



House of Commons  
Transport Committee

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**Cable theft on the  
railway: Government  
Response to the  
Committee's  
Fourteenth Report of  
Session 2010–12**

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**Fifteenth Special Report of Session  
2010–12**

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## The Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Transport and its associate public bodies.

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Lilian Greenwood (*Labour, Nottingham South*)

Kelvin Hopkins (*Labour, Luton North*)

Gavin Shuker (*Labour/Co-operative, Luton South*)

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### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at <http://www.parliament.uk/transcom>.

### Committee staff

The current staff of the Committee are Mark Egan (Clerk), Jessica Montgomery (Second Clerk), David Davies (Senior Committee Specialist), Tony Catinella (Senior Committee Assistant), Edward Faulkner (Committee Assistant), Stewart McIlvenna (Committee Support Assistant), and Hannah Pearce (Media Officer).

### Contacts

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# Fifteenth Special Report

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On 27 March we received a response from the Government to the Transport Committee's Fourteenth Report of 2010–12, *Cable theft on the railway*,<sup>1</sup> which we publish with this Special Report.

## Government Response

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The Transport Select Committee issued its report, *Cable Theft on the Railway*, on 26 January 2012, in which it made a total of seven recommendations. The Government's response to each of the Committee's recommendations is set out below.

### *Passengers*

**Recommendation 1. There should be greater clarity in compensation arrangements so it can be demonstrated that train operators are not profiting from the disruption caused by metal theft. We recommend that the Office for Rail Regulation works with the parties to secure open publication of these data. In our view, train operators should ensure that all eligible passengers receive the delay compensation to which they are entitled and we call on ATOC to undertake work into how this could be achieved. We recommend that the Government presses ATOC to carry out and publish this work. (Paragraph 12)**

**DfT response.** Compensation paid to train operators for delays for which Network Rail is responsible (including those arising from external events such as cable theft) is a matter for Network Rail. The compensation regime is a contractual and commercially confidential element within the Track Access Agreement between Network Rail and each operator, and is overseen by the Office for Rail Regulation.

Compensation is set on a formula basis designed, on average, to compensate the train operator for the future loss of revenue arising from disruption, including any longer-term loss of revenue from a sustained period of poor performance. It is not related to and does not include provision for any additional costs incurred by train operators, such as compensation costs to passengers.

The ORR is currently considering, in discussion with Government, the compensation regime which should apply in the next rail industry Control Period (2014-2019), as part of its consideration of the future incentive regime, taking account of the conclusions of Sir Roy McNulty's Rail Value for Money report. This includes the issues of whether the compensation under the performance regimes is consistent with the costs and future revenue loss for operators, and of whether there should be greater transparency of compensation payments.

Compensation paid by train operators to passengers for delays is based on an entirely different system, in line with the terms of the operator's Passenger's Charter, and may vary

for example with the type of ticket purchased. A number of existing franchises operate, as will all future ones, the Delay/Repay compensation system, under which compensation for delay is paid regardless of whether the delay was attributed to Network Rail or a train operator.

The Government is not aware that there is a systematic issue over passengers not receiving compensation to which they are entitled. It notes that it may not be possible to ensure that compensation is automatically paid to a delayed passenger in the absence of a claim from that passenger, in the context of a ticketing system which does not automatically identify either the train that a passenger travels on or the identity of the passenger.

However, the Government agrees that passengers should be made fully aware of their entitlement to compensation in the event of delays, and of the arrangements for claiming that compensation. It is asking the Association of Train Operating Companies to consider, in the light of the Committee's request, whether there are further steps that might be taken to ensure this.

## **Safety**

**Recommendation 2. We recommend that the Department for Transport inform us of the changes it intends to make to current practices which would enable stranded passengers to be taken safely to stations through red lights during periods of disruption. (Paragraph 14)**

**DfT response.** The Government has encouraged Network Rail, which is responsible for railway operating procedures, to look at ways to deal with such situations. Network Rail is currently trialling emergency special working arrangements on its Wessex route. These are developed from existing temporary block working procedures, used when full signalling equipment is not operational and there is a requirement for trains to be moved past signals which have failed safe to a red or black aspect. In such circumstances trains will only be allowed to move at reduced speed, and where the driver can see this is safe. If the trials are successful this will also have benefits in moving trains in other failure modes.

Network Rail takes safety extremely seriously, so it is proceeding with this trial in a cautious and consultative manner. It has been in close consultation with stakeholders including the transport unions and Passenger Focus over this issue. Its approach is to seek to prevent excessive delay for passengers with no compromise on safety.

## **Role in supply chain**

**Recommendation 3. We recommend that the Government amends the Scrap Metal Dealers Act 1964 and introduces measures to improve the audit trail for metal purchases, by requiring that sellers prove their identity before metal is traded at scrap yards. We also recommend that the Government explores the possibility of a trial of cashless trading in the scrap metal industry. (Paragraph 26)**

**DfT response.** As foreshadowed by the Home Secretary's announcement on 26 January 2012, the Government has tabled amendments to the Legal Aid, Sentencing and Punishment of Offenders Bill to prohibit cash payments for the purchase of scrap metal, to

require records to be kept of the recipients of payments for scrap metal, and to increase the maximum fines for offences under the Scrap Metal Dealers Act 1964. If the Bill is enacted, it is envisaged that these provisions would come into effect in autumn 2012. This would provide a direct means of tracking the financial audit trail for sales of scrap metal, and hence go a substantial way towards enabling the identification of the sellers of stolen material.

