

## HS2 - Misconduct in Public Office

The offence is committed when a public officer acting as such wilfully neglects to perform his duty and/or wilfully misconducts himself, to such a degree as to amount to an abuse of the public's trust in the office holder, without reasonable excuse or justification.

### **Nus Ghani was a Junior Minister of the Crown employed by the DfT:-**

Jul 15 2019 - HofC debate – Ms Ghani misled parliament by stating the current HS2 budget, when asked directly about HS2 costs & failed to inform parliament of a £20bn increase, which is lying by omission. Ms Ghani lied to parliament by stating that the HS2 Benefit Cost Ratio was steady at 2.3:1 when she knew it was much lower (1.0 – 1.5)

The DfT has argued that at the time of the debate, ministers wished to continue to test whether remedial action could be taken to hold the existing budget & schedule. The NAO HS2 report, shows that by the time of the debate, the DfT had received the HS2 draft Stocktake & the IPA review, which both concluded that HS2 could not be achieved within the current budget.

Ms Ghani has broken the Ministerial Code regarding openness, honesty & leadership.

Ms Ghani misled select committees & parliament 5 times for the sole reason that MP's would not become aware of the £20bn cost increase & the 5 year delay before & during the HS2 phase 2a debate.

The DfT has argued that at the time of the debate they were continuing to test whether remedial action could still be taken to hold the existing budget. This was the same argument used by Ms Kelly after her statement to the Commons PAC on May 15 2019, but when Ms Ghani made her speech on Jul 15<sup>th</sup> 2019,:-

a) In Jun 2019 the chairman of HS2 had Allan Cook had informed the DfT that was no prospect of HS2 Ltd delivering phase 1 in budget.

b) In Jun 2019 the Infrastructure and Projects Authority undertakes a review and concludes that successful delivery is unachievable

c) In early July 2019 Officials provide the accounting officer and HS2 Ltd chief executive with updated advice, which concludes that Phase One is unaffordable

The above shows that all avenues had been exhausted – before the Jul 15<sup>th</sup> 2019 debate & the DfT argument on why Ms Ghani restated the current budget, will not stand & no argument stands for

Ms Ghani to lie about the BCR.

<https://www.whatdotheyknow.com/request/746602/response/1788584/attach/html/3/F0019666%20Mr%20Mike%20Haville.pdf.html>

### **Bernadette Kelly is a Civil Servant & the PPM at the DfT:-**

May 15 2019 – Commons PAC Oral Evidence – Ms Kelly misled the committee by stating the current HS2 budget, when asked directly about HS2 costs & failed to inform the committee of a known £7bn increase & the 3 year delay, which is lying by omission & lied to parliament by stating that the HS2 Benefit Cost Ratio was solid at 2.3:1 when she knew it was much lower.

Ms Kelly has argued that commercially sensitive negotiations were continuing with contractors throughout this period, and internal policy options to make savings were under consideration – but minutes of the meeting with the SofS on Apr 3 2019 do not support that argument & there is no evidence of any negotiations with contractors, the Stocktake was started in Feb 2019 & materially finished in April 2019 & HS2 Ltd Board Minutes show that presentation of the Stocktake was the only option being pursued internally. Externally the NAO HS2 report shows that while several bodies looked for savings, none were found.

Ms Kelly would seem to have misled select committees & parliament for the sole reason that MP's would not become aware of the £20bn cost increase & the 5 year delay before the HS2 phase 2a debate.

Ms Kelly has broken the Civil Service Code regarding integrity, honesty & objectivity.

