

Buckinghamshire County Council guide on Hybrid Bill petitioning

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What is a petition?

A petition is a formal document which is deposited in Parliament by a person or body who objects to a Hybrid Bill.

Who can petition?

Any individual or body can petition, as long as they:

- Pay the £20 fee
- Comply with the procedures
- Petition in the correct form

However, only those ‘*directly and specially affected*’ by the Hybrid Bill are entitled to appear before the Select Committee on a petition. This decision is made by the Committee themselves, and those who are considered to be ‘*directly and specially affected*,’ are considered to have what is called *locus standi* (a right to be heard).

Who is likely to have *locus standi*?

It is very difficult to predict whose *locus standi* will be challenged, as it depends on who the Secretary of State, as the promoter of the Bill, decides to challenge. However, the table below provides general criteria of who *may* be challenged. **Please remember** that this is a guide rather than definitive, and in previous cases (e.g Crossrail, Channel Tunnel) very few petitioners have been challenged.

Unlikely to have <i>locus standi</i> challenged	Local authorities, owners, lessees and occupiers of land within the Bill limits. Businesses within the Bill limits. Organisations representing the interests of those within the Bill limits.
May have their <i>locus standi</i> challenged	Bodies representing traders, businesses, amenities, education, travel, or recreational interests, who feel that they will be affected by the Bill, even if they are not within the Bill limits. Bodies affected by competition from the Bill’s proposal.
Likely to have their <i>locus standi</i> challenged	Councils and businesses whose land is not within the Bill’s limits, and are unlikely to be affected by the Bill. Groups which have formed specifically to object the principle of the Bill. Individuals who are not directly affected by the Bill.

In order to increase the chance of having *locus standi* make your petition personal, state why you should be heard, and clearly state how you specifically will be affected, rather than highlighting general points that affect many people.

Can action groups formed specifically in response to HS2 submit a petition?

Any group can deposit a petition against the Hybrid Bill. However, there have been numerous cases where action groups formed specifically to object the subject matter of a Bill have had their *locus standi* challenged. If the promoters of HS2 choose to challenge the *locus standi* of these groups, it is likely -based on previous cases- that the Select Committee will disallow *locus standi*. However, committees are unpredictable and have been known to grant action groups *locus standi*. Furthermore, it is unclear whether the promoters of HS2 will challenge any petitioner’s *locus standi*, and this will depend on the tactical approach they take. The Select Committee can only disallow *locus standi* if the promoters of HS2 decided to challenge it, and cannot do so of their own accord.

With this in mind, it is suggested that action groups do petition if they feel they are specially and directly affected, but bear in mind that they could well have their *locus standi* challenged.

Should I submit a joint petition?

The Select Committee will want to avoid repetition of petitioning points. Therefore, petitioners with similar concerns are encouraged to communicate with each other prior to submitting their petition. The proposed forum on the 51m website should provide a place for this communication to take place, and lays out specific topics people may petition.

In terms of submitting joint petitions, BCC have been advised that in general, individuals and groups should avoid submitting joint petitions, as they may take diverging views later on in the process. Alternatively, petitioners are encouraged to identify the most suitable petitioner to lead on a specific point (i.e. strongly affected, knowledgeable on the topic, unlikely to have their *locus standi* challenged), and other petitioners should support this petition. For example a supporting petitioner could state: ‘Your petitioner supports the petition raised by {leading petitioner’s name} regarding {topic of petition}. The supporting petitioner could then copy the petition stated by the leading petitioner, but indent the text and put it in quotation marks and

italics to make it clear that this is a quote. By including this text, even if the lead petitioner is not granted *locus standi*, the information will still be presented to the Select Committee. If the supporting petition is affected in a different way to the lead petitioner, this should also be stated to ensure all petitions are from a personal perspective.

For petitioners with similar concerns who wish to appoint a professional agent, it is worth appointing the same agent. This person would then be the main point of contact (for Parliament and HS2 Ltd) for all petitioners with a particular concern.

Can I petition if I have not responded to the ES?

Yes. As confirmed by HS2 Ltd, anyone can submit a petition regardless of whether they submit a response to the ES. However, we have been advised that if you raise a point in a petition that you have never previously raised with HS2 Ltd, the Select Committee may question why you have not attempted to address this earlier. Therefore, it may be useful to include such points in an ES response. The deadline for responding to the ES is the 27th February 2014

Is it expensive to petition?

The fee is expected to be £20. A similar fee would be payable in the House of Lords if a petition was to be deposited there.

What technical support, do I as an individual need, if I decide to petition?

A petition is simply a document in a particular format, which explains how you will be affected by the Bill, and how you would like your concerns to be met (see below). Although the format is important, anyone can write a petition if they follow the guidance.

The House of Commons will provide a standard template and advice on how to write a petition, and this will be available on its website. Petitioners may, if they wish, send their draft petition to the Private Bill Office for comment. Further information and guidance can be found in the useful links below.

Do I need a solicitor or legal advice?

