

# TRANSPORT

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## Reference terms for Laidlaw/Brown studies published

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Transport secretary Patrick McLoughlin has published the terms of reference for the two investigations he has commissioned following his decision to scrap the West Coast rail franchise competition.

Sam Laidlaw, chief executive of Centrica and a non-executive director of the Department for Transport, has been asked by McLoughlin to lead an independent inquiry into the DfT's handling of the competition. "I would like your Inquiry to identify the lessons to be learned for the Department and for you to recommend what measures the Department should implement to ensure the sound running of future competitions," wrote the Secretary of State.

Specifically, Laidlaw will examine the sequence of events at the DfT which led to technical flaws in the way the West Coast franchising process was conducted. He has been asked to identify what happened and why it happened up to the point that the intention to award the contract to First Group was announced on 15 August.

Laidlaw will also scrutinise the roles and responsibilities of different advisory and decision-making parties within the DfT and externally in relation to these flaws. These parties include the Board Investment and Commercial Committee, the Contract Awards Committee and the Rail Refranchising Programme Board. Laidlaw will look at how well these committees performed their roles and what can be learned from this about the appropriate structure for governance and assurance of major contract awards.

Finally, he will consider the arrangements for ensuring appropriate review of the technical elements of the West Coast contract award and the quality assurance measures put in place.

A second investigation will be undertaken by Eurostar chairman and former British Rail inter-city boss Richard Brown to consider the DfT's wider rail franchising programme. "I would like your Review to look in detail at the implications for the remainder of the rail franchising programme, in particular, whether changes are needed to the way risk is assessed and to the bidding and evaluation processes, and at how to get the other franchise competitions back on track as soon as possible," wrote McLoughlin in a letter to Brown.

This review will consider how to structure risk transfer between the DfT and rail franchisees in order to create optimum incentives in the long term interests of passengers and taxpayers, and the ability to adapt to changing circumstances. Brown has been asked to examine how to structure the bidding and evaluation processes to ensure a robust and fair competition, including evaluation of the risk presented by different bids as a basis for decisions that take these risks appropriately into account

Giving a clear indication that the government intends to repair rather than replace the rail franchising process, Brown has been instructed to consider the timing of the remainder of the franchising programme so that it can be resumed "on a robust basis" as soon as possible. The transport secretary has also asked him to recommend how the DfT can take on board the lessons from the Laidlaw Inquiry and put in place a clear framework for franchising which balances government's administrative and commercial judgements with the need for the market to have predictability, transparency and a proportionate application of legal rules.

Both Laidlaw and Brown have been told it is up to them how to run their respective investigations and the transport secretary has suggested they draw on independent advice from outside the DfT. Linklaters and Ernst & Young have been appointed to provide an external perspective to the Laidlaw Inquiry.

Sam Laidlaw is instructed to make his initial findings available to the DfT by 26 October with the inquiry running alongside the Department's human resources investigations. The Laidlaw Inquiry Report will be published by 30 November.

Richard Brown has been told that the terms of reference for his review may be refined following the publication of the Laidlaw Inquiry. The Brown Review is to be completed by 31 December and published "thereafter". This gives McLoughlin the opportunity to consider the findings and withhold publication until well into the New Year.

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