**Date issued:** 05 May 2022

**Freedom of Information Request**

The request for information in your letter to TfW’s CEO James Price has been dealt with under the auspices of the Freedom of Information Act (2000). Your request has been considered in accordance with the requirements of the Act and our Data and Information Management Policy.

**Your Questions Answered**

**Question 1**

***“****You may recall that I wrote to you initially on October 1st 2021 with a number of concerns regarding the cancellation of train services on a Sunday and the link with staff contracts. Ceri Taylor, Transport for Wales’ Public Affairs Manager, provided a response via email on March 24th 2022 for which I am grateful. A number of questions flow from that response, which I would be grateful for further information on.*

*Firstly, it was pleasing to note that you are seeking to include Sundays as part of the contracted working week, and I would be grateful to understand how much progress you have made on that front, and when you would hope to see amended contracts in place.”*

**Answer**

Negotiations are now underway between TfW Rail management, the drivers’ company council and the ASLEF full time organiser, to develop a restructured employment package for train drivers. The contents of this negotiation are, of course, confidential for now, but the restructuring will seek to tackle a number of items around the balance of pay and productivity; the way Sundays are covered is one of those items. A number of train companies have moved Sundays to be part of the normal working week (a Sunday is then treated like a Wednesday in terms of rostering). A large number of train companies, including TfW Rail for now, still have Sundays outside the normal working week.

**Question 2**

*“I would also be grateful for clarity in terms of how many Sundays drivers are currently required to work in a year as part of the current contract****.”***

**Answer**

The driver agreements inherited by TfW Rail from the previous private sector operators do not cap the number of Sundays an individual driver works. Rather, the total number of Sundays that can be rostered for train drivers across the company is capped at 168.  Drivers who are rostered to work Sundays as part of that 168 have a contractual obligation to work. However, once leave, sickness and other reasons for absence are taken into account, fewer than 168 drivers are actually available. This leads to  reliance on drivers volunteering to work “additional Sundays” for which they are paid at an enhanced rate. As the amount of Sunday mileage has increased in the timetable, the 168 cap has further tipped the balance towards reliance on overtime. Even as the overall driver population increases in readiness for future timetable enhancements, under the current agreements, the 168 cap remains absolute. There have been a number of attempts to increase the cap, but none have so far been agreed with the company council reps.  This is why a “Sundays inside the working week” solution provides a more long-term answer to the security of Sunday cover.

**Question 3**

*“In terms of rail replacement services, I am also informed that services are often provided by coach companies which aren’t from the local area. For example, it has been put to me that a replacement service required at Ebbw Vale station was provided by Lloyd’s of Machynlleth, which raises questions in terms of carbon footprint, and support for local companies. I would be interested in understanding how those services are commissioned…’*

**Answer**

Rail replacement services are organised by our supplier, Abellio Rail Replacement (ARR). ARR plan the schedules for planned rail replacement, and contract bus and coach companies to undertake the work. They also provide a 24-hour response service for buses and coaches that might be required in an emergency.  Emergency rail replacement is more difficult to resource, since there is no opportunity for the private hire managers at bus and coach companies to plan for the requirement, and school contracts often take priority for smaller operators. A growing shortage of bus and coach drivers is making the provision of emergency rail replacement more challenging. ARR also have contracts with taxi firms so that taxis can be used as an alternative.

**Question 4**

*“…and what the total level of annual expenditure is for Transport for Wales in putting on these services.”*

**Answer**

ARR was chosen as TfW Rail’s provider of rail replacement buses, coaches and taxis after a competitive tendering exercise. Information contained within ARR’s winning tender submission (including its methodology, USP and price points) is exempt from disclosure under S43(2) (Prejudice to Commercial Interests) of the Freedom of Information Act, which concerns disclosure of information which would be likely to adversely affect the competitive advantage of a supplier.

The use of this exemption is subject to an assessment of the public interest. In this instance, factors in favour of disclosure, such as the general public interest in transparency and openness are outweighed by the potential damage to the effective and fair operation of our bidding process; as disclosure of this information could give an unfair advantage to competitors of the appointed supplier by artificially manipulating the market. It should also be noted that disclosures made under the Freedom of Information Act must be considered as a disclosure to the public at large.

It is essential that TfW is careful to maintain the integrity of its procurement process in order to achieve the best value for taxpayer’s money. Disclosing this information would negatively, and significantly, impact that integrity and would likely result in a mistrust of our organisation and dissuade companies from engaging with our bidding process again. As such, disclosure would also be likely to harm TfW’s commercial interests, by prejudicing our ability to obtain best value from our procurement processes. Ultimately, this would lead to an increased cost to the public.

In this instance we consider that the public interest lies in obtaining the best value from the market, whilst respecting the implied and explicit obligations of confidentiality which are created through the procurement process.

**Question 5**

*“Finally, constituents are concerned that with the summer season upon us that high levels of cancellations will impact on tourists, and that the lack of notice for cancellations is a problem. For example, it has been put to me that staff are often aware on a Thursday evening that services are cancelled on the following Sunday, but that cancellations are sometimes not published online until the Sunday morning. Passengers will therefore be purchasing tickets on the Friday and Saturday, even though Transport for Wales are aware that the service will not be running.****”***

**Answer**

Cancellations caused by lack of traincrew resources, including the problems covering train driver duties on a Sunday, are not known with certainty until the day before. This is because our resources team are continuing to manipulate resources, and asking drivers to work overtime right up until the day before. On a number of occasions recently, Sunday coverage has looked poor the previous Thursday, only for the resources team to work minor miracles and cover nearly everything on the day. There are occasions where it is right to slim down the timetable to match the resources available. This was done when the Omicron wave of COVID affected sickness levels in late December/early January, and mileage was reduced in the timetable for a number of weeks, and publicised in advance, to match supply with demand.

We hope this information is of use to you.

Yours sincerely,

**Transport for Wales**

**Appeal Rights**

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the Head of Freedom of Information at either Transport for Wales, 3 Llys Cdwyn, Pontypridd, CF37 4TH or [freedomofinformation@tfw.wales](mailto:freedomofinformation@tfw.wales). Your request must be submitted within 40 working days of receipt of this letter. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision.

The Information Commissioner (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".