

**Date issued:** 23 July 2021

### **Freedom of Information Request**

We are writing in response to your Freedom of Information request. Your request has been considered in accordance with the requirements of the Freedom of Information Act and our information access policy.

#### **You asked for the following information:**

“Please provide me with the following data for the last three years in relation to Transport for Wales Rail Services and Transport for Wales Rail Limited:-

- The number of disciplinary hearings relating to any type of assault
- The number of those hearings that were dealt with as gross misconduct
- The number of those hearing that resulted in a summary dismissal
- A breakdown of the outcomes of those hearings, ie the number of final written warnings, the number of first written warnings etc.
- The number of gross misconduct hearings (excluding assault)
- The number of those hearings that resulted in a summary dismissal
- A breakdown of the outcomes of those hearings, as above
- The number of people who have left the business via any type of compromise or settlement agreement

#### **Your Questions Answered:**

In order to explain why some of the information requested is unavailable, first it is necessary to explain the relationship between Arriva Trains Wales, KeolisAmey Operations Ltd (trading as Transport for Wales Rail Services), Transport for Wales Rail Ltd, Transport for Wales and Welsh Government.

Arriva Trains Wales operated the Wales and Borders franchise from December 2003 – October 2018, when the franchise was awarded to KeolisAmey Operations Ltd, who commenced trading as Transport for Wales Rail Services. A Grant Agreement was put in place between KeolisAmey and the Welsh Government, outlining their obligations as operators of the franchise.

Transport for Wales is a not-for-profit subsidiary company wholly owned by Welsh Government and prior to February 2021, a key part of our remit was to manage the Grant Agreement with KeolisAmey on behalf of the Welsh Government.

KeolisAmey is no longer the operator of the Wales and Borders franchise, following a collapse in revenues and a significant reduction in passenger numbers as a result of the COVID-19 pandemic. On 7 February 2021, the Welsh Government’s Operator of Last Resort (OLR), Transport for Wales Rail Ltd (a subsidiary of Transport for Wales) were given the day-to-day management of the franchise and Transport for Wales Rail Services ceased to operate.

Notably, Transport for Wales and Transport for Wales Rail Limited are public sector organisations that is subject to the Freedom of Information (FOI) Act; whilst as a private sector company, KeolisAmey were not. However, where KeolisAmey were holding information on behalf of Transport for Wales in

respect to fulfilling its obligations under the Grant Agreement, that information was shared with Transport for Wales in order to answer a request made under the FOI Act.

Data prior relating to 1 January – 13 October 2018, when Arriva Trains Wales operated the Wales and Borders franchise, is not available to Transport for Wales.

Data relating to 14 October 2018 – 6 Feb 2021 is not subject to FOI as information relating to staff misconduct does not constitute information that KeolisAmey held on behalf of Transport for Wales. This information fell outside the parameters of the Grant Agreement and was instead information was held by KeolisAmey in their capacity as a private company. As such, Transport for Wales is unable to provide this information under FOI. If you do wish to obtain this information, we recommend that you approach Keolis UK, although it should be noted that they are not subject to the FOI Act as a private sector company.

Information for the period 7 February 2021 – present day is as follows:

Number of disciplinary hearings relating to any type of assault

1

The number of those hearings that were dealt with as gross misconduct

1

The number of those hearings that resulted in a summary dismissal

1

A breakdown of the outcomes of those hearings - ie final/first written warnings etc

1 x summary dismissal, as above

The number of gross misconduct hearings (excluding assault)

5

The number of those hearings that resulted in a summary dismissal

2

A breakdown of the outcomes of those hearings, as above

2 x summary dismissal (as above), 2 x final written warnings, 1 x resignation

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. 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".