

Prosecution of Fare Evaders & Passenger Safety on Transport for London 'Magistrates Briefing Notes'



Introduction

Fare Evasion surveys show that the majority of TfL passengers have the right ticket for their journey. However, there are still a minority who continue to evade paying their fare and Transport for London (TfL) is firmly committed to doing everything it can to reduce this.

TfL lose over £120m each year through fare evasion. This lost revenue could and should be invested into improving transport services for all our customers. Lost revenue ultimately results in increased fares for the honest fare-paying customers.

TfL employ Revenue Protection staff to check passengers' tickets, passes, Oyster cards, Contactless Payment Cards, and other travel mandates. They issue Penalty Fares or report irregularities for further investigation and possible prosecution, when fare evasion is identified or suspected.

Enforcement Strategy

Transport for London's enforcement strategy for fare evasion effectively gives the benefit of the doubt to passengers when detected for most first-time offences. Inspectors can check if a passenger has previously been issued a Penalty Fare (PF) or reported for consideration of prosecution, in the preceding 12 months. If nothing is known, they are treated as a first-time offender. First offences are most often dealt with by the issue of an £80 PF (reduced to £40 if paid within 21 days). This covers most fare evasion irregularities detected on the network.

Penalty Fares

We have a three-stage appeal process for penalty fares. The information on how to appeal is on the Penalty Fare slip given to the passenger and on a letter sent to the passenger the next day. All appeals must be written – via letter, e-mail and/or the IRCAS on-line portal.

First stage Penalty Fare appeals are handled by IRCAS (Independent Revenue Collection and Support) on behalf of Transport for London. If the appeal is unsuccessful, any further appeal (2nd Appeal) would be assessed by the Investigations, Appeals and Prosecutions Team in TfL's Compliance Policing, Operations & Security Directorate (CPOS) and any final appeal (3rd Stage Appeal) by the Independent Appeals Panel.

There are strict deadlines for making an appeal to ensure that payments of Penalty Fares are received in a timely manner, evidence is current, and disputes are dealt with promptly. The deadline for appeal is stated on the Penalty Fare Notice and/or in any correspondence informing of the outcome of the appeal. The following appeals deadlines apply;

- 1st Stage – within 21 days
- 2nd Stage – within 14 days

- 3rd Stage – within 14 days

If an appeal is received by TfL (or its contractors) outside of the deadline the appeal will normally be rejected, and its contents will not be considered.

The published PF appeals policy, based on the legislation, can be found on the following web page – <http://content.tfl.gov.uk/penalty-fares-appeals-policy.pdf>

Nonpayment of a PF will result in the original offence being brought before court service to adjudicate on, as the individual has had the opportunity throughout to either pay or dispute the issuing of the Penalty Fare.

Prosecutions

It must be noted, TfL still prosecute some first-time offences which are considered more serious offence and will not be dealt with by way of a PF, these are;

- Deliberate non-payment of a fare
- Using another person's high value pass
- Using an altered, copied, or forged ticket/pass
- Adults travelling on a child ticket/pass

Those passengers who have previously been issued a PF or have been reported for an irregularity in the preceding 12 months are reported for consideration of prosecution. Transport for London write to all reported passengers, giving them an opportunity to put forward any mitigating circumstances as to why they were on our services without a valid mandate to travel. Which will be taken into considered before deciding how to deal with the matter.

An Appeals and Prosecutions Manager will then decide on an appropriate course of action in accordance with TfL's Revenue Enforcement and Prosecutions Policy. This policy is available on the TfL website - <https://tfl.gov.uk/fares/prosecutions>

The outcome of the Manager's review could be one of the following: -

- No further action
- Warning
- Prosecution

TfL do not prosecute anyone under the age of 18 or over the age of 60 for fare evasion. Penalty Fares are issued for all forms of fare evasion to these age groups.

Passengers who fail to give their name and address or false details to an inspector when being reported for an offence, commit a further offence under the PSV Regulations 1990 (Buses) or TfL Railway Byelaws (Rail). Every attempt is made to verify a passenger detail at the time of the offence, in these circumstances TfL will prosecute for such offences. Verification includes checks against the public version of the electoral roll and previous TfL & Train Operating Company PF & Prosecution records, or personal documentation presented to the inspector at the time of the report.

There are clear signs on all TfL services stating that passengers without a valid ticket are liable to a Penalty Fare Notice or Prosecution. This is also promoted through advertising campaigns and is

clearly stated in TfL's Conditions of Carriage. (<https://tfl.gov.uk/corporate/terms-and-conditions/ticketing-and-travel-conditions-of-carriage>)

Fare collection

One-Person Operated Buses

On one-person operated (OPO) buses, passengers' board by the front doors and present a pass or ticket for inspection or validate an Oyster card or accepted Contactless Payment (bank) Card on a reader located by the driver.

Route 507/521



On central London bus routes 507 & 521 (high frequency commuter services formerly known as Red Arrow services) passengers may board by any door. They should first have either purchased a ticket or pass from a Ticket Stop or station ticket office. Alternatively, Customers can use an Oyster Card or Contactless Payment Card and present it to one of the yellow card readers (located at each entrance) immediately upon boarding.

