



Department
for Transport

Transparency for Roads: creating the watchdog and monitor

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Introduction

1. As part of the wider reforms to the Highways Agency and the Strategic Roads Network, the Government has announced that it intends to create two bodies to scrutinise the operation of the Strategic Road Network and provide advice to the Secretary of State.

A **'Watchdog'** responsible for gathering the views of Strategic Road Network users and using them to shape policy and decision-making. This function will be carried out by Transport Focus – a restructured and renamed Passenger Focus, incorporating a dedicated Strategic Roads Network element (Transport Focus - Road Users).

A **'Monitor'** that analyses the performance and efficiency of the new strategic highways company (SHC), checking to see that the SHC is complying with the terms of its licence and delivering what is required under the Road Investment Strategy. This function will be carried out by the Strategic Road Network Monitor (SRNM), a unit which sits as a semi-autonomous part of the Office of Rail Regulation and which will work solely on roads.

2. Both bodies will be independent of government, and placed so that they can provide strong advice to the Secretary of State that genuinely reflects experience on the ground. They will also act as an important channel through which key stakeholders can help to hold the SHC to account. The reports of both bodies will be published to add an unprecedented level of transparency to the operation of the Strategic Road Network. The monitor will also be able use new statutory powers to hold the SHC directly to account, like the regulators in other sectors. Taken together these measures will have involve a step change on both efficiency and accountability.

Relationship to wider governance

3. The monitor and watchdog exist as part of a wider governance framework for the Strategic Road Network.
 - The SHC will follow the duties and conditions laid out in legislation, in the SHC's licence and in a framework agreement. Legislative provisions are set out in the Infrastructure Bill currently before Parliament and Government has also published both a draft licence and an outline draft of the framework agreement.
 - A Road Investment Strategy, setting out what the SHC is expected to deliver, the Government's expectations on performance and the funds available with which to deliver both is also being prepared. A separate note, "Setting the Road Investment Strategy", has been published in draft explaining the approach that the strategy will take and the process that will be followed in setting it. The first Road Investment Strategy is due to be published later this year.
4. The monitor and watchdog exist as a part of this wider system. Their contribution is to advise the Secretary of State on what the SHC is able to deliver and whether it is delivering against expectations. They ensure

that the system as a whole remains transparent, and in the case of the monitor will be able to take direct enforcement action if the SHC has failed to deliver.

5. Provisions in the Infrastructure Bill, which will provide the underlying statutory powers for both watchdog and monitor, also place a legal duty on the Secretary of State to consider relevant advice from both bodies before making decisions about the network. The monitor will also have the power to require the SHC to provide it with any data that it reasonably needs to do its job.
6. The formal roles of the watchdog and monitor will be set out in separate memoranda of understanding between the Secretary of State and the respective bodies. These will provide greater detail on a number of the points made in this document, and will be signed after legislation formally establishes the new roles of the two bodies.

Regulation and the Roads Sector

In some infrastructure sectors, oversight bodies occupying a position analogous to the monitor are given the formal functions of a licensing authority and economic regulator.

Many of the tools used by regulators play a valuable role in driving efficiency and stronger performance, and the examples set by a number of regulators have been central to the design of the monitor. Benchmarking costs against international examples and other sectors has made clear where there is scope for efficiency. Using regulatory knowledge to shape funding settlements has driven better value for customers. Transparent monitoring has helped ensure monopoly providers are accountable for their performance, and the ability of the regulator to enforce has meant they must take action.

However the roads sector lacks several features that are standard in a regulated sector. Users do not pay to use the network, as customers do for railways, utilities and other types of infrastructure, so they do not need the same degree of consumer protection. As the government owns the SHC, there are no private shareholders.

We have decided to take the relevant elements from the world of regulation and apply them directly to the roles and responsibilities of the monitor. One part of the monitor's role will be to advise the Secretary of State on the performance and efficiency of the SHC, ahead of the Secretary of State making decisions about future Road Investment Strategies. As the Secretary of State will be legally obliged to consider their advice, and as this advice will be published, this will make the system transparent and accountable. However the monitor will also take action to improve performance - copying the practice from rail of issuing orders and financial penalties where appropriate. This means that the SHC will be accountable to an independent body, constantly driving for better performance and value.

Whilst the monitor will provide advice to the Secretary of State including on setting objectives for the Road Investment Strategy, it will not play a direct role in setting funding settlements or performance expectations; this will remain the responsibility of government.