### **HS2 Chairman Allan Cook & HS2 CEO Mark Thurston are public officials (HS2 Ltd is an executive non-departmental public body) :-**

Dec 18 2018 – BBC Panorama - Mark Thurston lied to parliament & public when he stated on BBC Panorama, when he knew HS2 was delayed & over budget

Mar 13 2019 - Transport Select Committee – Oral Evidence

Allan Cook lied to the committee when he stated that the HS2 Benefit Cost ratio was still 2.3:1, when he knew that it was significantly lower. Allan Cook also lied to the Committee when he stated that the project was on schedule when he knew it was delayed by at least 3 years

Jul 18 2019 – HS2 Annual Report - Allan Cook & Mark Thurston passed off the 2018-19 Annual Report, with the no of the cost increase & delays in the Strategic Report. The annual report would have been written from April onwards & was not published until July 18<sup>th</sup> & the May board minutes confirm that the Stocktake was materially finished & as such AC & MT would be fully aware of the

£22bn cost increase & 5 – 7 year delay, however this was not reported in Strategic Report section of the Annual report.

Mr Cook & Mr Thurston mislead parliament & select committees for the sole reason that MP's would not become aware of the £20bn cost increase & the 5 year delay before the HS2 phase 2a debate.

Mr Cook & Mr Thurston have broken the Civil Service Code regarding integrity, honesty & objectivity.

### Timeline

Oct 2018 - NAO HS2 Progress Report - HS2 Ltd's contractors estimated that main civil construction costs were 83% above the target price and HS2 Ltd formally notified the Department that there were significant challenges to the affordability of the programme.

[NAO High-Speed-Two-A-progress-update.pdf](#) Section 1.13

Dec 18 2018 – BBC Panorama<sup>3</sup> Mark Thurston stated “HS2 is on time & on budget”

Mark Thurston mislead public & parliament on state of the project as previously he had stated nobody knows

[https://www.youtube.com/watch?v=LCh7WIRuT1g&ab\\_channel=StopHS2](https://www.youtube.com/watch?v=LCh7WIRuT1g&ab_channel=StopHS2)

Jan 22 2019 – Lords EAC Oral Evidence

Q5 The Chairman: So you think it will be within budget. I notice that you said you did not agree with the reports that it would be double.

Sir Terry Morgan: They have a lot of work to do.

The Chairman: You must know.

Sir Terry Morgan: I do not. Nobody knows yet.

Lord Hollick: Given that it has a funding envelope to work in, can HS2, on its own initiative, say that this is one of the measures that it has to take if it is to get anywhere near that funding envelope?

Sir Terry Morgan: This is always dangerous territory. I think, in the triangle of scope, cost and time, something has to give.

Q18 Baroness Kingsmill: It was thought that HS2 would be a high-risk proposition, there would be an overspend and there would be a failure to deliver value for money. Do you think HS2 will be delivered within the budget and on time?

Nusrat Ghani MP: I believe that Sir Terry responded to a similar question. We are committed to ensuring that we can continue to drive down costs with HS2 Ltd and that the budget will be

delivered within the envelope provided at £55.7 billion.

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/economic-affairs-committee/HS2-follow-up/oral/95531.html>

#### **Feb 14 2019 – BBC**

Mark Thurston – We have always said that we will really only know what it going to cost when we get our contractors mobilised

[https://www.youtube.com/watch?v=B3uUyrIHwPk&ab\\_channel=StopHS2](https://www.youtube.com/watch?v=B3uUyrIHwPk&ab_channel=StopHS2)

#### **Mar 13 2019 - Transport SC – Oral Evidence**

Q46 Allan Cook: As with any complex and challenging programme, it is a large sum of money; £55.7 billion is a huge amount of money, but the cost benefits are clear for everybody to see. For every £1 we invest, we get a return of £2.30

**AC stated BCR was 2.3 when he knew that was incorrect as only 3 weeks later he stated to SofS that phase1 was £7bn over budget (phase 2 was not stated but as final figure was £20bn – another £7bn could be added)**

Q80 Chair: But, at this moment, you are anticipating that you will be able to deliver the full scope of the project and the speed it is meant to go at, because that is being talked about. People have talked about the speed being 50 kilometres per hour less. At the moment, you are working to the assumption that the project will be delivered at the speed that is set out, on the network that is set out and to the timeframe set out.

Allan Cook: I am working to that assumption, exactly as you have said.

