was published on 20 November 2017.

<sup>10</sup> [HC Deb 23 March 1982 cc802-804](#)

<sup>11</sup> For example, [Transport for London Act 2016](#) (chapter i); [London Local Authorities and Transport for London Act 2013](#) (chapter v)

<sup>12</sup> House of Commons, [Standing Orders of the House of Commons – Private Business, 2017](#), November 2017, Standing Order 1A and Standing Order 27A

<sup>13</sup> House of Commons, [Votes and Proceedings](#), 26 June 2013, Item 9

of 14 days must then elapse before the Bill can be given a Second Reading.

SO 224A also sets out the requirements should further environmental information be required. If any supplementary environmental information is submitted after the deposit of the ES, there will be a minimum of 42 days for comments to be submitted on the supplementary information. These comments will be published and a summary of them, made by the independent assessor, must be published. At least 14 days must then elapse before the Third Reading of the Bill (or, if the supplementary information was submitted before Second Reading, before the Second Reading of the Bill).

### 1.3 Second reading

The procedure for second reading of a hybrid bill is the same as for a public bill: Members debate the principle of the Bill. If the Bill is given a second reading, in order to enable anyone directly and specially affected by the Bill to make their case against it, the Bill is committed to a select committee, which considers petitions against the Bill. The motion to refer the Bill to a select committee normally also sets down the requirements for the receipt of petitions against the Bill. In addition to referring a hybrid bill to select committee, the House may also give instructions to the select committee. Instructions can prevent the select committee from amending certain provisions or allow it to make alterations to infrastructure provided for in the Bill.<sup>14</sup>

### 1.4 Petitions against the Bill

Any individuals, organisations or groups of people directly and specially affected by the Bill can deposit a petition to oppose the Bill. A petition is:

... a summary of objections to particular aspects of the Bill. It is a request to the House of Commons for the Petitioner to be allowed to argue their case before the Select Committee.<sup>15</sup>

Petitions have to be deposited within a stipulated time in the Private Bill Office and must conform to the rules for petitions against private bills. Guidance on petitioning against hybrid bills is published by the Private Bill Office of the House of Commons.<sup>16</sup>

In November 2017, the House agreed changes to the Private Business Standing Orders to allow petitioners to submit their petitions electronically, rather than doing so in person. The petition template itself has also been redesigned to make it more accessible. For example, petitioners no longer need to include a prayer in their petition.

The right of a petitioner to be heard in opposition to a private or hybrid bill (previously known as *locus standi*) “depends on whether his

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<sup>14</sup> For example, the select committee considering the *Crossrail Bill* was instructed to treat the principle of the bill as including the termini of the railway and certain intermediate stations [[HC Deb 19 July 2005 c1218](#)]

<sup>15</sup> Select Committee on the Crossrail Bill, [First Special Report](#), 23 October 2007, HC 235 2006-07, para 10

<sup>16</sup> High Speed Rail West Midlands - Crewe) Bill Select Committee, [Petitioning guidance](#)



personal property or interests stand to be adversely affected by the passage into law of the measure concerned".<sup>17</sup> If the promoter of a bill challenges the *locus standi* of a petitioner, the select committee itself determines who may and who may not be heard and on which sections of the Bill.

## Proceedings if no petitions are deposited

If no petitions are deposited against a bill within the stipulated time, it will be recommitted to a public bill committee or committee of the whole House, which will then consider it in the same way as a public bill.<sup>18</sup>

## 1.5 Select Committee

The membership of the select committee is approved by the House. The composition of a select committee reflects the party balance in the House.<sup>19</sup> However, Members serving on the select committee cannot have a personal or constituency interest in the Bill.<sup>20</sup> In the past, hybrid bills have been committed to joint committees.<sup>21</sup>

If petitions are received, the select committee will meet and consider the Bill in much the same way as an opposed bill committee would for a private bill. However, there are certain differences; in particular, that the promoters do not need to establish the need for the Bill since the House has already put on record its approval of the principle of the Bill at second reading.

The select committee will mostly sit in a quasi-judicial capacity. It will not be looking at principle or policy; its focus will be restricted to addressing mitigation, compensation and adjustment.

After the committee has completed any preliminary work (such as determining its programme and initial visits), the petitioners make their case first, calling witnesses if necessary. Witnesses are normally examined on oath. When the opponents of the Bill have completed their case, and the promoters have been heard in reply, the committee considers the clauses of the Bill, reporting it to the House with or without amendment. If the committee wishes to communicate its view on the subject matter of the Bill, or if the promoters no longer wish the Bill to proceed, the committee may make a special report to the House.