Links with existing bodies

7. Both the watchdog and monitor have been set up within existing organisations in the transport field.
 - Passenger Focus has dealt with transport user interests for over sixty years, recently expanding to cover bus, tram and coach travel. The organisation has extensive experience in surveying user interests, and has proven itself able to adapt to new challenges.
 - The Office of Rail Regulation has long experience of monitoring efficiency and performance in the rail industry. Its work currently involves comparing work in the rail sector with comparable work done in other infrastructure sectors, including roads. It already has significant analytical capacity and is well versed in the challenges of scrutinising infrastructure provisions.
8. These existing skills mean that both bodies are well placed to bring new practice into the roads sector, and to use their expertise to jump-start the setup of the monitor and the watchdog. It should also lead to a more consistent treatment of different modes of transport, with research findings that allow clearer comparison of road, rail and passenger transport.
9. Both bodies will need to expand their skill base to be sure that they properly understand how the roads sector works, and in particular how roads differ from other modes of transport. They will also need to be careful that their roads work is sufficiently separate from their existing activities to give distinct, relevant advice on roads and so that it does not affect the quality of the work they already carry out in the rail, bus, coach and tram sectors.
10. ORR and Passenger Focus both accept this challenge, and are already working with roads stakeholders to develop their knowledge, and bringing skilled individuals on board to develop their capability. They have each outlined plans for how they will ensure that roads work is carried out with sufficient independence from existing work; in the case of ORR, we will make sure that new funding for work on roads is demonstrably kept separate from money provided directly by the rail industry.
11. In the case of Passenger Focus, the organisation also recognises the need to be seen to represent all transport users - both those represented through its existing work and those who will be covered by its new remit. To reflect this change, it intends to restructure and rename itself as Transport Focus, with roads work carried out by an independent sub-brand within this structure, 'Transport Focus – road users'.

Role of the monitor

12. The Secretary of State needs to be sure the Strategic Highways Company is effectively fulfilling the conditions of its licence and that the commitments and requirements set out in the Road Investment Strategy and elsewhere are being met.

13. At a high level, this will require the monitor to examine the performance, cost and efficiency of the SHC, to advise the Secretary of State and his officials on how the SHC has carried out its functions, to take enforcement action where justified and to make recommendations for future strategy. In particular, this means:
- **Monitoring** the SHC's performance in relation to the Road Investment Strategy and more broadly as required by its licence and legal functions as a highways authority. This will involve assessing performance against individual metrics (such as safety). Where no specific metrics are available, it may also involve providing an independent judgement on whether the SHC's activities will deliver the requirements of the performance specification.
 - **Reporting** on the SHC's approach to asset management and assessing the long-term effects of the SHC's activities. It is possible for the SHC to make short-term savings by building up long-term costs; the monitor will therefore assess whether the SHC is managing its assets in a sustainable way.
 - **Advising** on setting the Road Investment Strategy, to ensure that efficiency expectations on the SHC match what it is able to deliver, and that the SHC is always challenged to push for greater efficiencies.
 - **Benchmarking** costs and efficiency against other infrastructure providers, both in the UK and abroad, so that it is clear where the SHC is providing a world class service, and where it can improve.
 - **Investigating** other issues that are of particular importance to delivering performance and efficiency.
 - **Validating** assurance arrangements at the SHC, to help DfT's accounting officer make sure that the SHC is following cross-government requirements on managing public money, and to help the Secretary of State confirm the SHC is meeting its commitments under the licence.
 - **Acting** where analysis suggests that the SHC is failing or is likely to fail to deliver on the Road Investment Strategy or on the conditions of its licence. This will include both informal actions and formal enforcement activity, encouraging effective and efficient management of the network and ensuring that the SHC is held to account. Enforcement measures can highlight areas where better performance is needed in future; and if performance does not improve the monitor can issue improvement notices and, as a last resort, levy fines.
14. The outputs of this work will be brought together as a mix of ongoing data series, regular advice to the Secretary of State and both standalone and annual reports. All of these will be published by default and the Secretary of State will be legally required to consider all relevant advice from the monitor in decision-making.
15. Central to this proposition will be the regular supply of data from the SHC to the monitor, helping the monitor to judge the operational and cost performance of the SHC. The monitor will have the legal right to

