



Transport Committee

House of Commons, London, SW1A 0AA

Tel 020 7219 3266 Email: transcom@parliament.uk

Chris Heaton-Harris MP
Minister of State for Transport
Department for Transport
33 Horseferry Road
London SW1P 4DR

11 October 2021

Dear Chris,

I write in response to your letter of 4 October 2021 concerning the London Southeastern (LSER) rail franchise. You kindly offered to answer any questions the Committee had on the matter.

I am seeking clarity on the following issues:

Discovery

- When did the Department first become aware of the underpayment? Was its discovery the result of routine scrutiny, via the termination process of legacy agreements or a targeted investigation? When were you, as the responsible Minister, and the Secretary of State informed?
- What was the exact nature of the underpayment? Can you set out in detail what amount(s) should have been paid, when and for what?
- Why were the underpayments not identified earlier? Was this due to the complexity of the process or deliberate obfuscation on the part of LSER?

Investigation

- Can you set out a timeline of steps your Department took as part of its investigation?
- Go-Ahead reported to their investors that you formalised the dispute in March 2020. Had you had relevant correspondence or meetings before that? If so, when did that start, and what was discussed? What was LSER's initial response when questioned?
- At what point did you decide LSER had breached its good faith obligations? On what basis was this judgement made? Can you set out in detail the exact legal or contractual arrangements that were breached? Did LSER's management dispute your conclusion? If so, on what basis?
- When did you, or the Department, first discuss or correspond on this matter with Go-Ahead and Keolis, the parent companies of LSER? Did one, or both, of these parent entities, become the lead for discussions (as opposed to the management of LSER)? If so, at what date did the parent assume the role as the answering entity?
- Given your Department appears to have been aware of these matters for some time, why was action not taken sooner? Particularly considering agreements negotiated due to the pandemic have guaranteed LSER profits in recent months? Was it a mistake to make a Direct Award to LSER in 2018?

Further action

- You state that further investigations are underway. What is the nature of these investigations? Do you expect further underpayments to be identified?



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- Do you expect criminal charges to be laid? What investigations are the Serious Fraud Office (SFO) undertaking and was the involvement of the SFO initiated by the Department or by one of LSER, Go-Ahead or Keolis? If one of the latter three entities, are you aware why this matter was not disclosed to the London Stock Exchange or upon inquiry by interested parties?
- Might any steps be taken against LSER's external auditors?
- What role has the National Audit Office performed prior to the decision to remove the contract and since?

Go-Ahead and Keolis

- Did you consider that employees of Go-Ahead and Keolis were (i) aware of the underpayment prior to the department discovering the same and (ii) responsible for a breach of good faith? If so, at what level of seniority were these individuals employed and are they still within the employment of Go-Ahead and Keolis?
- Do you, the Secretary of State and the department, believe that Go-Ahead and Keolis are fit to run the Thameslink, Southern and Great Northern franchise, given recent events with LSER?

Wider network

- Do you expect further financial irregularities to be discovered across the network? What steps are you taking to investigate this possibility?
- Does the Department's more direct role overseeing the finances of Train Operating Companies (TOCs) since the beginning of the pandemic make identifying further irregularities, from the franchising period, more likely?
- In the event the underpayment was a result of amounts not being paid when due to the department, does the Department consider that the current and future concessionary model will increase the risk of future underpayment (compared to the franchise model where all fare revenues were retained by the TOCs)?
- How will this incident inform future contractual negotiations with TOCs?

Operator of last resort (OLR)

- What assessment have you made of the OLR's capacity to take on LSER services? Has a determination been made by the OLR as to which of the senior management of LSER will be retained? If so, can a breakdown be provided of the individuals transferring and those who will not?

Future of LSER

- What are your plans for the long-term future of the LSER franchise? Could some of its services be transferred to TfL? When will these services be put back out to tender?

I am copying this letter to Dame Meg Hillier MP, Chair of the Public Accounts Committee.



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Best wishes

A handwritten signature in black ink, appearing to read 'Huw Merriman', with a long horizontal flourish extending to the right.

Huw Merriman

Chair of the Transport Committee