**AC stated that they were working on the assumption of the timeframe set out (delivery of HS2 Phase 1 in 2026) which he knew was incorrect as only 3 weeks later he stated to SofS that phase1 was delayed by 2-3 years**

<file:///C:/Users/lenovo/Documents/HS2/Misconduct/Transport%20SC%20Allan%20Cook.pdf>

#### **Mar 27 2019 – HS2 Board Minutes**

3.1 The Board noted that the Chairman is undertaking a Stocktake of the HS2 programme

3.3 The Board noted that there will be input into this assessment from Board Members, Executive and Management, the Department for Transport (DfT) and independent experts.

<https://webarchive.nationalarchives.gov.uk/20200204050620/https://www.gov.uk/government/organisations/high-speed-two-limited/about/our-governance#board-meeting-minutes>

## **Mar 2019 – NAO HS2 Report – Figure 6**

HS2 Ltd formally notifies the Department that it has breached the terms of the development agreement because it cannot deliver Phase One on time or within available funding.

Response: The Department responds to HS2 Ltd's formal notification of a breach of the development agreement in April. It determines that HS2 Ltd requires more time to complete its plan of actions.

The Secretary of State is advised that actions to make Phase One affordable within the available funding have not worked.

## **Apr 3 2019 - Meeting between DfT SoS and Allan Cook (Chair of HS2)**

Attendees: Michael Bradley (CFO HS2 Ltd), Clive Maxwell, Nusrat Ghani

AC updated SoS on the cost and schedule position of the programme. He said that he had concluded that phase 1 could not be delivered to the current scope within the current schedule and budget. The HS2 Ltd board had been told by the exec that the latest point estimate for phase 1 was approximately £28bn, with a £6-7 billion gap in the forecast, and a 2-3 year change to the schedule. This means no contingency in the funding envelope.

SoS asked if an alternative scheme would be cheaper. AC replied that he was unable to answer that. CM added that assessments had been made a while ago about other options.

CM also reminded the meeting that the bill was linked to the current route.

AC added that through all the discussions he'd had, no one had suggested the current scheme was the incorrect route.

AC stated that with the current scope, HS2 could not meet the current cost and R15 schedule.

AC would be reporting to Bernadette on a monthly basis.

Clive Maxwell makes the point if they change route / scope – the bill would have to be changed & that would require going back to parliament for review – did not want to risk that as by then true cost of > £88bn would be known & MP's might vote to cancel.

<https://www.whatdotheyknow.com/request/714209/response/1710337/attach/html/3/FOI%20F0019296%20Mr%20Mike%20Haville%20response.pdf.html>

## **Apr19 2019 – HS2 Board Minutes**

3.6.2 The team who have supported the stocktake production confirmed that there was nothing material missing or withheld in producing the draft report, but that there could always be

more information to add.

The draft of the report was requested as an output for May 2019 following discussions with the Department of Transport.

**Confirms that Stocktake was materially complete in April 2019**

**Also, it shows that Allan Cook / Thurston / HS2 Ltd knew that they were over budget by at least £20bn & delayed at least 5 years before April 1st 2019, in the period covered by 2018-19 Annual Report – but did not mention it in their strategic case which is fraud**

**Apr 29 2019 – Hof C – HS2 Buckinghamshire Debate – Column 58**

Nus Ghani was asked about HS2 spiralling costs by Cheryl Gillan, Racheal Maskell, Dominic Grieve, Andrew Bridgen, Jim Cunningham, Yvette Cooper & William Cash. Ms Ghani did not inform MP's of the known £7bn increase & instead restated the current budget

“HS2 has one budget: £55.7 billion” & “There is only one budget—£55.7 billion”

**<https://hansard.parliament.uk/Commons/2019-04-29/debates/83D4E291-90D7-42ED-A338-5F056CDEEB68/HS2Buckinghamshire#contribution-ED9B6DDD-F311-4270-B0AE-33B6156A39B1>**

**May 15 2019 – Commons PAC – Oral Evidence**

Q8 Chair: If there is not a spending review, is there a possibility of further delay to HS2?