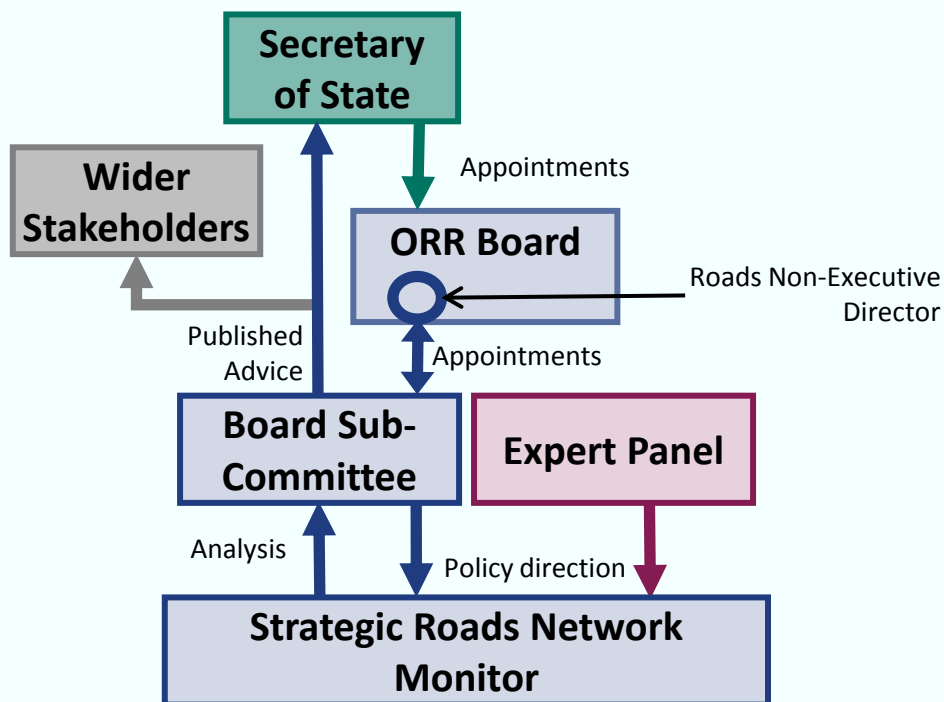
require the SHC to provide data on its activities. We will work with the monitor and the SHC to improve the transparency of the SHC without generating an unnecessary reporting burden. Similarly, the monitor will work with the SHC to recommend ways in which the SHC can improve its data quality, ensuring that SHC publications provide sufficient information to allow effective analysis.

16. Taken together, these measures represent a step change in the amount of information reported about the performance of the Strategic Road Network. While a large part of this information is collected internally by the Highways Agency, this will be the first time it is subject to regular, independent, comprehensive analysis that is accessible to the wider stakeholder community.

The Strategic Road Network Monitor and ORR

The Strategic Road Network Monitor will be a part of the Office of Rail Regulation, answerable to the organisation's board and chief executive. However in day-to-day terms, most of the responsibility for its work will sit with a roads-only subcommittee of the board and a Roads Director. The subcommittee will be formed of a mix of roads experts and members of ORR's board, including a non-executive director on the main ORR board with specific responsibility for roads issues.

Figure 1 – Governance of the Strategic Road Network Monitor



In order to ensure that the Strategic Roads Network Monitor offers a knowledgeable voice, it will also call upon an expert panel with knowledge of the roads sector and cost management. The panel, together with the roads sub-committee, will set the research agenda and highlight key areas for analysis.

The Strategic Roads Network Monitor will have its own dedicated staff, wholly committed to roads work. It will also be able to draw on the expertise of the rest of ORR, taking advantage of its skills in topics such as benchmarking to ensure the highest quality of analysis. Taken together, this should build on ORR's existing expertise and create a capable and world class body for overseeing infrastructure providers.

17. In addition to analysing the operational and financial performance of the SHC and advising the Secretary of State, the monitor will also play an important role in actively encouraging the SHC to improve its performance. In the rail sector, ORR is the economic regulator and uses a range of tools to address underperformance and encourage improvement.
18. The monitor will play a similar role for roads, encouraging the SHC to deliver its obligations under the Road Investment Strategy and the licence. As in rail, this is likely to take the form of a staged process of interventions that the monitor can deploy to encourage the SHC to take action on any underperformance.
 - Informal recommendations to the SHC on where action needs to be taken.
 - Publicising poor performance as part of reporting on the SHC's overall delivery.
 - Asking the SHC to produce and act on an improvement plan.
 - Issuing an improvement notice that requires the SHC to take specific action to correct a problem.
 - Requiring the SHC to pay a fine for its poor performance.
19. The purpose of any intervention is to encourage the SHC to re-examine its practices and change policies when they are not delivering required results, and not simply to punish the SHC. The Government expects that, in most cases, actions at the lowest rungs of the ladder will help the SHC to adopt a more effective approach and that very few issues will reach the stage of statutory action. However these sanctions are a necessary last resort, to ensure ineffective behaviour never becomes a norm.
20. The monitor will be able to use these measures where it judges enforcement action to be appropriate, and will not need to secure the approval of the Secretary of State or the Department before doing so. There is likely to be informal discussion ahead of the more serious interventions, but the decision on whether or not to take action will be

independent of government. This means that there will always be an independent voice able to push for better performance.