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<sup>17</sup> Norman Wilding and Philip Laundy, *an Encyclopaedia of Parliament*, Fourth Revised Edition, 1972, p438

<sup>18</sup> On 28 November 1985, the order committing the *Museum of London Bill 1985-86* to a select committee was discharged [Commons Journal (1985-86) 52]

<sup>19</sup> In the past, members have been nominated partly by the House and partly by the Committee of Selection, or entirely by the Committee of Selection [Erskine May, *Parliamentary Practice*, 24th edition, 2011, p655]. Members of the Crossrail Bill Committee were nominated by the Committee of Selection [HC Deb 5 December 2005 c709]

<sup>20</sup> House of Commons, [Standing Orders of the House of Commons – Private Business, 2017](#), November 2017, Standing Order 120

<sup>21</sup> Erskine May, *Parliamentary Practice*, 24th edition, 2011, p655. On 15 October 1946, the House of Commons appointed Members to a joint committee to consider the *Roosevelt Memorial Bill* [HC Deb 15 October 1946 c801]

Once the select committee has heard from both the petitioners and promoters, it can amend the Bill to address particular affects the Bill places on those who petitioned against it; and the select committee can recommend or suggest a course of action to the Promoter of the Bill rather than amending the Bill.

### 1.6 Later stages/House of Lords scrutiny

After the select committee has reported on the Bill, and made any amendments to it, it is normally re-committed to a committee of the whole House or to a public bill committee. Committee stage, Report stage and Third Reading take the same form as for all other public bills. The Bill is then sent to the House of Lords where there is a further opportunity for objectors to petition and to appear before a select committee.

### 1.7 Carry-over between Sessions

As with private bills, the House has, when necessary, considered motions to suspend (i.e. carry-over) hybrid bills from one session to another: the *Channel Tunnel Rail Link Bill* was suspended twice. Such motions may, of course, be opposed and negatived; in which case the Bill would fall, or have to start again.

When a General Election has been called, motions have also been considered to allow hybrid bills to recommence at the point they had reached before the election: the *Crossrail Bill* was introduced before the 2005 General Election but did not receive Royal Assent until July 2008. The *High Speed Rail (London - West Midlands) Bill* was first introduced on 25 November 2013. A carry-over motion was considered the day after second reading. It provided for carry over to the next session and over the election at the end of that session.<sup>22</sup> The Bill received Royal Assent on 23 February 2017.

### 1.8 Royal Assent

When both Houses have approved a hybrid bill, it receives Royal Assent in exactly the same way as a public bill. These Acts are numbered in the Public and General Acts series.

### 1.9 Tracking the progress of hybrid bills

Hybrid bills appear in the "[Bills before Parliament](#)" listing on the Parliamentary website. A fresh list of bills is compiled for each parliamentary session. A drop-down menu allows "Hybrid Bills" to be viewed separately.

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<sup>22</sup> [HC Deb 29 April 2014 cc771-774](#); debate on the carry-over motion; the motion to commit the Bill to a select committee; and an instruction to the Committee began at [c707](#).

## 2. Recent changes to rules on environmental statements

On 26 June 2013, the House agreed a new Standing Order (Standing Order 224A), relating to private business, to ensure that the House's procedures on hybrid bills are fully compliant with the objectives of any EU Directive on Environmental Impact Assessments.<sup>23</sup> Under the Directive,<sup>24</sup> the public must be consulted on the formal Environmental Statement (ES) that accompanies a hybrid bill. In introducing the new Standing Order, Andrew Lansley, the then Leader of the House of Commons, noted that:

... our proposed changes to Standing Orders will incorporate a formal consultation period for the environmental statement between introduction and Second Reading of the hybrid Bill. Although this follows the precedent of the Crossrail Act 2008, by enshrining this consultation in Standing Orders, we will improve the transparency and certainty of the hybrid Bill procedure.<sup>25</sup>

The Standing Order change was also made in the House of Lords. On 25 July 2013, the House of Lords agreed to a Procedure Committee report, which recommended a new Standing Order to ensure that the House's procedures were compliant with the EU Directive.<sup>26</sup> The new Standing Order was agreed on 30 July 2013.<sup>27</sup>