The concerns raised by the Committee about wider aspects of the existing regulatory regime for scrap metal are understood, and the Government will bring forward further measures in this area. It is seeking an early legislative opportunity to update the regime established under the Scrap Metal Dealers Act 1964.

**Recommendation 4. We recommend that in reforming the Scrap Metal Dealers Act the Government provides for new powers for the police, so that officers are able to enter and inspect both registered and unregistered scrap metal sites. (Paragraph 27)**

**DfT response.** The Government has tabled an amendment to the Legal Aid, Sentencing and Punishment of Offenders Bill which addresses this issue. Under the amendment, police powers of entry into scrap metal yards would be extended to allow entry under warrant to any site suspected of operating as a scrap metal dealer for the purposes of enforcing the new cashless trading offence. Police entry powers will be revisited as part of any future review of the Scrap Metal Dealers Act 1964.

### **Rail industry**

**Recommendation 5. We recognise the costs associated with the technical measures that make cable harder to steal, yet we find that there is a case for immediate implementation of these ‘target hardening’ methods. We recommend that Network Rail develop a costed programme of target hardening measures for areas particularly affected by cable theft as part of its control period spending review. (Paragraph 28)**

**DfT response.** Network Rail is already implementing a range of measures to increase the difficulty and reduce the attractiveness of cable theft, reflecting its assessment of the risks at key locations, and the cost, feasibility and operational impact of measures to reduce them. These measures including cable banding, burying cable, CCTV, trembler alarms, funding of extra enforcement activity by the British Transport Police (BTP) and improved fencing.

As part of Network Rail’s planning for Control Period 5, it is currently considering further target hardening proposals. These will be set out in greater detail in its Strategic Business Plan, published in early 2013 in response to the Government’s High Level Output Statement and Statement of Funds Available, to be published this summer.

### **Police**

**Recommendation 6. We recommend that the Government introduces a new offence of aggravated trespass on the railway in order to increase the penalties associated with cable theft. (Paragraph 31)**

**DfT response.** The Government fully recognises that the wider economic and social impact of cable theft on the railway can be disproportionate to the value of the material

stolen. It also notes that metal theft in other transport modes and other sectors, such as highways, energy and telecoms, may similarly have such impacts, so the scope of any new measures in this area would need to be considered carefully.

The Government will wish to consider further, in the light of the steps already in hand to increase the resources available in the short term for enforcement, and to strengthen the legislation on trading in scrap metal, whether there is evidence to justify further measures such as the creation of a new offence of aggravated trespass, and if so whether that would be the most appropriate response.

## Government

**Recommendation 7. We recommend that the Government sets out the priorities of the national taskforce on metal theft and the specific action it will take to tackle cable theft on the railway. Given that the legislative reforms we have recommended will take time to implement, the Government should consider providing extra resources beyond the taskforce-specific £5 million to the British Transport Police in order to assist its officers in implementing this initiative as a matter of urgency. (Paragraph 33)**

**DfT response.** The British Transport Police, as the lead police force on metal theft, is leading planning and implementation of the national metal theft task force, in liaison with other forces and Government, building on activity already under way. Six key strategic objectives have been identified for the task force:

1. Reduce the theft of metal
2. Increase the level of offenders brought to justice in relation to metal theft and non compliance with current legislation
3. Disrupt organised criminal networks involved in metal theft activity
4. Implement a structured pattern of Scrap Metal Dealers visits
5. Improve compliance with the Scrap Metal Dealers Act 1964 and associated legislation regarding licensing and registration.
6. Development of an enhanced intelligence picture of metal theft activity across the country.

The task force is being managed by a small central co-ordinating team within BTP, which is managing the allocation of funding to support additional action at regional level. The regional leads will drive and co-ordinate metal theft activity providing flexibility and innovation locally to deliver against the strategic objectives. Utilising local police and partners will allow the maximum amount of enforcement and intelligence activity from the funds available, working within the overall framework.

The task force has for example already supported high profile enforcement ‘days of action’ at national level, and funded additional enforcement activity to back up the ‘Operation Tornado’ trial in North East England of a voluntary scheme to require more effective identity checks at scrap yards.

In addition to the work of the task force, BTP continues to address the specific problem of metal theft from the railways, which is predominately the theft of live and non live copper cable. Each of the seven BTP Areas has a dedicated team to tackle metal theft. In total over one hundred officers are dedicated to tackling metal theft. This work is co-ordinated through a dedicated central intelligence cell called the Fusion Centre, which also acts as the intelligence cell for the task force.

Further details of the task force's plans and actions will be announced shortly.

Given the progress it is making with legislative measures to tackle metal theft, as outlined above, the Government does not consider at this stage that further funding is likely to be required to extend the scope or duration of the metal theft task force, but will keep the issue under review.

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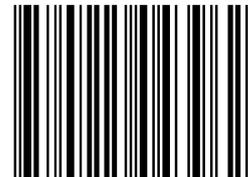
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