

Rail industry needs a fairer approach on tickets

Revenue protection systems are too draconian and fail to distinguish between fare dodgers and people who have made a genuine mistake with their ticket. They need to be overhauled for the 21st century



Earlier this month Passenger Focus renewed its call to the rail industry to play fair with passengers who don't have a "valid" ticket.

At the same time, we were pleased to see the Department for Transport launch a consultation on an overhaul of the rail penalty fare appeals system.

The proposals outlined by the department will make appealing against penalty fares fairer and more transparent. These are things we have been pushing for over the last three years.

Passenger Focus has always taken the view that everyone should buy a ticket when travelling on the railways. Passengers who avoid paying their fare are in effect being subsidised by the vast majority of fare-paying passengers. We agree that train operators should take steps to stop those who deliberately try to avoid paying. But what about the honest passenger who simply makes a mistake?

In response to a growing number of complaints from passengers we looked closely at the processes and protection surrounding ticketless travel. Our subsequent report, *Ticket to Ride?*, was published in May 2012 and set out a number of concerns along with a series of recommendations.

Since its publication we have continued this work. The need for change seems to have been accepted by the industry, though there is still much debate about what form this should take. Some improvements have been made, but many thorny issues still need to be resolved.

Some individual train companies have made changes. An Association of Train Operating Companies working group is grappling with many of the issues.

But it appears that some problems are systemic and that there is a need to address the causes as well as treating the symptoms.

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tion system was designed in another age and it is time to update it. We want it to serve the needs of the industry and passengers of the 21st century.

We believe this means removing the existing three-tier system of penalty fares, unpaid fares and byelaw prosecutions and creating a single, unified process with common procedures, forms, and appeal mechanism, plus a common training programme to ensure consistent application.

Some of these issues are complex and will require time and application, but some changes can and should be undertaken promptly.

Areas for immediate focus include ensuring consistency of approach for penalty fares and

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unpaid fares. The principle of no loss—no penalty must underpin revenue protection activity. No criminal prosecution should be brought or threatened where there has been no revenue loss to the operator (and therefore no gain to the passenger). The most obvious examples are when a railcard has not been presented at the time of the ticket inspection but can subsequently be proved to have been held; failing to print print-at-home tickets; and not having all parts of a ticket but where a receipt or bank statement can show it had been bought.

Where a passenger has a clear proof of purchase or entitlement there should be a set procedure, including timescales, for producing evidence and receiving the reimbursement of additional charges or revoking penalties.

The bodies assessing appeals should be audited on a regular

basis to assess compliance with the relevant criteria and the results made public. Appeals bodies should not be allowed to add administration charges when an appeal is upheld. If an appeal is lost the passenger should be informed and given a period in which to pay before any admin charges for non-payment can be added.

The Government needs to set out guidelines controlling the use, and threat, of prosecutions under the rail byelaws. Passengers should not face criminal prosecution without proof of intent to defraud. In the longer term, this means removing the ability to prosecute without proof of intent—in line with previous moves to decriminalise parking offences.

However, this would require legislation. In the interim we would like to see letters sent to passengers about prosecution or offering a settlement in lieu of prosecution not using intimidatory language or tone. The practice of threatening imprisonment under the Regulation of the Railways Act (which would require proof of intent) must not be used when seeking settlement of something that would otherwise be pursued by the byelaws.

Non-payment of a penalty fare should not be transmuted into a criminal prosecution. Debt collection is usually a civil action and yet the railway uses threats of criminal law, including imprisonment, to “encourage” payment of a debt.

“Rail companies told to stop treating passengers ‘like criminals’” ran the front page headline of the *Metro* newspaper on 3 February. The industry must find a way to provide a safety net for honest passengers making genuine mistakes within its revenue protection policies. Until then Passenger Focus will continue to press operators, ATOC and the DfT to find solutions to these issues.

Anthony Smith is chief executive of Passenger Focus.