

Health and Safety at Work etc. Act 1974, sections 21, 23, and 24

Improvement Notice

Serial number I/ RJB/17032023/ROGS19



Name	Transport for Wales Rail Limited
Address	3 Llys Cadwyn, Pontypridd, Wales, CF37 4TH
Trading as	Transport for Wales
Inspector's full name	I, Richard James Byrne
Official address	one of His Majesty's Inspectors of Railways, of The Office of Rail and Road, 2 nd Floor, 2 Rivergate, Temple Quay, Bristol, BS1 6EH
Telephone number	[REDACTED]

hereby give you notice that I am of the opinion that at

Location of premises or place of activity

On the routes you operate your Class 175 trains over and at Chester Depot where these trains are maintained.

you, as an employer* / a self-employed person* / a person wholly or partly in control of the premises* / other*,

are contravening* / have contravened in circumstances that make it likely that the contravention will continue or be repeated* the following relevant statutory provisions

Health and Safety at Work etc Act 1974, Section 2 (1), 3 (1)
The Railways and Other Guided Transport Systems (Safety) Regulations 2006,
Regulation 19 (5)

The reasons for my said opinion are

Three fires have occurred within a one month period on your class 175 trains whilst in passenger service. You as the Train Operator have failed to ensure so far as is reasonably practicable that passengers and employees are not exposed to the risk of harm. You have not implemented effective arrangements for the organisation, control and monitoring for maintenance of the class 175 fleet needed to ensure the safe operation of the transport system.

and I require you to remedy those contraventions, or as the case may be, the matters occasioning them, by **17th September 2023**,

and I direct that the measures specified in the schedule which forms part of this Notice shall be taken to remedy those contraventions or matters*.

Signature  Date / Time 17/03/2023 12:38 PM

An inspector appointed by an instrument in writing made under section 19 of the Health & Safety at Work etc Act 1974.

An Improvement Notice is also being served on _____ of _____ relating to the matters contained in this notice*.

This is a relevant notice for the purposes of the Environment and Safety Information Act 1988.

Signature  Date 17/03/2023

1. Failure to comply with this Improvement Notice is an offence as provided by section 33(1)(g) of the Health and Safety at Work etc Act 1974. Section 33(2) and Schedule 3A of that Act renders an offender liable, on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine, or both, in England and Wales the fine is not limited. In Scotland any fine imposed summarily may not exceed £20,000. On conviction on indictment, an offender is liable to imprisonment for a term not exceeding 2 years, or an unlimited fine, or both.

2. An Inspector has power to withdraw an Improvement Notice, or to extend the period specified in the Notice, before the end of the period specified in it. If you wish this to be considered you should apply to the Inspector who issued the Notice, but you must do so before the end of the period given in it. Such an application is not an appeal against this Notice.

3. The issue of this Notice does not relieve you of any legal liability for failing to comply with any statutory provisions referred to in the Notice or to perform any other statutory or common law duty resting on you.

4. You can appeal against this Notice to an Employment Tribunal. Details of the method of making an appeal can be found on the [website at](#) [www.employmenttribunal.gov.uk](#). An appeal can be submitted either online at the above address, or by downloading Form ET1 and posting it to either the Employment Tribunal Central Office (England and Wales), PO Box 10218, Leicester, LE1 8EG; or Employment Tribunal Central Office (Scotland), PO Box 27105, Glasgow, G2 9JR. If you do not have access to the Internet, contact the person who issues the Notice and ask to be supplied with a hard copy of Form ET1 and guidance note T420: Making a Claim to an Employment Tribunal.

Time limit for appeal

5. A notice of appeal must be sent to the Employment Tribunal within 21 days from the date of service on the appellant of the Notice, or Notices appealed against, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the notice of appeal to be presented within the period of 21 days.

6. The entering of an appeal suspends the Improvement Notice until the appeal has been determined or withdrawn, but does not automatically alter the date given in this Notice by which the matters contained in it must be remedied.

7. The rules for the hearing of an appeal are given in The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (SI 2013 No 1237).

PUBLIC AVAILABILITY OF INFORMATION ON ALL ENFORCEMENT NOTICES

8. The Office of Rail and Road (ORR) for its own purposes, records and monitors trends in the enforcement action it takes, and in the convictions and penalties imposed by the Courts. It is ORR's policy that this information should be brought to the public's attention. ORR also has a statutory obligation under the Environment and Safety Information Act 1988 to maintain a public register of certain notices. Details from this notice will therefore be placed on the ORR website ([www.orr.gov.uk](#)).

9. Information on a notice will not be entered onto the database until after the right of appeal against the notice has expired. Where a notice is withdrawn or cancelled on appeal no entry will be made. Entries relating to notices served on individuals will be kept on the register for a period of 5 years from the date of issue. Notices served on individuals under the age of 18 will be removed sooner.

10. Information may be withheld where, in ORR's belief, its disclosure would:

- cause harm or prejudice; or
- be in breach of the law.

11. Personal information is dealt with in accordance with the Data Protection Act 2018. Where disclosure of personal information would be incompatible with the Act it will not be included on the database.

12. If you are not satisfied with the information contained in the entry you have a further right to appeal to ORR in the first instance.

Schedule



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To comply with this notice you should carry out the following:

1. Review your safety management system and your arrangements for maintenance at Chester Depot to ensure the safe operation of the transport system by:

1.1 Carrying out a suitable and sufficient risk assessment for the maintenance of the Class 175 fleet.

1.2 Produce an action plan ensuring maintenance staff at all levels are provided with sufficient information, instructions so they understand what is expected of them when carrying out vehicle maintenance tasks.

1.3 Produce an action plan for level of Supervision at Chester Train Care Depot ensuring supervision is organised, defined, and documented, and sufficient resources are allocated to complete maintenance safely.

1.4 Produce an action plan for monitoring contractors.

1.5 Produce audit plan for the management of contractors undertaking fleet maintenance.

2. Implement the actions identified as part of your review in item1 for effective arrangements pursuant to Regulation 19 to ensure the safe operation of the transport system.

OR

Any other equally effective measures to remedy the said contraventions

Signature

A rectangular box containing a handwritten signature in blue ink. The signature is stylized and appears to be a cursive name.

Date:

17/03/2023