Bernadette Kelly: I don't think that the delivery of the project is dependent on the spending review. The question is, when is it sensible to put into the public domain revised business cases and so on? It is more sensible to do so, obviously, when you have gone through those significant moments of public spending and everything else.

**Ms Kelly did not tell Commons PAC that she knew phase 1 was 3 years late, when asked the direct question “is there a possibility of further delay to HS2?”**

*Q15 Bernadette Kelly:* Those are exactly the assessments that are currently being made about this project—the sensible steps that need to be taken to manage cost, the impact those steps will have on the benefits and whether we are still confident that this project has a solid BCR. It has a BCR of 2.3 on current parameters, which is pretty solid.

Q19 Chair: Again, as the accounting officer for the Department, you must be looking closely at the business case to make sure that the BCR ratio that you talked about stays at a good level.

Bernadette Kelly: Correct.

Q20 Chair: Is there a point at which you would have concerns?

Bernadette Kelly: Clearly, if this project was getting close to no longer having a positive BCR, absolutely, as accounting officer, I would have concerns. As I say, given that it has a BCR of 2.3, I

think you would have to see a very large increase in costs and a very large decrease in benefits to get to that point.

**Ms Kelly stated the current BCR was 2.3 when she knew as of 3/4/19 knew that BCR was much lower & note it is Benefit COST Ratio NOT Benefit CURRENT BUDGET Ratio**

#### **May 2019 – NAO HS2 Report – Figure 6**

HS2 Ltd estimates that forecast costs for Phase One have further increased

The Department concludes that Phase One could be made affordable within the available funding with significant changes, including a combination of savings, scope reductions and alternative financing.

HM Treasury informs the Department that it agrees HS2 Ltd should be given six more weeks to scrutinise costs for savings opportunities.

The Secretary of State directs that preparations are made for a pre-summer parliamentary recess decision on whether, and if so, how to progress with the programme.

**Jun 7 2019 - HS2 Preliminary draft stocktake delivered to DfT**

<https://www.whatdotheyknow.com/request/725357/response/1740820/attach/html/4/F0019437%20and%20F0019493%20Annex%20a.pdf.html>

#### **Jun 25 2019 - HS2 Phase 2a Debate (Second Sitting) – Column 45**

Nus Ghani was again asked about spiralling costs & again did not inform MP's of the known increase & answered "The total funding envelope for **HS2** remains at £55.7 billion in 2015 prices. The Department is keeping a firm grip on costs, and **HS2** Ltd is working with its supply chain to ensure that that continues".

[https://hansard.parliament.uk/Commons/2019-06-25/debates/1a3aa6f5-cf1a-440e-877b-3a55bd8bf435/HighSpeedRail\(WestMidlands-Crewe\)Bill\(SecondSitting\)?highlight=hs2#contribution-34048D1D-B87B-4FFF-930F-740D48F19D06](https://hansard.parliament.uk/Commons/2019-06-25/debates/1a3aa6f5-cf1a-440e-877b-3a55bd8bf435/HighSpeedRail(WestMidlands-Crewe)Bill(SecondSitting)?highlight=hs2#contribution-34048D1D-B87B-4FFF-930F-740D48F19D06)

#### **Jun 26 2019 - HS2 Board Minutes**

3.1.1 Engagement with DfT and wider stakeholders on the interim draft Stocktake;

Shows Allan Clarke discussed the Stocktake with DfT & major stakeholders, but not Commons PAC, Transport SC & MP's

#### **Jun 2019 – NAO HS2 Report – Figure 6**

Chairperson of HS2 Ltd informs the accounting officer that there is no prospect of HS2 Ltd being able to deliver Phase One within the available funding or on time and provides the Department with a draft report from their review of the programme.

The Infrastructure and Projects Authority undertakes a review and concludes that successful delivery is unachievable. HM Treasury undertakes a progress review suggesting further scrutiny of risks to the programme and contingency is needed.

Major Projects Review Group (MPRG) discusses programme options to present to ministers, with a preference to maintain work on Phase One while continuing to look at ways of making savings.