In respect of any bill relating to High Speed 2 (HS2), introduced in the 2013-14 session, both Houses also agreed changes to Standing Orders to allow the electronic deposit of documents relating to hybrid bills. The documents were required to be deposited "in every local authority along the route" but all documentation will be provided "in hard copy if locations so wish".<sup>28</sup>

On 11 July 2017 the Commons agreed a similar motion, "in respect of any bill relating to High Speed 2 that is read the first time in Session 2017-19", to allow the electronic deposit of documents relating to hybrid bills.<sup>29</sup> In November 2017, the House agreed to changes to the Private Business Standing Orders which will allow such electronic deposit to take place in the future without the need for the House to pass a motion in each case.<sup>30</sup>

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<sup>23</sup> [HC Deb 26 June 2013 cc417-428](#)

<sup>24</sup> EU Directive 2011/92/EU, subsequently amended by EU Directive 2014/52/EU, and implemented by the [Town and Country Planning \(Environmental Impact Assessment\) \(England and Wales\) Regulations 2017](#), (SI 2017/571)

<sup>25</sup> [HC Deb 26 June 2013 c420](#)

<sup>26</sup> Procedure Committee, [Backbench Debates, Tabling oral questions, High Speed 2 and hybrid bill procedure](#), 26 June 2013, HL 33 2013-14; [HL Deb 25 July 2013 cc1424-1425](#)

<sup>27</sup> [HL Deb 30 July 2013 cc1644-1647](#)

<sup>28</sup> [HC Deb 26 June 2013 cc417-428](#); [HL Deb 25 July 2013 c1425](#); [HL Deb 30 July 2013 cc1643-1644](#)

<sup>29</sup> [HC Deb 11 July 2017 cc258-265](#)

<sup>30</sup> [HC Deb 7 November 2017 c1311](#); [Votes and Proceedings](#), 7 November 2017

## 3. Review of hybrid bill procedure

### 3.1 Recommendations from the Committee that considered HS2 Phase 1

When it reported in February 2016, the House of Commons High Speed Rail (London - West Midlands) ('HS2 Phase 1') Bill Select Committee made recommendations to amend the proposed HS2 Phase 1 scheme; and changes to the operation of discretionary compensation schemes. The Committee also considered the way in which hybrid bills are scrutinised. It identified some advantages of the hybrid bill process but also acknowledged several criticisms and recommended some changes.

The Committee considered that the advantages of the hybrid bill procedure were:

- the opportunities it gave to the national legislature to consider the principle of the project set out in the Bill;
- the opportunities it gave to scrutinise and amend the Bill's provisions;
- the opportunities to consider detailed complaints against the Bill in the form of petitions from specially adversely affected parties;
- the involvement of politicians: "decisions are made by politicians with an understanding of the needs of, constraints on and realistic options open to the Administration, and—given their experience dealing with their constituents—an understanding of the needs of petitioners"; and
- the procedural flexibility of the legislative process: "through the legislature, the Administration can do what needs to be done to accommodate particular circumstances. Decisions in Parliament are less susceptible to legal challenge".<sup>31</sup>

However, the Committee accepted that many of the petitioning procedures and hearing arrangements were no longer fit for purpose. It also noted that there were concerns about the "sway" Government had over the process. It also observed that "The process requires a huge time commitment from the politicians appointed to the select committees, which has a severe impact on their other duties. Recruitment to those committees may become very difficult".<sup>32</sup>

It then identified three specific concerns about the process:

the select committee charged with hearing petitions does not come into being until petitioning is effectively already happening. This means that the committee has no opportunity to determine the early procedures that will apply to the very subject matter it will be dealing with, including in the build-up period during which petitioners are already organising and drafting. A second, related, problem is that petitioning happens without sufficient guidance on who should petition, and what about. This certainly results in

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<sup>31</sup> High Speed Rail (London - West Midlands) Bill Select Committee, *High Speed Rail (London - West Midlands) Bill*, 22 February 2016, HC 129 2015-16, para 383

<sup>32</sup> HC 129 2015-16, para 384

an inclusive process. It can be seen as too inclusive. There should be less petitioning, with more focus on serious detriment. Clearer, and authoritative, guidance is needed on what constitutes locus standi—that is, what will result in a right to be heard on a petition. The third problem is that there is simply far too much repetition of the same issues before the Committee. There is a conception, based on our experience, that weighing in with another angle on the same point will help strengthen a case. It does not. If some believe that there is a democratic right for everyone who wants to show up to have their say to repeat issues for as long as it takes, they are wrong. Such a conception does not serve the democratic process.<sup>33</sup>