Route-master Bus for London

Passengers may board by any door if they have a valid ticket or pass, Oyster card and Contactless Payment Card must be validated on entry, however, in early 2020 the Route-master boarding protocol on these routes will be phased out and entry will only be permitted via the driver's front doors. A targeted campaign and notices will notify passengers using these routes of the changes.

Oyster cards

Oyster cards are smartcards which can store a pass (such as a weekly Travelcard) and/or credit, where the fare is deducted to pay for individual journeys (Pay As You Go).

For bus passengers, Oyster cards must validate on the yellow card reader immediately upon boarding at the start of each journey. Correct validation is indicated by a green light and single audible bleep, bus readers have an additional function that allows passengers to see on the screen the value of fare deducted and funds remaining or pass type in use. If for any reason the card is rejected a red warning light is shown together with an audible double bleep. The display screen also informs the passenger of an error and advises them to seek assistance from a member of staff.



For rail passengers, Oyster cards must be validated by placing them against the yellow card reader at the gate-line entrance and on the yellow card reader on exit to ensure that the correct fare is paid.

Contactless Payment Cards (CPCs)



As an alternative to Oyster cards, passengers may also use bank credit or debit cards which have a contactless payment capability. These are used by passengers in the same manner as Oyster cards. Fares are not deducted for any journeys taken at the time of travel, instead the total journeys made that day are reconciled at the end of the day and the cheapest fare for the journeys taken is deducted from their bank account within 24/48 hours. These fares are then

reconciled by the bank with Transport for London. As such, bank statements cannot be used as proof of payment as bank statements cannot show individual journeys, we recommend that the CPC is registered with TfL to view 12 months of journey history. The yellow card readers operate in the same way when a CPC is presented to them as it does for Oyster cards except that period passes are not available with CPC as the cheapest fare is always calculated on a daily, weekly, monthly, and annual basis. CPC users are recommended to read the Conditions of Use, these are in addition to other Conditions of Carriage. See tfl.gov.uk/terms

Any travel mandate being used (Oyster / CPC / Apple Pay / Android Pay / Crypto / Metro) must be valid for the passenger to use as well as correctly validated immediately at the start of any journey. General information, as well as any additional conditions of use, are also available to passengers on the use of Oyster / CPC / Apple Pay / Android Pay / Crypto / Metro, is freely available from all Ticket outlets and Underground Stations, when purchasing Oyster and paper tickets as well as on the TfL website.

Journey History Reports

TfL's back-office reporting system, Mercury, can automatically download journey history reports of Oyster cards and CPC when the serial number or tap reference numbers are within the Revenue Inspectors electronic report. This ensures that an accurate journey history for each revenue report is available for both prosecutors and passengers.

New Initiative (ITAP)

A new initiative via Creative Technology has been introduced to flag up long-term misuse of Oyster & Contactless Payment Cards where individuals are avoiding zonal fares.

The Irregular Travel Analysis Platform (ITAP) is a detection system which identifies fare evasion and revenue leakage from various patterns in an individual's journey and sales/purchase data. New insight generated by ITAP supports a variety of intervention activities which aim to influence and change customer behaviours. With targeted email campaigns, operational deployments, and a prioritised register of prolific offenders for further investigation & prosecution.

TfL have set aside resources and use skilled ticket Inspectors to detect prolific offenders. They analyse all the data available to identify areas and locations of concerns. These areas are then attended, sourcing local CCTV footage, to identify individuals of interest; apprehension of the individual is carried out at a later stage once all necessary information has been collated.

Once an individual has been identified they are stopped and interviewed under pace conditions, giving them sight of the ITAP generated evidence. This is a time-consuming exercise but is a crucial way of tackling the long-term misuse of Oyster & Contactless Payment Cards and an effective tool for deterring others.

Electric Scooter & Unicycle Prohibition On TfL Services

From 13th December 2021. Customers in possession of e-scooters and e-unicycles will not be permitted to enter any premises on TfL's network or travel on any of its services. Possession of these devices on TfL services and stations is contrary to Bylaws and other safety related legislation appropriate to the specific transport mode.

On 1st November 2021 an e-scooter caught fire on a train which was stopped at Parsons Green underground station <https://www.bbc.co.uk/news/uk-england-london-59148069> Fortunately, no one was seriously injured, although one passenger did suffer smoke inhalation. There was another incident around the same time where an e-unicycle was handed in as lost property and being stored in a station control room, this caught fire and caused significant damage, thankfully there were no injuries. Had these incidents occurred on a packed deep level underground train, the consequences could result in multiple serious casualties or even death.

These incidents prompted TfL to launch an urgent review, which was supported by evidence from London Fire Brigade (LFB) experts. LFB supports TfL's approach to this issue.

LFB issued an urgent safety warning over concerns about a spike in fires involving electric bikes and private e-scooters and regularly highlights incidents and issues safety advice to keep people safe if their own home. In 2021 firefighters attended more than 50 fires involving e-scooters and e-bikes – which is double the total amount seen in 2020. Most of these fires occurred in people's homes.