Role of the watchdog

21. The watchdog's role is to gather the views of users of the Strategic Road Network, analyse them and thus provide clear advice to the Secretary of State and other stakeholders about their views and priorities for the network. This advice will help the Secretary of State to understand how the SHC's activities affect road users, with a view to shaping policy and future investment plans. This is likely to involve:
 - **Researching** all types of road users to find out the key issues concerning them in relation to the Strategic Road Network, and to compare the results to past evidence. This will involve research to measure the satisfaction of users of the Strategic Road Network. The biggest part of this will be large-scale surveys of road users, broken down by type and region, giving a national picture of top priorities for improvement and areas of greatest need of action. This is likely to be supported by further work to get the views of vulnerable and hard-to-reach groups of road users.
 - **Investigating** issues that are of concern to road users or key stakeholder bodies, or where the watchdog believes that existing policy is doing a poor job of meeting users' needs.
 - **Promoting** change across the roads sector, encouraging the SHC to take the findings of the watchdog's reports into account and acting as an advocate for road users.
 - **Advising** on setting the Road Investment Strategy, to ensure that government takes the views of road users into account when planning for the future of the network.
22. As with the monitor, the results of this work will be in the form of a mix of ongoing data series, regular advice to the Secretary of State and other stakeholders and both standalone and annual reports. This research will be published by default and will form part of the wider awareness of the needs of road users (supported by work undertaken by both the SHC and the Department). The Secretary of State will be legally obliged to consider all relevant advice from the watchdog in decision-making.
23. In representing road users, the watchdog must represent the wide range of different groups that use the Strategic Road Network. In particular, they will be required to take account of the views and needs of:
 - private motorists and their passengers, who are the biggest single group of road users.
 - motorists who drive for a living (for instance, freight, van, coach, taxi drivers).
 - non-motorised users and vulnerable road users, including pedestrians and cyclists, whose interests form a vital part of creating a safe network and whose views are critical to judging the effect the network has on accessibility

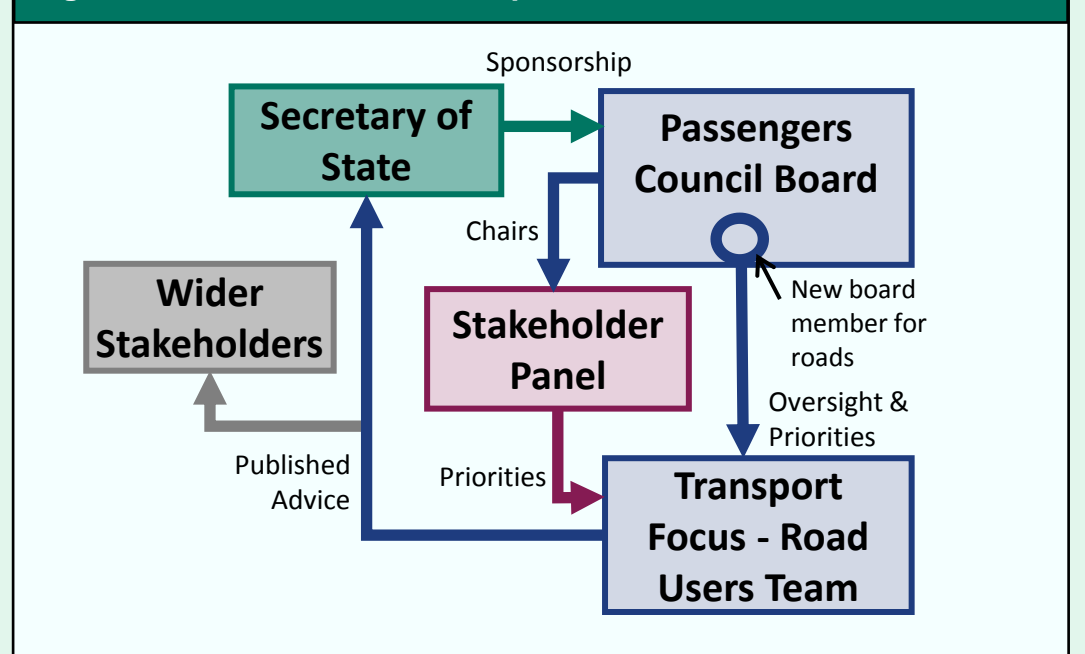
- organisations that rely on roads, including the freight, business and transport operator communities, whose ability to use the network is vital to the economic contribution made by the Strategic Road Network.
24. Establishing the watchdog is a watershed in the management of the Strategic Road Network. It will be the first time that road users have had a dedicated advocate whose advice must be considered by the Secretary of State when making decisions about the future of the network and when thinking about the impact of new investment.