The Committee suggested changes to the **petitioning process** such as removing the requirement to deposit petitions in person; and that the traditional language used in petitions could “be brought up to date”, as it had for public petitions.<sup>34</sup>

The Committee believed that there should be a “stricter approach” on petitioners’ right to have their petition considered (formerly known as **locus standi**). It believed that guidance on acceptable locus should be set out before a committee to examine a hybrid bill was established and the petitioning process started. It also suggested changes to the way challenges of locus standi were considered. It concluded that:

In our view, the House authorities should recommend locus guidelines, consider the locus challenges and recommend decisions for the Committee, which could then review those decisions and hear any locus challenges orally if it wished.<sup>35</sup>

The Committee called for greater clarity in the **powers of a committee** considering a hybrid bill. It suggested that clarifying the powers would help a committee to ensure time was efficiently used. It commented that:

The aim should be to ensure that lead organisations, residents associations and other seriously affected individuals and bodies get to set out their points fully, while those who wish merely to reinforce points already made may do so only within an allocated time, or after agreeing to group together.<sup>36</sup>

It also commented that there was no provision for allowing petitioners to make their **‘appearances’ in writing**.<sup>37</sup>

Finally the Committee suggested that, in future, hybrid bill committees should be given “an express power to issue **preliminary decisions**”.<sup>38</sup>

It urged the House and ministers to consider such changes “in good time” before the next hybrid bill is introduced.<sup>39</sup> (The initial changes were implemented after the *High Speed Rail (West Midlands - Crewe) Bill 2017-19* was introduced but before its second reading.)

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<sup>33</sup> HC 129 2015-16, para 385

<sup>34</sup> HC 129 2015-16, paras 389-392

<sup>35</sup> HC 129 2015-16, paras 394-395

<sup>36</sup> HC 129 2015-16, paras 396-398

<sup>37</sup> HC 129 2015-16, para 400

<sup>38</sup> HC 129 2015-16, para 401

<sup>39</sup> HC 129 2015-16, para 402

## 3.2 Scope of the review

In May 2016, while the HS2 Phase 1 Bill was being considered by the House of Lords, the Chairman of Ways and Means (Commons) and the Chairman of Committees (now the Senior Deputy Speaker) (Lords), as the Members with responsibility for the oversight of private business, launched a review of hybrid bill procedure.<sup>40</sup> They set out the scope of the review:

The review will consider and make recommendations about possible changes to the procedure and practice of both Houses in relation to hybrid bills so as to make the hybrid bill process simpler and less time-consuming for all those involved, without unfairly curtailing the right of those who are directly and specially affected by such bills to make their case effectively, or the right of the Government to ensure the passage of its legislation through Parliament.<sup>41</sup>

Initially submissions were requested by 30 June 2016 but a further opportunity was given to make submissions to December 2016, when comments were also sought on procedures in the House of Lords.<sup>42</sup>

They said that the review would address, but need not be limited to, the issues raised by the Select Committee on the HS2 Phase 1 Bill, outlined above. Their summary of the issues is set out in Box 3.

### Box 3: Review of Hybrid Bill Procedure

#### Issues to be addressed in submissions to the review

1. The petitioning process, including guidance for those seeking to petition against a bill, arrangements for depositing petitions and the required petitioning language
2. Right of audience ("locus standi"), including the provision of guidance on what constitutes locus standi, who should be responsible for such guidance and how decisions on locus standi should be made
3. Duration of committee hearings, including the programming of petitioner appearances, the volume of submissions and the possibility of petitioners making points in writing without the need to make a personal appearance
4. Giving select committees on hybrid bills an express power to issue preliminary decisions
5. Clarification of the way in which the private business standing orders apply to proceedings on hybrid bills
6. Reviewing the language and layout of the standing orders of both Houses relating to private business so they are up to date and more easily intelligible and
7. The appointment and role of petitioners' representatives ("Roll B Parliamentary agents").<sup>43</sup>

The terms of reference said that the Chairman of Committees and the Chairman of Ways and Means would "oversee the work of the Clerks of the two Houses on the review and present the final report of the review's findings". The secretariat to the review would be composed of staff from the Private Bill Offices of each House.