#### Jul 10 2019 – Westminster Hall Debate

HS2 costs were questioned multiple times by Andrea Leadsom, Barry Sheerman, Andrew Bridgen, Kelvin Hopkins & Racheal Maskell

Ms Ghani - We need to ensure that we are always using taxpayers' money properly and transparently.

HS2 will continue on track

**Hardly transparent as HS2 was not on track and Ms Ghani failed to inform the debate that she had been informed 3 months before on Apr 3 HS2 phase 1 was at least £7bn over budget & delayed by at least 3 years & she had also seen the draft Stocktake delivered to DfT on Jun 7 which showed that HS2 was at least £20bn over budget & delayed by 5-7 years, but she inferred that the current cost was still £55.7bn by stating "HS2 will continue on track"**

<https://hansard.parliament.uk/Commons/2019-07-10/debates/D1711C1B-3AF7-492D-9802-2FF0AC25266C/HighSpeed2#contribution-1948F956-D175-4737-A1CC-71BCC8571B66>

#### Jul 15 2019 – HofC HSR Debate (WM – Crewe)

HS2 spiralling costs were questioned by Jim Cunningham, Rachael Maskell, John Redwood, Steve McCabe, Ivan Lewis, Jeremy Lefroy, William Cash, Mike Amesbury, Fiona Bruce, William Wragg, Antoinette Sandbach & Owen Paterson,

Jeremy Lefroy:- We started off with a figure of about £35 billion or £36 billion. The latest figure is somewhere around £55 billion. My hon. Friend and I have seen credible estimates upwards of £80 billion. Should the House not know what it is actually voting for tonight? How much will it be?

Ms Ghani:- I can confirm for my hon. Friend and others that there is only one budget for HS2, and it

is £55.7 billion. The bit we are talking about today, phase 2a, is £3.5 billion. The benefit-cost ratio is £2.30 for every £1 spent.

**Ms Ghani was asked about costs by 14 MP's & asked directly about current costs by Jeremy Lefroy, she misled the house by restating the current budget as if it were the current cost & lied to the house when she stated that the BCR was 2.3 when she knew it was much lower.**

#### **July 17 2019 – HS2 Stocktake formally delivered DfT**

It should be noted that the HS2 Stocktake was conveniently delivered to the DfT 2 days after the phase 2a debate, even though it had been materially finished 3 months prior in March / April 2019

<https://webarchive.nationalarchives.gov.uk/20200204050620/https://www.gov.uk/government/organisations/high-speed-two-limited/about/our-governance#board-meeting-minutes>

#### **July 19 2019 – FT Stocktake figure leaked**

Allan Cook, the new chairman of HS2 who took over in December last year, has written to Bernadette Kelly, permanent secretary at the Department for Transport, to warn that the entire rail project cannot be completed for the official £56bn budget. Mr Cook's preliminary findings predict the final cost of building the line could now rise to between £70bn and £85bn, according to two people close to the HS2 project.

<https://www.ft.com/content/27ab2f5c-a976-11e9-984c-fac8325aaa04>

#### **Jul 2019 – NAO HS2 Report – Figure 6**

Officials provide the accounting officer and HS2 Ltd chief executive with updated advice, which concludes that Phase One is unaffordable but the value for money of the programme remains compelling.

The Department concludes that it has sufficient evidence on the revised cost forecast and schedule developed by HS2 Ltd to conclude that Phase One is not affordable within the available funding and scope requirements and that it was no longer feasible for Phase One to open in 2026.

Chairperson of HS2 Ltd provides the Department with their final report from their review of the programme.

#### **Mar 4 2020 - Commons PAC HS2 Spring Update – Oral Evidence**

Q41 Huw Merriman: The challenge here is that when I refer to HS2's most recent annual report, from July 2019, it reads that everything is going swimmingly. There are 95 pages and "delay" is not mentioned once. Back in 2019, everything was running to budget and going well, despite the

undercurrent of issues we are talking about. Yet, all of a sudden, it just blows up. I want to ask Ms Kelly, when was the Department aware? How much of the Department was aware? Were Ministers aware of these overruns as well? Why was there such little transparency?

