



HS2 Phase 1 and 2a

Staffordshire Meeting 24th May 2018

At the meeting issues were raised over the independence of a complaints procedure to HS2 and it was requested that the NFU should request ADR (Alternative Dispute Resolution) and an independent Ombudsman.

Petition to House of Commons 2014

In May 2014 the NFU petitioned the House of Commons for there to be a statutory ombudsman put in place to handle complaints from claimants with powers to remedies. Stating that the Ombudsman would need powers to be able to fine Hs2 Ltd or its contractors or to order it to remedy matters where it had failed.

The NFU have always stated that those affected should be able to have their grievances heard swiftly by an independent third party empowered to offer a remedy.

A response was received from HS2 Ltd in the summer of 2014 where HS2 stated that if someone is unhappy with any aspect of the proposed scheme's construction that a range of measures were being put in place.

HS2 stated to the NFU that they already operate a formal complaints system which involves an initial response from the relevant business unit with escalation to the Chief Executive, DFT Complaints Assessor, MP and Parliamentary Ombudsman.

HS2 state that the above is to be augmented by a Complaints Commissioner service and that the Commissioner will be independent of the nominated undertaker. This was one of the concerns raised at the meeting that the complaints procedure does need to be independent from HS2. This commissioner will be in operation from the start of construction and offer mediation and an arbitration service for resolution of small claims.

Please see below the link to the HS2 Information Paper on how the Construction Commissioner for Phase 2a will work.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/673106/D4_Construction_Commissioner_v1.0.pdf

The NFU was concerned about the setup of the Construction Commissioner and requested in the petition to the House of Lords that clarity was required about the independence of the processes and interrelationship between small claims scheme

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and the role of the Commissioner. Further the NFU stated that they were concerned about the Commissioners role including both mediating in unresolved disputes between the project and individuals and acting as an arbitrator for the small claims scheme in the event of a dispute. The NFU raised that it is concerned that it is unlikely that one individual will have the necessary qualifications to deal with the different types of dispute.

HS2 Ltd in their response to the NFU petition re iterated that the Commissioner will be appointed and monitored by an independent body and that the Commissioner will provide independent and impartial decisions. HS2 have also confirmed that they believe it is possible that the person appointed as the Commissioner will be sufficiently qualified and experienced to deal with all scenarios.

The interim HS2 Construction Commissioner for Phase 1 is Gareth Epps. His role is independent of HS2 Ltd, the non-departmental public body responsible for developing and promoting the proposals for the railway (and also the Nominated Undertaker for Phase One: the body appointed by Government to deliver the project).

The following link is to a document describing how the Commissioner works, what work he can and cannot cover and how to make a complaint:

<https://hs2-cc.org.uk/>

HS2 Phase 1 – link to the leaflet Independent Construction Commissioner:

<https://hs2cc.files.wordpress.com/2017/10/construction-commissioner-leaflet-dl-6pp-170929.pdf>

Small Claims Scheme

HS2 will also set up a Small Claims Scheme which will deal with small claims up to £10,000 for physical damage caused by works. The small claims administrator is supposed to investigate and determine an award quickly and at minimal cost. If not satisfied then the construction commissioner will act as an arbitrator for the Small Claims Scheme.

Links below to the Information Papers on Small Claims.

Phase 1:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672202/C10 - Small Claims Scheme v1.6.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672202/C10_-_Small_Claims_Scheme_v1.6.pdf)

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Phase 2:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/701205/C10_Small_Claims_Scheme_v2.0_.pdf

Compensation Claims

If you and your agent have a compensation claim that cannot be settled by negotiation then you can refer your case for consideration by ADR (alternative dispute resolution). This was confirmed to the NFU in the response to our first petition to the House of Commons in 2014. If an agreement is not reached it is then possible to refer to the Upper Tribunal (Lands Chamber) this though is expensive.

HS2 have now announced how ADR would work

<https://www.hs2.org.uk/documents/alternative-dispute-resolution-for-compulsory-purchase-claims/>

HS2 General Complaints Procedure

HS2 on the 11th April 2018 announced a procedure for how to complain. To make a complaint about HS2 Services the steps are as follows:

Step 1 : Go through on the 24/7 Freephone 08081 434 434 and ask to speak to a Public Response Team.

Step 2 : Complaint reviewed by HS2 Senior Leadership Team. This is supposed to include a CEO review and response.

Step 3: If the complaint is not resolved the complaint can be referred to the Independent Complaints Commissioner (ICA).

Step 4: Request an MP to refer complaint to the Parliamentary Ombudsman.

Link to 'How to Complain':

<https://www.hs2.org.uk/how-to-complain/>

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