
From: Richard Costello
Sent: 20 December 2019 14:09
To: David Jamieson; David J;
Cc: Jonathan Jardine; Ashley Bertie; Waheed Saleem
Subject: [External]: Re: Trains

Further comment

- also another organisation to add to the list

<https://www.bbc.co.uk/news/live/uk-england-birmingham-50761572/page/4>

Posted at 17:28 19 Dec 17:28 19 Dec

Rail 'chaos' a 'danger to public safety'

The West Midlands Police and Crime Commissioner has said he will hold a public hearing next year unless the "dangerous" and "failing" railway system improves in the region.

Labour PCC David Jamieson says bad services in recent weeks have become "a danger to public safety" adding that the industry must "significantly improve its act" to end the "chaos" and the "lamentably bad service".



Quote Message: Like the public I am fed up with dangerous, overcrowded trains and the ineffective actions by the public bodies in charge of the region's transport network." from David Jamieson West Midlands Police and Crime Commissioner
Like the public I am fed up with dangerous, overcrowded trains and the ineffective actions by the public bodies in charge of the region's transport network."

David Jamieson West Midlands Police and Crime Commissioner

Mr Jamieson previously used his powers to call for a similar meeting in 2016 over failures with the region's motorway network.

Paul Appleton, deputy director of railway safety at the Office of Rail and Road said the organisation "takes concerns about crowding seriously" and that it expected train and station operators to "fully comply with their health and safety responsibilities to protect passengers from risks on crowded trains and at stations".

West Midlands Railway said British Transport Police is the professional body for policing the railway and that they have one of the safest in Europe. A spokesperson added that things were due to improve for travellers thanks to its new timetable.

Network Rail, which runs a number of stations in the region, has been approached for a comment.

On 20 Dec 2019, at 12:14, Richard Costello wrote:

<https://www.coventrytelegraph.net/news/coventry-news/police-crime-commissioner-calls-rail-17448063>

West Mids Rail have commented. Note the mention of BTP in the comment.

From: Richard Costello
Sent: 20 December 2019 12:14
To: David Jamieson; David J;
Jonathan Jardine; Ashley Bertie; Waheed Saleem
Cc: [External]: Trains
Subject:

<https://www.coventrytelegraph.net/news/coventry-news/police-crime-commissioner-calls-rail-17448063>

West Mids Rail have commented. Note the mention of BTP in the comment.

From:

Sent:

08 January 2020 14:20

To:

Richard Costello; David Jamieson; Waheed Saleem; Ashley Bertie

Subject:

Bolo weighs in on West Midlands Trains PMQ's

<https://www.birminghammail.co.uk/news/midlands-news/boris-johnson-warns-west-midlands-17532564>

From: Richard Costello
Sent: 19 December 2019 10:41
To: List: OPCC Staff Brendan Connor; Ernie Hendricks; Cath Hannon; Sarah Marwick; Gurinder Singh Josan; Thomas McNeil
Cc: David Jamieson; Ashley Bertie; Waheed Saleem
Subject: Rail Public Hearing

Follow Up Flag: Follow up
Flag Status: Flagged

Dear all

You may have seen or heard in the media that the PCC has announced that he will hold a public hearing into the chaos on the railways in the West Midlands, unless there is significant improvement in the coming days.

The PCC is particularly concerned about public safety, after receiving reports of dangerously overcrowded platforms, stranded commuters and the knock on impact on to road congestion with commuters turning away from the trains. He has also received reports of officers and staff struggling to get to shifts when travelling by train.

We are currently working out a date, but it is expected to be early in the new year, most likely in late January or early February.

Further details can be found here:
<https://www.westmidlands-pcc.gov.uk/police-and-crime-commissioner-calls-rail-chaos-a-danger-to-public-safety-and-will-hold-a-public-hearing-unless-services-improve/>

It is expected that the hearing will take a similar format to the PCC's 2016 motorway hearing and will involve he PCC asking the public, rail user groups and service providers for evidence, as well as a public holding to account event.

will be the SPOC for the hearing, working closely with others in the office.

