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**Confidential report of meeting from external body**

Agenda item : 17  
Paper FT 45  
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Author : Bryan Davey and Tim Bellenger

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**Penalty Fares Rules Review meeting 16 April 2010**

**1 Purpose of report**

- 1.1 To record for information the proceedings of a meeting of an external body attended by a representative of London TravelWatch.

**2 Recommendation**

- 2.1 That the report is received for information.

**3 Information**

- 3.1 The minutes of a meeting of are attached in the Annex. The Director, Public Liaison and Director, Research and Development represented London TravelWatch at this meeting.
- 3.2 These minutes were prepared by the Department for Transport (DfT), and London TravelWatch has no responsibility for their content or format.

**4 Equalities and inclusion implications**

- 4.1 Not applicable – report is for information only.

**5 Financial implications**

- 5.1 Not applicable – report is for information only

**6 Legal powers**

- 6.1 Section 248 of the Greater London Authority Act 1999 places upon London TravelWatch (as the London Transport Users Committee) a duty to consider - and where it appears to the Committee to be desirable, to make recommendations with respect to - any matter affecting the functions of the Greater London Authority or Transport for London which relate to transport (other than of freight). Section 252A of the same Act (as amended by Schedule 6 of the Railways Act 2005) places a similar duty upon the Committee to keep under review matters affecting the interests of the public in relation to railway passenger and station services provided wholly or partly within the London railway area, and to make representations about them to such persons as it thinks appropriate.

**Penalty Fares Rules Review meeting**  
**16<sup>th</sup> April 2010 10.00am**  
**DfT, Great Minster House, London**

Attendees:	Andy Wakeford	(ATOC)
	Peter Sargent	(CENTRO/PTEG)
	Keith Jipps	(First Capital Connect)
	Mark Smith	(First Capital Connect)
	Mike Keeber	(First Great Western)
	Diane Ormerod	(ITAL)
	Gordon Hay	(ITAL)
	Ian Taylor	(London Midland)
	Bryan Davey	(London Travelwatch)
	Tim Bellenger	(London Travelwatch)
	Mike Carroll	(Mersey Rail)
	Susan Cross	(National Express East Anglia)
	Nick Wortley	(Office of Rail Regulation)
	Philip Wilks	(Passenger Focus)
	Bob Taylor	(RPSS, IPFAS and Prosecutions)
	Ian Prior-Wass	(Southern)
	Alan Haynes	(Southeastern)
	Siobhan Bradshaw	(Southeastern)
	Jamie Cole	(TfL)
	John Conway	(TfL)
	Neil Davies	(TSSA)
	David Williams	(DfT Chair)
	Joe Kerrigan	(DfT)
	Michael Dollin	(DfT)
	Mubarak Patel	(DfT)

**1. Introduction**

David Williams (Chair) began the meeting by welcoming everybody and relayed that he was pleased that the proposed discussion had attracted such a diverse group of participants. He conveyed that he had drafted a thematic agenda, encompassing the main submissions that were made in response to the Penalty Fares Rules Review Consultation last year. He also explained that the dialogue was not to be confined to the agenda and any other related topics that would stimulate the discussion would be welcome.

**2. Penalty Fares Consultation Proposal**

The Chair requested that ATOC (Andy Wakeford) commence proceedings by outlining their proposal that formed the basis of the DfT consultation i.e change in the Penalty Fare Charge from £20 to twice the single fare whichever is the greater to £50, or twice the single fare whichever the greater; £25 / single fare is if payment is made within 21 days. ATOC explained the background to the proposal by stating that TfL had recently amended their Penalty Fare Charge to £50 hence an alignment was needed in the London area as two different regimes could be impractical. ATOC also alluded that the proposal had stemmed from their Commercial Board and perceived that the £25/ single fare scenario would be a reasonable deterrent for short distance journeys; however they were conscious that Train Operating Companies had expressed reservations regarding implications for longer distance travel.

NXEA felt that the proposal was an unfair penalisation of the lower end of the market and that they would prefer £25 or twice the single fare if paid within 21 days. FCC (Keith Jipps) commented that similarities to car parking charges may be beneficial, an additional charge invoked after 21 days would incentivise people to pay promptly and reduce costs attributed to Revenue Protection services. Merseyrail summarised their stance by stating that they were content with the proposal and believed it would be a sufficient deterrent. Mike Carroll mentioned that as their network and fares are comparably smaller than their counterparts, Merseytravel had expressed disapproval to the implementation of this scheme in Merseyside. TfL (John Conway) imparted that as a result of their Penalty Fares scheme there was a significant number of prompt payments due to the concessionary window of 21 days. Their scheme had been influenced by a growing number of backlog prosecutions.