No, you can petition and appear in front of the Select Committee in person. However, should you want someone to act on your behalf, and that person is not a Roll A parliamentary agent, they must become a Roll B agent (see key terms). Guidance on becoming a Roll B agent can be found in the useful links below.

However, it is important to remember that those personally affected by the Bill can come across very effectively to the Select Committee, and there is certainly no obligation to call upon professional agents or witnesses.

What can I petition on?

Assuming the Bill passes its Second Reading in the House of Lords, the principles of the Bill cannot be petitioned against. Therefore, do not draft a petition with the sole purpose of stopping HS2, although if you are opposed to the scheme in principle, you should say so. BCC will provide a short paragraph stating their objection to the Bill, which can be used by other petitioners if they wish.

Petitions should relate to objections about the Bill, the formal environmental statement and supporting documents. This can include the route itself, issues associated with noise, traffic, waste, ecological issues etc. The Select Committees will also usually hear objections about lack of consultation.

Should I include points I support in my petition?

If there are points in the ES that you strongly support such as green tunnels and mitigation measures, it is worth including this in your petition. This is because somebody else may petition against a particular point, which could result in HS2 Ltd removing it without carrying out further consultation.

What should be included in the petition?

As mentioned above, the House of Commons will publish a standard template. However the following information should be included:

- A brief explanation of what the Bill does
- Who the petitioner is, and why they should be heard (i.e. their *locus*)
- The grounds of objection to the Bill. This should include all points, as the Select Committee will not hear any points that were not raised in the petition. Points should be kept brief; and stated in a concise form.
- What you want to be done, e.g. the Bill to be amended, further assessments carried out, other Bill documents to be amended, assurances or undertakings from HS2 on particular matters

How to make petitions effective

- Make petitions personal. State how you will be affected specifically, rather than general impacts that affect many people.
- Clearly state in what way you will be affected, and justify why you should be heard.
- State your proposed remedy (i.e. what you want HS2 Ltd to do), rather than just the issue. This may include a hierarchy of remedies if the preferred option is a big ask.
- Ensure the issues you raise in your petition and your proposed remedies do not conflict with other petitioners. If there are conflicts, the Select Committee are unlikely to consider these seriously, and HS2 Ltd will have a good reason to reject them. In order to ensure there are no conflicts, it is vital to communicate with other petitioners prior to submitting your petition.
- Ensure you raise all issues in your petition. The Select Committee will not consider anything that is not included in the petition.
- Do not go into extensive detail in the petition. Instead, briefly set out the grievance and the proposed remedy. This can be expanded upon later in front of the Select Committee.
- Remember that the Select Committee cannot change the principle of the Bill. Therefore do not write a petition with the sole purpose of stopping HS2. However, if you do object to the principle of the Bill you should state this briefly.

When is petitioning for HS2 Phase 1 likely to happen?

The petitioning period is set immediately after the second reading, which will take place no earlier than the 28th April 2014. The exact dates will be clarified when these are released.

Petitions must be deposited in person or by your MP on the parliamentary estate in Westminster (details of exactly where will be released later) no later than the closing time on the final date.

When will Buckinghamshire County Council know what it is petitioning on?

Following the deposit of the Hybrid Bill and full Environmental Statement, BCC will need time to assess whether they need to petition and on what issues they will petition on. That process is unlikely to have been completed until early 2014.

Do I have to appear before the Select Committee if I petition?

No, but if you don't, it is unlikely that the Select Committee will pay much attention to your petition.

The Select Committee will decide if you have *locus standi*, if it is challenged by the Secretary of State. Any such challenges will be heard right at the beginning of the proceedings. If they decide you do not, you will not be able to appear before the Select Committee.

The promoter of the Hybrid Bill may contact you and seek to reach an agreement on the points raised in your petition. If an agreement is reached, you will no longer need to appear before the Select Committee.

If no agreement is reached, you or your representative will be called to appear before the Select Committee. A petitioner can appear on behalf of other petitioners whose names and signatures appear on the original petition. Petitioners with common interests can nominate a spokesperson to make a joint case.

What happens if I reach agreement with HS2 Ltd before petitioning?

If an agreement is reached or a satisfactory assurance or undertaking given, this should be obtained in writing. It will then be placed in a register of undertakings and assurances which will be binding on the person who builds and operates the railway. Petitions can be withdrawn by writing to the Private Bill Office where the petition was originally deposited. Letters must be signed by the petitioner or agent.

Does the petitioning process have to be repeated at the House of Lords, and if so, will expert witnesses be required to attend?

If a petitioner chooses to petition in the House of Lords, a fresh petition must be submitted. It is up to the petitioner whether or not they want to employ an expert witness or agent for this process. However, as with the House of Commons process, there is no obligation for petitioners to call upon professionals to represent them.

Can issues which have not been considered in the ES be petitioned on?

Strictly speaking, petitions should focus on what is included within the Hybrid Bill. However, the Hybrid Bill is closely linked to the Environmental Statement and other supporting documents. Therefore petitioners can raise concerns regarding what is included in any of these documents.