If you have any questions or suggestions please get in touch.

Best

Rich

Richard Costello

Head of Media and Communications

West Midlands Police and Crime Commissioner
Lloyd House
Colmore Circus Queensway
Birmingham
B4 6NQ

www.westmidlands-pcc.gov.uk



west midlands
police and crime
commissioner



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From: David J
Sent: 20 December 2019 13:25
To: Jonathan Jardine; Richard Costello; David Jamieson;
Cc: Ashley Bertie; Waheed Saleem
Subject: RE: [External]: RE: Trains

Good idea.

From: Jonathan Jardine
Sent: Friday, December 20, 2019 1:22:59 PM
To: David J ; Richard Costello ; David Jamieson ;
Cc: Ashley Bertie ; Waheed Saleem
Subject: RE: [External]: RE: Trains

We've started an action to get you a call with the Chair of BTPA.
Rich suggested we invite BTPA to be on our side of the table at any hearing.
Jonathan

From: David J
Sent: 20 December 2019 13:22
To: Richard Costello ; David Jamieson ;
Cc: Jonathan Jardine ; Ashley Bertie ; Waheed Saleem
Subject: [External]: RE: Trains

Thanks. Good bit of reporting and thanks to all the team for getting this story prominence.
We must be careful not to alienate the BTP.
D

From: Richard Costello

Sent: Friday, December 20, 2019 12:14:13 PM

To: David Jamieson

[<@west-midlands.pnn.police.uk>](mailto:@west-midlands.pnn.police.uk); David J

Cc: Jonathan Jardine

[<@west-midlands.pnn.police.uk>](mailto:@west-midlands.pnn.police.uk); Ashley Bertie

[<@west-midlands.pnn.police.uk>](mailto:@west-midlands.pnn.police.uk); Waheed Saleem

[<@west-midlands.pnn.police.uk>](mailto:@west-midlands.pnn.police.uk)

[<midlands.pnn.police.uk>](mailto:midlands.pnn.police.uk)

Subject: Trains

<https://www.coventrytelegraph.net/news/coventry-news/police-crime-commissioner-calls-rail-17448063>

West Mids Rail have commented. Note the mention of BTP in the comment.



west midlands police and crime commissioner



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From: David J

Sent: 03 January 2020 15:52

To: Jonathan Jardine <j.jardine@west-midlands.pnn.police.uk>

Cc: ashley bertie ; Waheed saleem

@west-midlands.pnn.police.uk; Richard Costello

Subject: RE: [External]: Train hearing.

Richard Costello
@west-midlands.pnn.police.uk; Darlene Waithe

; Alethea Fuller
@west-midlands.pnn.police.uk

Thnaks...

From: Jonathan Jardine <j.jardine@west-midlands.pnn.police.uk>

Sent: Friday, January 3, 2020 2:44:53 PM

To: David J

Cc: [ashley bertie](mailto:ashley_bertie)

Alethea Fuller

@west-midlands.pnn.police.uk; Richard Costello

@west-midlands.pnn.police.uk; Richard Costello

Subject: RE: [External]: Train hearing.

David –

Thanks!

The partnership was formed in 2005 and has no statutory identity of its own. Management is shared between a WMP officer and a member of WMCA staff, but the partnership is hosted by TFWM / WMCA. While I understand that WMCA makes a contribution towards costs (and provides premises and CCTV support), the employing agencies for WMP and BTP staff and officers remain BTP and WMP, of course. There is a "Safer Travel Tasking Group" at which the activity is signed off.

I believe that rail operators are part of the Safer Travel Tasking Group, so if we could confirm this then we would be able to use this as a lever too.

I suggest we ask the Force for some of the documentation associated with the Safer Travel Partnership – there's bound to be a policing plan for the partnership somewhere – and this will give us insight into how the partnership works operationally.