The Chair reminded everyone that the change in the rules would necessitate a statutory change hence industry and stakeholder consensus was vital. Michael Dollin reasoned that consistency with the TfL would be beneficial and would dispel confusion. London Travelwatch (Tim Bellenger) surmised that consistency in the two schemes was of paramount importance. He cited that the new East London Line would lead to a change in the ticketing structure and would have complications for example for the Freedom Pass, so a consistency of message for passengers was essential. Mark Smith (FCC) stated that there were already misconceptions of how this proposal would work consequently it would be difficult to explain to passengers. Southeastern (Siobhan Bradshaw) explained that under this proposal a penalty fare from Ashford to St. Pancras could be less than a fare so there was no incentive to purchase a ticket. London Midland clarified that the proposal was suitable for short distance journeys within the Birmingham area, but perhaps not for longer distance journeys. Centro elaborated that in the Birmingham area there were four train operators which could compound confusion for passengers. ATOC was wary that in the wider scope issues relevant to the National Rail Conditions of Carriage need to be addressed. The Chair summarised the comments and requested that ATOC in conjunction with the TOCS reflect and try to forge an amenable proposal within a reasonable timescale for further discussion.

### **3. Ticketing facilities at stations**

Passenger Focus initiated the discussion by informing that there was a general feeling amongst passengers that the ticketing system is not sufficiently transparent and passengers have difficulties in trying to buy the 'right' ticket. TSSA disseminated that there was also an impression amongst passengers that ticket office opening times were not suitable. London Travelwatch (Tim Bellenger) felt that if there are inadequate ticketing facilities that hinder the purchase of a ticket, in the event of imposing penalty fares, discretion should be shown to passengers and consequently a fare should be sought.

Southern disclosed that they operate a centralised message system which gives updated information about the status of TVM's and queues. NXEA confirmed that they have a similar system. Passenger Focus suggested that, in the event of horrendous queues and passengers subsequently missing trains, passengers should be directed to board trains. There was a feeling amongst the TOCs that this would encourage ticket-less travel.

ATOC revealed that at present retailing and TVM's were being analysed and that a good practice guide was needed, of late use of ticket offices had declined but despite this a good balance is needed to cater for people who still prefer the option. RPSS appraised that inspectors currently exercise discretion 80% of the time and that for appeals the same percentage are dismissed on the basis of factual proof such as length of queues that is provided by the LENNON system. The Chair felt that transparency was needed to dispel the impression amongst passengers that TOCS were insensitive. There was a feeling amongst the passenger bodies that the ticketing system was too complex, not enough discretion was granted to passengers and that investment in user-friendly technology should be a viable option. The TOCS were of the consensus that although more customers are moving towards ticket-less travel and that there are a variety of ways to buy a ticket, direct assistance should not be discarded.

Southeastern (Siobhan Bradshaw) stated that people should not be sold ticket on trains, if this becomes the case then the system has failed, a system should be in place that would eradicate ticket-less travel. TSSA questioned whether there were financial incentives for inspectors; this was refuted by TOCS' representatives. There was further discussion emanating from CENTRO'S assertion that penalty fares should not be issued to customers who had difficulty buying tickets at unstaffed stations. There was a feeling amongst some of the TOCS that the introduction of PERTIS machines had somewhat alleviated this problem. CENTRO also highlighted the problems faced in rural areas where passengers have to buy an initial permit to travel as verification of intent to buy a valid ticket.

#### **4. Discretion in Penalty Fares Schemes**

RPSS suggested that the public needed to be made aware of the Penalty Fare/ Strict Liability correlation. London Travelwatch (Bryan Davey) mentioned that there have been instances where season ticket holders leave tickets at home and that the discretion toward them by TOCS was not consistent. ATOC commented that at present the season ticket database was not fit for verification purposes and refunds were issued where season ticket proof was submitted. There was also conformity about the lack of consistency regarding the adoption and implementation of the Penalty Fares Scheme by all TOCS. RPSS conveyed that 90% of season tickets appeals are upheld. It was emphasised that discretion underpinned the rules and that Penalty Fares were not target driven. The single ticket was subject to strict liability, the weekly ticket was difficult to police as there is no record, consequently singles and weeklies should be treated in the same manner. TfL (Jamie Cole) gave a break-down of statistics regarding appeals, the first stage was handled by IAS, the second by in-house staff who had more resources and the third would be carried out by an independent body that would tend to exercise more discretion. There was also a brief discussion regarding the use of 1st class carriages when standard ones become congested. The passenger bodies felt that a degree of discretion should be exercised. FCC (Keith Jipps) responded that short formed trains could be subject to discretion but not standard trains, there was acknowledgement that due to fleet deployment some trains had to run first class carriages where no first class fares applied

Michael Dollin inferred that there needed to be a parallel between the actual rules and customer relations and if people fell between the two, the prerogative should be with the TOCS as they have a relationship with the customer. London Travelwatch (Bryan Davey) felt that the restrictions were not understood and that the industry needed to be more sensitive and make things less complex.

## **5. National Rail Conditions of Carriage interchanging with Penalty Fares Rules**

The alignment of Penalty Fares with 12 (b) of the NRCOC, the inability of imposing penalty fares for passengers off-route and the lack of NRCOC guidelines regarding transferability was discussed. ATOC indicated that the rule is that a season ticket cannot be transferred, if it is, the implication is that an individual is travelling without a ticket so the penalty fare is implemented. ORR commented that the lack of conformity of NRCOC with other financial agreements such as a bank loan was that the NRCOC were outside the sphere of contract terms. RPSS queried the interpretation of customers boarding from ticket-less stations. ATOC responded that the legal basis needed to be clarified.