Observation of fires with lithium-ion batteries show they accelerate rapidly and produce large plumes of toxic smoke. It is noted that if the two fires on (TfL) services or infrastructure referred to above occurred in an enclosed space such as a train, tram, or bus then the fire and toxic fumes would have the potential to cause significant harm to our customers and staff.

An event, where a powered transporter catches fire and emanates smoke, could also cause panic which could result in secondary injuries as customers attempt to escape from the danger area.

The LFB has reported an increase in fires caused from defective batteries or chargers for e-scooters and e-unicycles, attending to over 60 such incidents this year. The LFB confirmed that the causes of those fires have been attributed to either defective, modified or incorrectly charged lithium-ion batteries.

One of the leading causes of fires in e-scooters and e-unicycles is overcharging or using an incorrect charger. Lithium-ion batteries, which are usually used in e-scooters and e-unicycles, are susceptible to failure if the wrong chargers are used. We are aware many of these incidents involve batteries which have been sourced on the internet, which may not meet any safety standards.

Please note: Electric bikes are subject to UK safety standards and must meet legislative requirements. Whereas e-scooters are not road legal in the UK, currently there are no known safety standards applicable which assures TfL they are safe. Advice from LFB following several incidents of e-scooters combusting and occurrences on our network, was the reason TfL banned them from their entire network.

Fires are dangerous and terrifying wherever they happen, but a fire on the transport network has the potential to become very serious very quickly and involve hundreds of people, particularly on trains where evacuation may be challenging, so anything that can be done to mitigate that risk is a positive step in the right direction.

The offences

Fare evasion on London Underground is contrary to the Transport for London Railway Byelaws or the Railways Act.

Fare evasion on London Buses is contrary to the Public Passenger Vehicles Act 1981 and the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 and are summary offences. Although there is a defence of Reasonable Excuse under Section 68(1) of the Public Passenger Vehicles Act, the onus remains on the passenger to have a valid travel mandate which is valid for them to use and has been properly validated at the start of their journey.

In addition to fare evasion, TfL will also consider a private prosecution for the following offences: -

Face covering offences are brought under The Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021.

Public Order Act 1986 offences, Sections 5, 4A and 4.

TfL Railway Byelaws Section 6, unacceptable behaviour.

TfL Road Transport Premises Byelaws Section 6, unacceptable behaviour.

The Fraud Act 2006 may be applied to deal with serious and systematic fare evasion or revenue fraud on Transport for London services.

Prosecution Costs

The matters brought before the courts by Transport for London are private prosecutions and as such TfL have no access to Central Funds. TfL's aim is to reclaim any costs so as to minimize the effect on the genuine fare-paying passengers.

However, TfL do not seek to recover full costs and only request a 75% contribution to prosecution costs at first hearings.

Table 1 – Prosecution costs

Table 1-Pre-Court Legal Costs Incurred

Revenue Inspector	Time spent dealing with passenger, making enquiries, submitting report, checking, and signing Section 9 Statement	£100
Enforcement Team	Making decision to prosecute with reference to TFL's Prosecution Policy. Correspondence, e-mails, and telephone enquiries, (including liaison with defendant's representatives). Preparing Section 9 Statements/Approving statements, interviewing staff obtaining statements. Preparation, granting and service of Single Justice Procedure Notices/Postal requisitions and other relevant documentation.	£175
Overheads	Stationery, hardware maintenance, office accommodation, etc.	£75

Prosecutor	Prosecutor Cost's	£50
	Total	£400
Discount	25% Discount towards prosecutions cost	-£100
	Open court hearings Total	£300
SJPN Cases	Prosecutor costs waived in SJPN cases	-£50
	SJPN Total	£250

Table 2 – Additional Legal Costs Incurred

Additional Costs incurred	Preparation and service of Notice to Cite Previous Convictions	£50
	Guilty plea at subsequent hearing (per hearing)	£50
	Preparation and service TIC schedule	£100
	Additional ITAP costs inclusive of tab 1 above – Upkeep Technology analysis reporting sweep, checking analysis journey history reports highlighting offences, observing and obtaining CCTV stills of suspect, arranging and carrying out further stop & pace interview, notes and MG11 statement writing, exhibiting reports and CCTV images. (See paragraph on ITAP initiative)	£400
	Discount towards prosecutors cost of 25%	

Table 2 – Additional Legal Costs for Trials

Not Guilty Plea at Trial Hearing		(see table 1 above)
Trial Fees	Prosecutor Fee	£50
	Prosecution witness (per witness)	£125
	No discount of prosecution costs at trial	

TfL will only seek a 75% contribution towards the total figure at first/second hearings (case management). For example, if a matter involved offences to be taken into consideration TfL would seek a contribution of £375=75% of £500 (consisting £400 + £100 TIC Schedule).
No discount is awarded at any trials.

1. Witness costs are based on one half day's pay plus loss of earning and deterrent potential for that time.
2. Should a defendant change their plea to guilty at trial, the costs application would be as if the trial had been effective.
3. Where a PACE Interview has been conducted, the cost application will include an extra £150.