The most recent TFWM report on Safer Travel to the WMCA Transport Delivery Committee is here:

<https://governance.wmca.org.uk/documents/53615/Safer%20Travel%20Update%20November%202019.pdf>

thanks

Jonathan

From: David J

Sent: 03 January 2020 14:01

To: Jonathan Jardine <@west-midlands.pnn.police.uk>

Cc: ashley bertie <ashley_bertie@west-midlands.pnn.police.uk>

<a.fuller@west-midlands.pnn.police.uk>; Richard Costello

Subject: RE: [External]: Train hearing.

Richard Costello

<@west-midlands.pnn.police.uk>; Darlene Waithe

; Alethea Fuller

<@west-midlands.pnn.police.uk>

Jonathan, As always, that is endlessly helpful.

I think the 'hook' for me is the Safer Travel theme.

Who is statutorily responsible for the partnership ?

D

PS. You are now free to go !!

From: Jonathan Jardine <@west-midlands.pnn.police.uk>

Sent: Friday, January 3, 2020 12:54:10 PM

To: David J

Cc: ashley bertie

Waheed salem

; Richard Costello

: Alethea Fuller

@west-midlands.pnn.police.uk>; Richard Costello

@west-midlands.pnn.police.uk>; Darlene Waithe

@west-midlands.pnn.police.uk>

Subject: RE: [External]: Train hearing.

Commissioner –

Considering the different invitees in turn:

West Midlands Police, British Transport Police, West Midlands Combined Authority

A PCC's powers to require attendance rest in the context of the duty on "responsible authorities" to "formulate and implement" a crime and disorder reduction strategy (Crime and Disorder Act 1998, as amended).

The primary purpose of such strategies is to:

- reduce crime and disorder
- combat the misuse of drugs and alcohol
- reduce reoffending

However, "reduce crime and disorder" is very broadly defined to include, "anti-social and **other behaviour adversely affecting the local environment**".

A PCC may call for meetings (which the PCC chairs) to assist in the "formulation and implementation" of such strategies: "police and crime commissioner [may] arrange for meetings to be held for the purpose of assisting in the formulation and implementation of any strategy (or strategies) that the commissioner may specify that relate to any part of the police area of the commissioner".

It should be noted that:

- the responsible authorities are:
 - o local authorities
 - o probation providers
 - o "every chief officer of police any part of whose police area lies within the area"
 - o the fire service
 - o clinical commissioning groups
- the combined authority is not a "responsible authority" for the purpose of the 1998 Act, but:
 - o combined authorities have the same general duty to reduce crime and disorder as any local authority
 - o the combined authority has sent representation to West Midlands CSP and therefore has assumed the obligations that come with membership
 - o The WMCA (in the guise of "Centro" and latterly TFWM) is a signatory to the Safer Travel Plan. Though not framed explicitly as such, the Safer Travel Plan could reasonably be treated as a strategy within the meaning of the 1998 Act.

- British Transport Police is not treated as a responsible authority for the purposes of our local and Force-level community safety partnerships. However, British Transport Police Authority (the governing body for BTP) is a signatory to the West Midlands Safer Travel Plan, and its "police area" (i.e. the rail network) clearly lies within the PCC's area.

In summary:

- The Chief Constable of West Midlands Police would be required to attend, as he is a responsible authority
- We can argue, but it would be unorthodox, that BTP should attend both because, a) their "police area" (i.e. the rail network) passes through your police area, and b) their police authority is a signatory to the WM Safer Travel Plan, which could reasonably be treated as a "strategy" operative in the West Midlands which is equivalent to a crime and disorder reduction strategy.
- The Combined Authority, and hence the Mayor, are not bound by the "responsible authority" duty, but are bound by the general duty to reduce crime and disorder – the definition of which includes anything that "adversely affects the local environment". They are also invited and active participants in the WMCSF and thus have assumed, *de facto*, the duties of responsible authority members. Crucially, "Centro" (now TfWM) is signatory to the Safer Travel Plan.

Transport sector

Network Rail is an arms length body, and is statutorily a public body. It is accountable to the Secretary of State for Transport.