Passenger Focus and Transport Focus

Recognising their increased remit under the new system, Passenger Focus intend to restructure and rename themselves as Transport Focus once they have received new powers. Sitting under this will be two separate sub-brands: 'Transport Focus – passengers', which will continue with the organisation's current activities, and 'Transport Focus – road users', which will act as the watchdog. This should demonstrate both the expanded remit of the organisation and the continued commitment to train, bus, coach and tram users.

In most day-to-day matters Transport Focus – road users will have a high degree of independence, including its own independent branding and a dedicated roads director. Transport Focus will ensure that there is at least one member of the organisation (either on the executive or on the board) who is able to act as a credible public face of Transport Focus – road users. This individual will be expected to act as a visible advocate for users of the Strategic Road Network. Transport Focus – road users will provide advice directly to the Secretary of State.

Figure 2 – Governance of Transport Focus - Road Users



Work will also be informed by a stakeholder advisory board which is intended to provide a link between the work of Transport Focus – road users and the wider stakeholder community. This includes many of the household names from the roads sector, which will be able to represent the views of their membership, such as the AA, RAC, Freight Transport Association and Road Haulage Association. Discussions are also underway with walkers' and cyclists' groups about how best to represent non-motorised and vulnerable users.

Many of these organisations also carry out research of their own, and it is important that they are able to play a role in shaping the work of Transport Focus – road users. In particular, the stakeholder advisory board will help Transport Focus – road users set its own research plan for the year ahead.

25. The watchdog will not have any automatic role on roads outside of the Strategic Road Network, as local councils are already directly accountable to local voters. However the Infrastructure Bill does contain provisions that will allow local highways authorities to commission the watchdog to look at issues relating to their own network and the views of its users, should they wish to do so.

Driving Performance

26. Considering their proficiencies, the watchdog, and monitor have specific roles to play in holding the SHC to account. Only by working in concert and making use of the data produced by the SHC will these organisations be able to assess the whole range of topics covered by the Road Investment Strategy. The consideration of any single element of the SHC's performance may involve different combinations of these bodies (including potentially input from DfT), in order to bring together the right skills and expertise.
27. User satisfaction is something which the watchdog is well placed to assess. Passenger Focus has gathered and analysed the views of users across a number of transport sectors, and is accustomed to turning the views of users into policy advice. The watchdog is therefore well placed to measure aspects of the roads investment strategy that relate to the personal experiences of road users.
28. When assessing the satisfaction of users, the watchdog will be able to use its expertise to adjust its judgement to reflect the wider performance of the company. Rather than looking at road user concerns in a vacuum, they will be able to compare perceptions with actual performance - and will be able to make a much stronger case for change where users are being poorly served.
29. Any measures assessing the delivery of improvements to the network, such as checking on whether programmes within the Performance Specification, such as planned cycle crossing points, have been completed, are more suited to an organisation with more experience of

planning and construction. Likewise, measures that involve assessing complex technical information provided by the Company, such as compliance with the environmental requirements defined in the Road Investment Strategy, belong best in an organisation that is used to dealing with such questions. ORR has experience of monitoring delivery of infrastructure, performance and efficiency and therefore is well placed to fulfil this role.

30. The monitor will use this experience and the information gathered from all parties to provide an overarching judgement of how the SHC is performing against the requirements of the Road Investment Strategy. This assessment, which will be published, will be the crucial measure of whether the SHC has achieved what it has been asked to do.
31. By working together and by focussing on their individual areas of expertise, the watchdog and monitor will be able to effectively push for comprehensive improvements in performance and efficiency. This system will mean that the SHC will be held to account by experts in every area of its performance.