<sup>40</sup> House of Commons news, [Review of petitioning procedures on Hybrid Bills](#), 19 May 2016

<sup>41</sup> House of Commons and House of Lords, [Review of Hybrid Bill Procedure – terms of Reference](#)

<sup>42</sup> House of Lords, [Review of petitioning procedures on Hybrid Bills in the House of Lords: views sought](#)

<sup>43</sup> House of Commons and House of Lords, [Review of Hybrid Bill Procedure – terms of Reference](#)

The House of Lords Select Committee on the HS2 Phase 1 Bill reported in December 2016.<sup>44</sup> It confirmed the need for the review of hybrid bill procedure:

Time and again during our proceedings, we encountered difficulties with the current procedure. It became abundantly clear to us that petitioners found it cryptic and complex to understand, and labyrinthine to navigate.

13. We hope that the review can, in due course, devise a radically reformed hybrid bill procedure which rationalises and clarifies the current system. We sincerely hope to have been the last Select Committee to operate under the current procedure.<sup>45</sup>

### 3.3 Changes agreed in November 2017

In November 2017, the House agreed to revisions to the Private Business Standing Orders and to the Speaker's Rules in respect of Private Business, as part of the first phase of implementation of the Hybrid Bill Review.<sup>46</sup> The main objective of which was to improve the petitioner experience ahead of petitioning for Phase 2a of HS2. The package included changes to:

- abolish the requirement for petitions against a bill to include a signature;
- remove references to "praying";
- allow the electronic submission of petitions;
- enable a minimum petitioning period to be set for hybrid bills;
- clarify the procedure for dealing with late petitions;
- enable a select committee appointed to consider petitions against a private or hybrid bill to group petitions with the agreement of petitioners concerned;
- modernise the language of the PrBSOs [Private Business Standing Orders] by replacing references to "locus standi" with the concept of the right to have a petition considered;
- give certain Members of Parliament the express right to have their petitions considered; and
- abolish the concept of Roll B agent.

In addition, the Private Business Standing Orders were amended to:

- allow bill documentation to be deposited in electronic form;
- require an environmental statement, where required, to include a report on the reasonable alternatives to the works authorised by the bill; and

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<sup>44</sup> [House of Lords] Select Committee on High Speed Rail (London - West Midlands) Bill, [High Speed Rail \(London - West Midlands\) Bill](#), 15 December 2016, HL 83 2016-17

<sup>45</sup> [HL] Select Committee on High Speed Rail (London - West Midlands) Bill, [High Speed Rail \(London - West Midlands\) Bill](#), 15 December 2016, HL 83 2016-17, paras 12-13

<sup>46</sup> [HC Deb 7 November 2017 c1311](#); [Votes and Proceedings](#), 7 November 2017

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- update the reference to regulations in PrBSO 27A. <sup>47</sup>

The House of Lords agreed identical Standing Order changes on 18 December 2017,<sup>48</sup> when it approved a report from its Procedure Committee.<sup>49</sup>

The review is ongoing. The expectation is that the review's completion will see an entirely redrafted set of Private Business Standing Orders, and accompanying set of Standing Orders that apply specifically to hybrid bills.

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<sup>47</sup> Chairman of Ways and Means, [Hybrid Bill Review: Proposed Revisions to Private Business Standing Orders](#), September 2017, paras 3 and 5

<sup>48</sup> [HL Deb 18 December 2017 cc1838-1842](#)

<sup>49</sup> Procedure Committee, [Revisions of Private Business Standing Orders](#), 21 November 2017, HL paper 34 2017-19



## Appendix: List of hybrid bills introduced since 1983-84

<b>Title</b>	<b>Date of first reading</b>	<b>Date of Royal Assent</b>
Museum of London	7 Nov 1985	26 Mar 1986
Channel Tunnel	17 Apr 1986	23 Jul 1987
Norfolk and Suffolk Broads	18 Nov 1986	15 Mar 1988
Chevening Estate (Lords)	20 Nov 1986	15 May 1987
Dartford-Thurrock Crossing	1 Apr 1987	28 Jun 1988
Caldey Island	29 Nov 1989	1 Nov 1990
Agriculture and Forestry (Financial Provisions)	8 Nov 1990	25 Jul 1991
Severn Bridges	27 Nov 1990	13 Feb 1992
Cardiff Bay Barrage	4 Nov 1991	5 Nov 1993
Channel Tunnel Rail Link	23 Nov 1994	18 Dec 1996
Crossrail	22 Feb 2005	22 Jul 2008
High Speed Rail (London - West Midlands)	25 Nov 2013	23 Feb 2017
High Speed Rail (West Midlands - Crewe)	17 Jul 2017	

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