Date: 21st July 2022

TSSA Submission to Transport Select Committee – Rail Strikes

Written evidence for the Transport Select Committee following its formal meeting on the subject of the current rail strikes held on Wednesday 13th July.

In this evidence we will concentrate on the following areas:

- The factors that gave rise to the current dispute
- The extent of the Secretary of State's direction
- Misleading media comments
- Ticket offices
- Ticket prices and pay
- Rail company profits

About TSSA

TSSA has operated in the GB rail industry since 1897 and today organises and represents rail and other travel employees across the UK and the Republic of Ireland. Most of our members are to be found in the railways of Britain where TSSA has long been known as the 'white collar' union, drawing our membership from those people who work as managers, professional, technical and support staff as well as in research, supervisory and customer facing roles. TSSA is recognised for collective bargaining purposes by all of the passenger and freight train operators as well as Network Rail, many of its contractors, Transport for London and London Underground. Our members are in both the public and private sector.

The dispute

TSSA is in dispute over the issues of pay, job security and terms and conditions. As a trade union, our main aim is to improve the working conditions of our members. Strike action is always a last resort and is something that TSSA has not resorted to often. The number of simultaneous ballots currently undertaken with rail employers in unprecedented in real times, reflecting the strength of feeling among railway workers.

Our members last had a pay rise in either 2019 (Network Rail bands 1-4 and some TOCs) or 2020 (Network Rail bands 5-8 and a few TOCs). We are seeking a pay increase for 2022, not for back-dated pay for the previous two or three years. This means there has already been a two or three year period of pay freezes – or real terms pay cuts, once inflation is taken into account.

Our officials have contacted employers in the normal way seeking meetings to discuss and negotiate pay for 2022. In many cases we have tried for months to get meetings. For example, we wrote to Network Rail with our usual annual request for pay meetings in December 2021. In that particular instance, despite numerous requests and follow up by TSSA officials seeking meetings, it was only when we moved the issue of pay into dispute status in April 2022 that we finally received meeting dates. That was almost five months after our first formal request for a meeting.

Despite this, the Department for Transport press office issued a public comment accusing us of effectively not being interested in negotiating, when it seems to us that the opposite is true and that employers have been either unwilling or unable to negotiate with us. The comment issued is: “rather than commit to serious dialogue with the industry, the TSSA are first seeking to cause further misery to passengers”. We wrote to Grant Shapps[1] asking him to correct the record on this point but are yet to receive a reply.

In the case of train operators, it’s been a similar story – ie TSSA reaching out, seeking meetings and where meetings have been arranged we are always in attendance and ready to negotiate in good faith. However, it became clear in several sets of talks with train operators that they were in fact unable to table any sort of pay offer whatsoever because the DfT was preventing them from doing so.

We’ve made every effort to communicate and interact with the employers. The dispute has arisen out of lack of response and inability of employers to negotiate. It appears to us that the government has deliberately politicised the issues of pay and job security across our railways with the intention of engineering a dispute that did not need to take place.

On the extent of the Secretary of State’s direction:

The Secretary of State at the Department for Transport has attempted to deny the level of involvement that he has in the handling of the current rail strikes. His denials are patently untrue.

Earlier this year TSSA started to examine the new National Rail Contracts (NRC) that the passenger train operators are now being required to sign. Seven contracts have now been published in the public domain[2] but we are aware that others have been agreed.

What becomes immediately apparent is the level of control the Secretary of State seeks to exercise over railway employees. The NRCs – which are all identical in

[1] TSSA letter to Grant Shapps https://www.tssa.org.uk/news-and-events/tssa-news/tssa-demands-shapps-corrects-false-and-insulting-rail-dispute-comments

[2] Available at: https://www.gov.uk/guidance/public-register-of-rail-passenger-contracts#:~:text=National%20Rail%20Contracts%20are%20legally,Transport%20and%20train%20operating%20companies.

Chapter 2.2 “Rail Workforce” and its “Definitions” – include an exhaustive list of employment matters that are regarded as "In Scope" and over which the Operator has to obtain a written Mandate from the Secretary of State before it can engage with a union. That Mandate extends beyond a simple advice from the Operator and includes how the matter will be approached, to what extent (eg, the amount of pay increase it could give) and the requirement for an assessment of whether industrial action was likely.

Where industrial action is likely, the operator is required to apply the Dispute Handling Policy that “will be subject always to the Secretary of State’s direction.”