Q42 Huw Merriman: The NAO Report is, but I was challenging you on HS2's most recent report, published back in July 2019, which reads very differently from the NAO Report, which was six months later.

**Allan Cook & Mark Thurston passed off the 2018-19 Annual Report, with no mention of the cost increase & delays in the Strategic Report. The annual report would have been written from April onwards & was not published until July 18th & the April board minutes confirm that the Stocktake was materially finished & as such AC & MT would be fully aware of the £22bn cost increase & 5 – 7 year delay, however this was not reported in Strategic Report section of the Annual report, which is an offence under the Companies Act**

Bernadette Kelly: You are quite right that we did know from that point on and all through 2019 that there were very significant cost pressures. As I say, we were pursuing actions that we hoped might lead to us finding a way to manage those cost pressures. That is the reason why Ministers did not necessarily wish to report and announce them publicly while those plans were being pursued.

**There is no evidence of any pursuing of actions to manage cost pressures, the Stocktake was started in Feb 2019 & materially finished in April 2019 & HS2 Ltd Board Minutes / DfT communications show that presentation of the Stocktake was the only action being pursued**

Q50 Sir Geoffrey Clifton-Brown: Sorry, Ms Kelly, I am going to have to ask you a fairly direct question. You came before this Committee twice: in October 2018, when you had had the formal warning notice; and then on 15 May 2019, when you had had the formal notification that the terms had been breached. On both occasions you assured the Committee that the budget of £55.7 billion was on track. I put it to you—you may shake your head—that, in answer to question 10 on 15 May 2019, you said, “That is absolutely a key parameter and I don’t see it changing in any other way than in a spending review and quite probably not then.” I put it to you that you had serious knowledge that this project was off track and you didn’t inform the Committee.

Bernadette Kelly: I did not say that the project was on track. I said that £55.7 billion remained the budget, which it was. I think I alluded to the possibility that that parameter would need to be changed in the spending review, which was obviously something that we were contemplating internally at that point. Ministers had not determined at that point how they wanted to proceed with this project. Alternatives and options were still being pursued, in good faith I think, to see whether there were choices that could be made to bring the project back within budget around scope, and those decisions had not been concluded.

**There is no evidence of any alternatives & options being pursued, the Stocktake was started in Feb 2019 & materially finished in April 2019 & HS2 Ltd Board Minutes / DfT communications show**

**that presentation of the Stocktake was the only option being pursued internally & whilst several bodies reviewed the budget externally no savings were found.**

<https://committees.parliament.uk/oralevidence/116/default/>

7/05/20

Commons Public Accounts Committee - HS2 Spring 2020 Update

Summary-

At best, the Department for Transport's (the Department's) previous evidence to the Committee has been less than clear.

The Department withheld information from us which would have given a clearer and more accurate picture of the budget and schedule pressures the project was facing.

With so many peoples' homes and livelihoods affected by the construction of the railway, there is no justification for the Department and HS2 Ltd having been so opaque about the delays and budget overruns.

Conclusions and recommendations-

1. The Department and HS2 Ltd's lack of transparency has undermined public confidence in the programme. The Department and HS2 Ltd were aware of the scale of the issues facing the programme as early as October 2018. In March 2019 HS2 Ltd formally notified the Department that it could not deliver Phase One to budget and schedule. Despite being aware of these issues, the Permanent Secretary withheld from us that the programme was in significant difficulty when she appeared before the previous Committee in October 2018 and May 2019, even in response to specific questions about the programme's delivery timeline and budget. HS2 Ltd's annual report and accounts for the year ending 31 March 2019 similarly failed to give an accurate account of the programme's problems. The Department and HS2 Ltd defended their actions, stating that there were commercial sensitivities, and that options were still being pursued to remedy the situation. While we recognise that ministers had not yet decided how to proceed, no adequate excuse was provided for not disclosing to this Committee and Parliament the risk and uncertainty the programme was facing. We are disappointed by the Permanent Secretary's response to our concerns about her failure to explicitly inform the Committee of the programme's delays and overspend when asked about the general health of the project. This was something that an accounting officer should share with the Committee. Failure of an Accounting Officer to provide accurate information to Parliament is potentially a breach of the Civil Service Code and a breach of Parliamentary Privilege. Lack of clarity and obfuscation about the budget issues with HS2 risks jeopardising the trust between Parliamentary committees and Government officials