## **6. Multi-Operator area schemes**

Centro briefed that the West Midlands was a multi-usage area for TOCS and a good customer relation gesture would be to relax the penalty fares scheme because of the complexity passengers face. The Chair elaborated that consistency and transparency in a geographical area would be a positive step and that this would be achieved by co-operation amongst the TOCS. ATOC explained that different TOCS operate different types of services resulting in a disparity in implementation and particularly in London where confusion of schemes had the potential to pave the way for litigation. RPSS stated that this could be alleviated if the TOCS operating in the London area should share a contractual notice. ATOC also opined that the unnecessary complication had emerged over the years and a simple scheme would be beneficial to industry and stakeholders.

London Travelwatch (Bryan Davey) gave an example of Farringdon Station where the full ranges of fares are not available which show the restrictions of joint-ticketing stations. There was consensus that in light of the West Midlands problem, an area scheme proposal may be beneficial which would be based on joint management from TOCS which the Dft would be content to facilitate.

## **7. Penalty Fares Appeals administration**

London Travelwatch (Bryan Davey) questioned why appellants are charged administration fees when they still haven't been notified of a decision within the 21 days. There also seemed to be an impression that administrative bodies were unresponsive to this unfairness towards passengers. ITAL (Gordon Hay) gave an insight into their policy which is that if payment is made within 21 days, there is no administration charge, if an appeal is prompted a time-suspend mode is invoked therefore ITAL are never demanding admin fees within the 21 day period. TfL confirmed that ITAL only impose administration fees if a payment or an appeal has not been made within the 21 days and that the time period sets in on the first day of receipt for an appeal.

RPSS/ IPFAS stated that in practice administration fees are only levied after 39 days. Michael Dollin asked whether if an appeal was upheld would there be an administration

fee, both ITAL and IPFAS confirmed that this was correct. There was a certain amount of ambiguity about what actually occurs in practice with London Travelwatch maintaining that there are instances where IPFAS prolong the matter and then demand administration fees. Furthermore there was uncertainty regarding if administration fees would be imposed if an appeal had been successful but the 39 days elapsed. RPSS/IPFAS confirmed that administration fees would be invoked in accordance with the legislation but such cases statistically were negligible. Furthermore RPSS/ IPFAS did not seem to invoke a time-suspend mode that ITAL implement for second and third appeals. ITAL (Diane Ormerod) re-iterated that they don't operate IPFAS policy and that they have a different contractual obligation with the TOCS. TfL felt that RPSS/ IPFAS's policy was commercially counter-productive as more costs would be incurred in trying to retrieve admin fees.

Michael Dollin suggested that perhaps successful appellants should have admin fees waived for second and third appeals. There was a general feeling that the imposition of admin fees when individuals are innocent is unfair and unjustifiable. The Chair suggested that a policy change should be considered to placate passenger's bodies concerns and to achieve a consistent approach.

## **8. Authorised Collectors Commission**

There was a consensus that TOCS do not reward collectors with commission for issuing penalty fares. A few operators did acknowledge that they operate a bonus system, a small percentage, for collectors who sell fares to passengers who did not have the opportunity to buy a ticket.

## **9. Connecting Services-Interchange**

London Travelwatch (Bryan Davey) disclosed that at Clapham Junction passengers were subject to impediments as a result of not being able to buy a ticket in the first instance. The expectation that a valid ticket should be owned that verified the journey from it's origin led to delays and invariably passengers missing trains. The Chair emphasised that this was common problem in relation to journeys emanating from rural areas and that the ensuing changing of operators complicated matters. ATOC felt that discretion in terms of penalty fares should be exercised when faced with such a scenario, this was supported by Southeastern. A discussion followed about what is reasonably practical and the genuine expectations passengers have of being able to buy a ticket at an interchange. There was a lack of consensus on this issue between the operators and the passenger bodies. However, it was noted that page 11 of the 2002 Penalty Fares rules should be retained for clarification with a view to a possible revising of some of the wording.

## **10. Industry best practice**

London Travelwatch (Bryan Davey) asked about the feasibility and acceptance of different types of payment that passengers make. Similarly, RPSS spoke of concerns about Oyster and queried whether the TOCS, DfT should promote the product and that consistency was amiss. ATOC responded that in terms of the Oyster product diligence may lead to a collective approach and that a review of the first six months of the Oyster London roll-out will take place. London Travelwatch (Bryan Davey) alluded that there was a fear that more complicated products may lead to more penalty fares. TfL confirmed that they were looking at other ticketing products for the future.

The Chair concluded the meeting by summing up that diverse views presented were a stimulus to the discussion and thanked the participants for attending. He noted that whilst there had been some consensus on some issues a re-appraisal on outstanding issues within a reasonable time-scale would be appreciated.

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