The safety and performance of the rail network is overseen by the Office of Rail and Road. The ORR is an independent regulator accountable to Parliament. Rail services are generally provided by private Train Operating Companies. A first review suggests that in our area these are:

- West Midlands Rail (Abellio, East Japan Railway Company, Mutsui)
- Chiltern Railways (Arriva)
- Cross Country (Arriva)
- Avanti West Coast (First Group, Trenitalia)

These are private entities which, as I understand it, operate contracts with DfT.

There is no specific power that allows the PCC to require attendance from any of these organisations. However, the responsible authority attendance requirement is broadly phrased, and clearly envisages attendance by organisations other than responsible authorities:

- PRSRA 2011 allows for the Home Secretary to specify by regulation who the Commissioner can require to attend: "such descriptions and numbers of persons to attend the meetings as the commissioner may specify (including, in particular, representatives of the responsible authorities in relation to the strategies to be discussed at the meetings).
- The associated regulations include the phrase, "may be attended by persons who represent co-operating and participating persons and bodies and such other persons".

Thus it could be argued that, in this case, a relevant strategy (the West Midlands Safer Travel Plan) is to be considered by a meeting convened and chaired by the Police and Crime Commissioner. For the purposes of a meeting about the Safer Travel Plan, the ORR, Network Rail and the TOCs (and others, unions, for example) are to be treated as "co-operating and participating persons", invited to send representation.

Other points of note:

- It was anticipated that the Train Operators would sign the Safer Travel Plan (see [here](#)). It is not clear if they did so. I cannot find a signed copy in our records.
- The Strategic Policing Requirement sets out the "national threats" that PCCs and Chief Constables are expected to address. These include "threats to public order or public safety that cannot be managed by a single police force acting alone" (i.e. in this case BTP, WMP and regional forces would be required to act), and "civil emergencies that require an aggregated response across police force boundaries".
- Finally, PCCs have a general statutory duty to obtain the views of the public on "matters concerning the policing of the area".

Conclusion

In summary, I recommend we put forward the following proposition:

- The PCC can call meetings to consider strategies concerned with reducing crime and disorder (which includes anything that adversely affects the local environment)
- WMP is required attend as a responsible authority
- WMCA are active participants in WMCSF and have *de facto* assumed the duties of a responsible authority
- The strategy to be considered is the Safer Travel Plan, to which the PCC, BTPA and TAWM are signatories, and therefore they should attend
- ORR, Network Rail, TOCs and others are to be invited as "co-operating and participating persons"
- We frame the request in the context of the Strategic Policing Requirement (public order, civil emergencies)
- We are fulfilling our statutory duty to obtain the views of the public on policing matters

Comments welcome from others about how we further enhance this position.

Jonathan

From: David J
Sent: 02 January 2020 19:44
To: Jonathan Jardine
Cc: ashley_berue@west-midlands.pnn.police.uk
Subject: [External]: Train hearing.

Richard Costello

; Alethea Fuller

Hi Jonathan

Just before you go.....

Trains and punctuality, safety/comfort of passengers was back on both national and local news tonight.

Before making a final decision on how we should conduct a hearing I need total reassurance about my hard power, legal powers. I accept that much of what we did previously on the M6 was using soft powers.

Network Rail is a public body and is key to many of the issues about which I and the public have concern. Could I legally oblige them to attend a hearing? And which piece of legislation would I be using?

The Mayor was quoted again as saying if West Mids trains don't improve by the end of the month they should have their franchise removed. A 'expert' on BBC Mids Today said that would be almost useless to improve the system as there were so many other players involved.

If we call any of the companies and Network Rail to a hearing it would be essential for me to know the legal parameters in which I operate. They will be very reluctant to attend so I need to establish a plan of action to make it difficult for them not to attend.

Before you pack your bag for Ryton, thoughts please.

D

From: 13 January 2020 16:51
Sent: David J
To: Richard Costello;
Cc: New boss West Mids Trains
Subject:

Just to let you know West Midlands Trains have appointed a new boss Julian Edwards from East Midlands trains