If someone raises a new issue in their ES response, can anyone petition on this point?

Yes. As long as an issue affects you directly you are able to petition on it, even if you have not considered this issue previously.

Can the same individual act as a Roll B agent and an expert witness on the same issue?

Yes. An individual can present a case to the Select Committee and also give evidence under oath regarding the same issue.

Where and when should the petition be presented, and by whom?

Petitioning will begin no earlier than the 28th April, and the deadline for submitting petitions will be determined when petitioning begins. Petitions must be deposited in person at the House of Commons by either the petitioner, any MP, or a Parliamentary Agent.

The detailed timetable for receiving petitions will be decided at the Second Reading, and these details will then be made available on the parliamentary website.

Can the name of the petitioner be changed, for example if they are unable to appear before the Select Committee?

Yes. The name of the petitioner can be changed if necessary. This can be done by contacting the Private Bill Office where the petition was originally deposited.

What can be achieved during petitioning?

Although the Select Committee cannot change the principle of the Bill, there is scope to alter aspects of the design and improve mitigation measures. For example the Select Committee for the Crossrail Bill listened to 205 petitioners, and outcomes include:

- Further communication with owners/occupiers of properties expected to be subject to compulsory acquisition, including details of whether their property is likely to be used, which parts, and on which dates.
- Further noise and vibration mitigation for a historic church.
- Requirements for the nominated undertaker to work with a local residents association and landowner to enhance an area of green space post construction, which otherwise would have been adversely affected.
- Suitable noise insulation for specific communities affected by the construction works.
- Changes to the construction route preventing lorries from using a specific residential road which the residents deemed unfit for construction vehicles.
- Installation of dust monitors at specific locations.
- Requirements for the Promoter to make pre-construction surveys available to the petitioner.
- The requirement to use floating slab tracks in all tunnels routed under residential properties at a depth of 15 metres or less.
- The requirement for a 'One Stop Shop' to be set up for the duration of the works, to enable local residents to report concerns regarding noise and dust.
- Changes to the hours lorries were able to operate on roads which a school faces onto.
- Further mitigation to protect listed buildings.
- Further consultation regarding the design of a specific footbridge.
- Noisy works close to schools to be carried out during the school holidays.
- Further consultation with stakeholders to improve Rights of Way diversions.
- Further discussion with the transport authority regarding the most appropriate routes for HGVs.

Key terms:	
Parliamentary Agent	<p>Petitioners may wish to instruct an agent to act on their behalf on matters relating to the petition. There are two types of agents:</p> <ul style="list-style-type: none"> • Roll A Agent: Professional Parliamentary Agents (who also act for promoters). These are specialists in parliamentary Bill procedures. In the case of HS2, Winkworth Sherwood and Eversheds are acting as Roll A Agents for the promoters, and therefore cannot act for petitioners • Roll B Agent: All other agents. These are not necessarily lawyers or professionals, although if they are not, they must present a Certificate of Respectability from a Member of Parliament, Justice of the Peace, solicitor or barrister. Anyone you think can put your case effectively can apply to be a Roll B agent and act on your behalf.
Hybrid Bill	Combines features of public Bills (legislation that affects us all) and private Bills (affects specific individuals/organisations).
Locus standi	A right to be heard. A petitioner may only be heard by the Select Committee if their <i>locus standi</i> is not successfully challenged.
Petition	A formal document laying out in summary objections to aspects of the Hybrid Bill. This includes the interests of the objector, objections to the Bill, and what changes the petitioner requires.
Principle of the Bill	Parliament's endorsement in principle of the HS2 proposed scheme from London to Birmingham. The principle of the Hybrid Bill is endorsed when the Bill has its second reading.
Second reading	Once the Bill has been presented (First Reading), it is then debated in a Second Reading debate. This will take place no earlier than the 10 th March 2014.
Select committee	7-10 backbench MPs with no constituency or other interest in the Bill. These are sometimes referred to as 'quasi-judicial', as the Committee hears in an impartial way the arguments and evidence for and against some of the proposals. They also decide on <i>locus standi</i> , and have the power to amend (but not reject) the Bill.

Useful links

- FAQ on HS2 Hybrid Bill:

http://www.parliament.uk/documents/commons-public-Bill_office/HS2-website-FAQs-v4.pdf

- High Speed Rail Bill - What you need to know:

<http://www.parliament.uk/documents/commons-committees/HS2-leaflet.pdf>

- Petitioning advice and template petitioning form (click on the link under 'Further information'):

<http://www.parliament.uk/business/bills-and-legislation/current-bills/previous-bills/hybrid-bills/>

- Examples of petitions submitted to petition against the Crossrail Hybrid Bill. It may be useful to look at the format used when preparing your petition:

<http://www.publications.parliament.uk/pa/cm200506/cmbills/001/001pet.htm>

- The Select Committee's report regarding Crossrail. This provides further examples of what can be achieved by petitioning, as well comments made by the Select Committee:

<http://www.publications.parliament.uk/pa/ld200708/ldselect/ldcross/112/112.pdf>