Example - improving safety

The way safety is monitored across the network shows the way that cooperation is central to effective oversight. At the most basic level, the number of people killed or seriously injured on the network will be tracked by the SHC and the monitor. A minimalist approach to monitoring would simply look to see whether this figure went up or down. However a more developed system allows for a more sophisticated understanding of what is driving safety, as well as more accountability for the results.

- The SHC will do its own work in analysing accidents across its network and will use this to drive decision-making on safety improvements and evaluate the effectiveness of its actions.
- The monitor will use both raw data and the analysis and evaluation carried out by the SHC to assess performance on safety. Safety performance is subject to a degree of natural variation, so this analysis is required to separate one-off factors from long-term performance.
- Perceptions of safety will be one of the considerations which the watchdog is likely to take into account in its work on user satisfaction.

The monitor will draw together this range of information to provide its judgement on the overall performance of the SHC both against the safety requirements set out in the Road Investment Strategy and in compiling and analysing this data. This information in turn can be used by the SHC to prioritise its short-term programme of safety improvements, and in the longer term can reshape investment priorities in the next Road Investment Strategy in order to improve safety.

Relationships and Reporting

- 32.** Advice from the monitor and watchdog will be vital to inform the Secretary of State's understanding of the work of the SHC and whether the priorities of road users are being met. Regular contact will be an essential part of this relationship. In addition to extensive informal cooperation, the monitor and watchdog will formally meet with the Department at least once every quarter to discuss the SHC's performance and any new findings. Both ORR and Transport Focus will also be expected to produce separate annual reports, giving their assessments of the SHC's performance and efficiency and road user satisfaction respectively, both of which will be available to the public.
- 33.** It is especially important that the monitor and watchdog work closely with the Department in planning the development of future Road Investment Strategies. Both bodies will be closely involved from the early stages, and will be able to feed their thoughts in from the beginning of the design process. More generally, the Department will also keep the monitor, the watchdog and the SHC informed of its activities to help coordinate research programmes and avoid unnecessary duplication.
- 34.** Both the monitor and watchdog will also meet regularly with the SHC to explore performance, share any relevant research, exchange relevant data and work together to explore any insights that this reveals. The relationship between the SHC and the monitor and watchdog should be foremost a productive one, with both bodies helping the SHC to understand how its actions relate to efficiency, performance and the needs of users.
- 35.** The Department will make sure ORR and Transport Focus are properly funded to carry out these activities. Both bodies will receive sufficient additional funding to make sure that they are able to discharge their duties successfully. This process will take into account the ongoing functions of the both bodies and will be clearly delineated as appropriate. The funding for both ORR and PF will be in addition to and independent from funding collected from the railway sector. Transport Focus' roads funding will only cover their responsibilities towards the Strategic Roads Network in England, unlike the Great Britain-wide nature of their rail functions.

Dealing with Complaints

Under the new system, responsibility for handling complaints about performance or conduct will continue to sit with the SHC. They remain best placed to respond, as only they have the operational knowledge to explain what has happened on the network, and they will know best what they are doing to improve their service.

Complaints will initially be handled by a local SHC team. Where this does not resolve the issue, it will continue to be escalated to the Chief Executive and, subsequently, the Independent Complaints Assessor. If the person making the complaint is still not satisfied, they can refer the matter to the Parliamentary Ombudsman.

Transport Focus will not be directly involved in the complaints procedure; any complaints received by the watchdog will be taken as a comment on the status of the network and factored into any reports detailing road user's views.

Next steps

- 36.** In the short term, Passenger Focus and ORR will continue to carry out the initial work needed to set up the monitor and watchdog, so they can be ready to contribute to the new system from the outset. This includes:

 - Initial research into the challenges of adapting techniques developed for other sectors so that they provide meaningful insights into roads and road users.
 - Engaging with stakeholder groups to improve their understanding of roads related issues and setting up the Transport Focus - road user stakeholder panel, so both organisations can develop their understanding of the roads sector.
 - Working with the Highways Agency to build their knowledge and discuss further data requirements to fill future monitoring needs.
- 37.** Both bodies should have a good understanding of important issues by the time the SHC comes into operation. This will mean that both the monitor and watchdog will be ready to start making an informed contribution to the debate from an early stage.
- 38.** We will also continue to work with both bodies to create the memoranda of understanding that will set the rules by which both the watchdog and monitor will operate. This will allow the two bodies to commence with their statutory roles soon after forthcoming legislation comes into force.
- 39.** Overall, these measures will lead to a Strategic Road Network that is run more transparently and with greater accountability, making it more efficient, more effective and raising standards of its performance to new heights.