2. The Department failed to provide Parliament with clear warning that the programme was going off-course and value for money was at risk. Accounting Officer assessments are a tool for providing assurance over public spending by considering whether a programme is justified against the four standards of feasibility, regularity, propriety, and value for money. HM Treasury requires that updated assessments should be produced when a programme departs from these standards or the plan agreed when the programme was first approved. A summary of each assessment should then be shared with Parliament. However, the Department did not fulfil this requirement, and failed to share with Parliament summaries of any of the four Accounting Officer assessments on Phase One of the programme made in 2019. Therefore, Parliament did not know the difficulties the programme was facing or the actions being taken in response. We are deeply concerned that the High Speed 2: Spring 2020 update Accounting Officer appeared not to know that summaries of these assessments should be shared with Parliament, despite publishing a summary on the East Coast Main Line Enhancements Programme in January 2019, and despite multiple calls from this Committee to do so in recent years.

#### Transparency & Oversight -

5. We questioned the Department on why it had not informed Parliament about the true status of the programme, despite the significant issues it was facing. In October 2018, the Permanent Secretary appeared before the Committee and stated that the delay to notice to proceed to construction would not affect the overall programme. She appeared again in May 2019, after the breach notice had been served by HS2 Ltd, and alluded that scope options were being examined to manage the affordability of the programme. She did not clearly set out that the programme was facing serious difficulties. In our most recent session we asked the Department and HS2 Ltd why the HS2 Ltd annual report and accounts for 2018–19 did not set out a forthright account of the programme's status. There is no mention of delays or that costs had exceeded the budget. Instead, there were minor references to "cost and schedule pressures" leading to the revision of notice to proceed, which has allowed "better definition of the scope, cost and schedule."

8. HM Treasury guidance states that, in addition to producing an Accounting Officer assessment for projects or programmes within the Government's Major Projects Portfolio alongside an approval of the Outline Business Case, it is good practice to prepare an assessment for "each novel and contentious transaction or proposal". An assessment should also be prepared if a project departs from the four standards of regularity, propriety, value for money and feasibility, or the agreed plan in terms of cost, benefits, timescales, or level of risk. HM Treasury guidance says that Parliament

should be provided with a summary of the key points of an Accounting Officer assessment, which is then shared on the Government website, deposited in the Library of the House of Commons, and sent to the C&AG and HM Treasury Officer of Accounts. If the content is too sensitive for publication, the Accounting Officer should instead inform the Chair of the Committee of Public Accounts. The Department and HS2 Ltd can only authorise the start of main civil construction when certain criteria have been met, including assurance that the programme is affordable and value for money

<https://committees.parliament.uk/publications/1113/documents/9542/default/>

### **Chair's comments**

Commenting on the report, Committee Chair Meg Hillier MP said:

“The Committee is concerned about how open the Department and HS2 Ltd executives have been in their account of this project. It is massively over budget and delayed before work has even begun. There is no excuse for hiding the nature and extent of the problems the project was facing from Parliament and the taxpayer. The Department and HS2 appear to have been blindsided by contact with reality – when Phase One started moving through Parliament, the predicted costs of necessary commitments to the communities affected have exploded from £245 million to £1.2 billion.

### **Member's comments**

The Committee’s Deputy Chair Sir Geoffrey Clifton-Brown MP said:

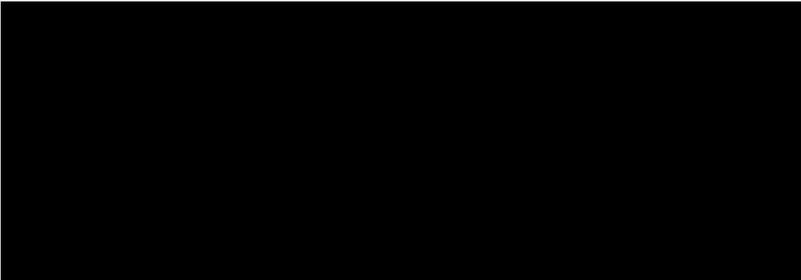
“This PAC report on HS2 is one of the most critical, in both the transparency of Government and the handling of a project, that I have seen in my nine years in total on the committee.