Under another Section entitled “Reform,” the operators are required to cooperate with the Secretary of State “in respect of the planning, development and/or implementation of industry reform with respect to the Employment Policy Framework and the Dispute Handling Policy.” This requirement means that the train operators act as the agents of the Secretary of State in introducing changes to the industry, but the architect of those changes remains aloof and refuses to meet with the trade unions representing the thousands of railway workers affected by his plans.

Since our internal research on the NRCs, the TUC has published professional advice from Michael Ford QC that gives an in-depth legal opinion that confirms our understanding.

Misleading media comments

Misleading, or in some cases categorically untrue, media comments from the Transport Secretary and his Department have been an unwelcome feature of this dispute. The comments have attacked trade unions and our members and have gone down very badly with workers across the rail industry, further fuelling poor relations.

One example is covered above. Another would be the untrue comments made by Grant Shapps on national broadcast media on 21 June 2022. On Radio 4’s Today Programme, the Transport Secretary said: *“If some person is sat in Network Rail’s control room and they’re sat at a screen, at the moment they may not move to another screen – even though they’re fully qualified to do so - without union permission.”*

This is categorically untrue, and we wrote to the Transport Secretary outlining the errors[3] and asking for him to retract and correct the record. This was not done.

Ticket offices

Every ticket office in the country is under threat of closure. This information comes not from Transport Focus, the RMT or other previously cited sources, but in fact from

[3] TSSA letter to Grant Shapps https://www.tssa.org.uk/news-and-events/tssa-news/tssa-attacks-shapps-over-categorically-untrue-railway-controllers-comments

industry proposals shared with unions in June 2022. These proposals are point 1a of four major pieces of so-called 'workplace reforms' included as part of (conditions on) the pay offer for 2022 for DfT Train Operating Companies (TOCs).

The clause reads:

"1a. Retailing Modernisation

• Ticket offices at stations to be re-purposed and modernised phased over a 3-18 months transitional period enabling all retailing to take place on-line, on apps, using self-service ticket machines or contactless ticketing. New processes will be introduced to allow retail services that can only be currently offered through ticket offices to continue. The Ticketing and Settlement Agreement (TSA) Major Change Process will be followed."

We do not understand why the issue of ticket office closures has been denied or avoided so strongly. It is the clear intention of both government and industry to move to close ticket offices, as outlined in the Williams Shapps Plan for Rail, published in May 2021. And it is black and white in the proposals shared as part of pay negotiations which started last month between the Rail Delivery Group (on behalf of TOCs) and unions.

The denials and obfuscation on the question of the future of ticket offices has seeded further mistrust between staff and industry leaders and government.

We of course have serious reservations about the closure of ticket offices, both for staff and passengers, not least from an accessibility point of view. Talks are continuing on this point, and it seems the clear intention is to bring staff out from physical ticket offices and provide support for passengers with ticket sales and other matters on the concourse.

Ticket prices and pay

The Committee will be well aware that rail fares increases are usually set by taking the July RPI rate plus 1% to apply the following January. Information published by National Rail shows a breakdown of where fare money is used and says that 25% is used to cover staff costs[4].

While ticket prices have continued to increase – for example most recently by 3.8% in March 2022 - the same has not happened for staff salaries, despite there being an apparent 'baked-in' link between fares and staff costs. Staff in train operators and Network Rail have not had a pay increase since 2019 or 2020, depending on the company.

We are not seeking pay rises for previous years, but we are now seeking a pay rise for members for 2022, which for many will be the first increase in their salary for over

[4] National Rail https://www.nationalrail.co.uk/times_fares/ticket_types/your-rail-fare.aspx

three years. During that period, inflation has increased significantly, meaning they are now earning less in real terms than they were three years ago.

While there are some people on high salaries in the rail industry – in particular CEOs such as Andrew Haines of NR who receives in excess of £580,000 – there are many low paid workers across our railways. We have members in LNER in customer relations who earn £18,803 – just above the minimum wage. Many ticket office and station staff will be on salaries in the low to mid £20k range – below the ONS calculated UK average wage of about £31,700 for 2021[5]. While some people are paid well above the average wage, they are far less numerous than those earning less than it.

Rail Company Profits:

There is a lot of focus by the Government and in certain sections of the media about the levels of salary being paid to railway workers. Whilst those figures are often wildly distorted, what is never mentioned is the degree of money that flows out of the industry in profits.

ROSCOs

At Rail Privatisation in 1993, three Rolling Stock Leasing Companies (referred to as ROSCOs) were created with the specific aim of hiring out railway vehicles because none of the train operators actually own any of their own trains.

The original three ROSCOs – Eversholt, Porterbrook and Angel Trains – have become highly lucrative operations, with a combined annual revenue of £1.4bn in 2020, a figure that generated a gross profit of £663.9m in that year alone! No wonder they are owned by investors seeking to make a profit at the expense of UK passengers and tax payers.

Since 1993, the number of ROSCOs has increased because leasing trains guarantees profits. In its latest Rail Industry Financial report[6] which covers the financial year 2020/21, the ORR showed how amongst train operators' costs, the amount paid to ROSCOs stood at £3bn in total, second to staff costs at £3.6bn. The Government and operators have sought to justify cuts to staff and an inadequate pay increase because of the support the industry received during Covid. What it is completely silent about is how the profiteering by ROSCOs is being allowed to continue rather than be tackled because of the rip off that it is.

Train Operators

Overall, the private train operators have done well out of the way that they are

[5] ONS Earnings and Working Hours, data from Census 2021
https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours

[6] Page 18, ORR Rail industry
finance (UK) 2020-21 at: https://dataportal.orr.gov.uk/media/2036/rail-industry-finance-uk-statistical-release-2020-21.pdf

allowed to extract profits at a time when the Government has been putting in huge sums of support. All have been guaranteed a profit when nearly half had posted a loss in the previous financial year. These are the latest figures of the DfT let Franchises which were changed to Emergency Measures Agreements from 1st April 2020 but with their provisions backdated to 1st March that year. This was done as a response to the Covid Pandemic. Many of the train operators then entered into an Emergency Recovery Measures Agreement from 21st September 2020.

Company Name	Date of latest accounts	Company Number	Gross Profit	Profit in previous year
Avanti West Coast	31st December 2020	03007940	£10.443m	£34.916m
Chiltern Trains	31st December 2020	03007939	£14.614m	£20.613m
Cross Country Trains	31st December 2020	04402048	£31.658m	£53.064m
Abellio Greater Anglia	31st March 2021	07861414	£290.988m	Loss of £307.354m
Abellio East Midlands Trains	31st March 2021	09860485	£9.145m	£28.986m
Trenitalia c2c	31st December 2020	07897267	£2.261m	Loss of £12.170m
GWR	31st March 2021	05113733	£39.536m	£52.715m
South Western Railway	31st March 2021	07900320	£30.096m	Loss of £1.054m
Govia Thameslink Railway (TSGN)	3rd July 2021	07934306	£54.533m	£32.474m
Transpennine Express	31st March 2021	09111801	£72.950m	Nil
West Midlands Trains	31st March 2021	09860466	£123.910m	Loss of £195.896m
		Total	£680.134m	Loss of £293.706m

NOTE: data based on annual accounts at Companies House.

According to figures released by the Office of Rail and Road,[7] the DfT train operators listed above received a total of £6.341bn in operational support payments from the DfT in the period 1st March 2020 to the end of Period 13 in Financial Year 2020/21. Without that support, the levels of profits would not have been obtained.

Taken together (and not counting the additional profit extraction by Network Rail's many contractors or the ROSCs set up since Privatisation), the three original

[7] Data extracted from table accessible from: https://www.gov.uk/government/publications/dft-payments-to-passenger-rail-operators-under-emergency-agreements

ROSCOs and the DfT TOCs have been able to obtain combined profits of £1.344bn, largely at the expense of tax payers and rail passengers. No restriction appears to have been applied to profiteering at a time of the national Covid crisis, but railway workers have had to pay:

First, by the lack of a pay increase since April 2020;

Now, by thousands finding their jobs, pay and conditions are under threat;

Whilst for those in the train operators, this comes at a time when their pension is being proposed to become more expensive despite a reduction in certain benefits.

Conclusion

The evidence that we have presented seeks not only to rebut untruths that are being told by politicians and certain sections of the media, but also to highlight those areas of the debate that are being overlooked, in particular the continued levels of profiteering both during and since the worst affects of Covid 19.

What we also want to emphasis is the perspective of tens of thousands of railway workers who have now voted in support of taking industrial action. For many of those people this will be the first time that have voted for strike action and the first time that they have participated in it. Like all workers, industrial action is not taken lightly because it means they lose pay every time that go on strike.

Despite being affected by the current cost of living crisis when every penny counts, TSSA members and railway workers as a whole are giving a very strong message to the Government and their employers that they have had enough, especially when they see employers and suppliers continuing to enjoy bumper profits.

Wo hope the Committee finds this submission useful and we look forward to your response.