“The Permanent Secretary appeared before the committee in October 2018 and again in May 2019. In March 2019 HS2 Ltd formally told the Department it had breached the terms of the Development Agreement, and would be unable to deliver the programme to cost and schedule – yet the Permanent Secretary did not inform the committee on either appearance that the programme was in trouble.

“This is a serious breach of the department’s duty to Parliament and hence to the public, which as the report says, will undermine confidence. Furthermore, the PAC was in the dark about serious cost overruns and was therefore unable to do its duty to inform Parliament that value for money on the project was at risk.

“The cost overruns have been blamed partly on the speed that the hybrid Bill committee for Phase One proceeded with. I was a member of that committee, which lasted for 20 months: this is complete nonsense.”

[High-Speed 2 project managers “blindsided by contact with reality” - News from Parliament](#)



High-Speed 2 project managers “blindsided by contact with reality” - Ne...

Committee publish report on High Speed 2: Spring 2020 Update

19/05/20

Baroness Vere confirmed that no DFT Ministerial Directions have been sought by either accounting officer with respect to HS2.

June 10 2020 – Letter from B. Kelly to Commons PAC

When I appear to provide evidence, I have to balance my responsibilities as a witness to Parliament, as a civil servant accountable to Ministers and acting on their behalf, and as an Accounting Officer with a responsibility to protect value for money

**As the project cost to the public rose by 56%, the above statement makes no sense – Ms Kelly clearly failed in her responsibility to protect value for money**

Ministers had not taken decisions on how they wished to proceed or informed Parliament on these matters. In such circumstances, I believe it would have been inappropriate for me to volunteer detailed information to the Committee, which questioning did not seek.

**Ms Kelly did volunteer detailed information on the BCR, which she knew was incorrect & the Committee did seek specific information on project delays & Ms Kelly did not inform them of the known 3 year delay.**

As set out above and in the NAO report, commercially sensitive negotiations were continuing with contractors throughout this period, and internal policy options to make savings were under consideration.

**There is no evidence of any negotiations with contractors or options to make savings, the Stocktake was started in Feb 2019 & materially finished in April 2019 & HS2 Ltd Board Minutes /**

**DfT communications show that presentation of the Stocktake was the only option being pursued.**

**CM had told the SofS** that assessments had been made a while ago about other options & that the bill was linked to the current route

### **List of References**

1) HS2 Ltd is an executive non-departmental public body, sponsored by DfT

<https://www.gov.uk/government/organisations/high-speed-two-limited>

2) Private company limited by guarantee without share capital

<https://find-and-update.company-information.service.gov.uk/company/06791686>

3) Panorama Dec 18 2018 – 26:45

[https://www.youtube.com/watch?v=LCh7WIRuT1g&ab\\_channel=StopHS2](https://www.youtube.com/watch?v=LCh7WIRuT1g&ab_channel=StopHS2)

4) NAO - HS2 A progress Report Jan 2020 p25 Sec 1.13

<https://www.nao.org.uk/wp-content/uploads/2020/01/High-Speed-Two-A-progress-update.pdf>

5) Public Accounts Committee - Oral evidence: High Speed 2: Spring 2020 Update Q41

<https://committees.parliament.uk/oralevidence/116/default/>

6) HS2 Annual Report & Accounts 2018 – 2019 p12 Strategic Report

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/818262/HS2-AR19-BOOK.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818262/HS2-AR19-BOOK.pdf)

7) Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 – Sec 414C & 414D

<https://www.legislation.gov.uk/ukdsi/2013/9780111540169/regulation/3>