



Revenue Enforcement & Prosecutions Policy



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I. Introduction

Transport for London (TfL) is committed to a fair and proactive approach in preventing and reducing the level of offending on its services, including offences of fare evasion and work-related violence against its employees carrying out their duties. TfL will proactively protect the safety and security of our services, passengers and staff.

In exercising our power to prosecute, we are acting not only pursuant to our statutory objectives, but also in the interests of justice and the public at large. Our objective in prosecuting is not to seek a conviction at all costs; rather we will approach each stage of the process in a fair, balanced and impartial manner. Each case will be reviewed and, where appropriate, prosecuted, ensuring that the law is properly applied, that all relevant evidence is put before the court, and that all obligations of disclosure are complied with.

TfL may prosecute perpetrators of such offences and may share details of convicted offenders with other transport companies and the Police for effective enforcement intelligence against persistent offenders. TfL may also publish the names of convicted offenders to serve as a deterrent to others.

This policy outlines the approach to be followed in the consideration and enforcement of offences in accordance with relevant legislation, regulations and byelaws. TfL will also have due regard to the Code for Crown Prosecutors.

TfL recognises that the decision to prosecute is a serious one and will ensure all relevant mitigating factors are taken into consideration before any such decision is taken. The system of prosecution of offences set out in this policy seeks to be robust, effective, consistent, and, above all, fair.

This policy may be supported by procedural documents, providing guidance to Prosecutors in reaching the decision to prosecute or to dispose of matters by alternative means.

This policy applies to prosecutions led by TfL. The principles of this policy will also form the basis of revenue enforcement policies operated by Concessionaires.



2. General Principles

- 2.1 Fare evasion on TfL Rail and Underground services is contrary to the provisions of the Regulation of Railways Act 1889 and the TfL Railway Byelaws.
- 2.2 Fare evasion on London Buses is contrary to section 67 of the Public Passenger Vehicles Act 1981 and paragraph 7 of The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990.
- 2.3 Where a conduct arising from fare evasion is subsequently considered to have resulted in a fraud, TfL will consider whether it is more appropriate to prosecute under the Fraud Act 2006 or any other relevant legislation.
- 2.4 Assault against TfL group employees is unpleasant in whatever form and constitute an offence contrary to the Criminal Justice Act 1988 and the Offences against the Person Act 1861.
- 2.5 In addition to the statutory definition, assault can also include *“any incident in which persons are abused, threatened or assaulted in circumstances relating to their work and which constitutes an explicit or implicit threat to their safety and general wellbeing”*.
- 2.6 Penalty Fares may also be issued in appropriate cases, in accordance with Schedule 17 to the Greater London Authority Act 1999.
- 2.7 Each case is unique and will be considered on its own facts and merits. There are, however, general principles that apply to the way in which TfL Investigators/Prosecutors will approach each case.
- 2.8 TfL Investigators/Prosecutors are trained to a high standard and have the competence to act fairly, objectively and without prejudice to ethnic origin, gender, religion, political beliefs, sexual orientation or age of suspected offenders.
- 2.9 TfL Investigators/Prosecutors will endeavour to ensure the right perpetrator is identified and prosecuted for the offence. In so doing, prosecutions must always be conducted in accordance with the principles set out in this policy and local procedural manuals.
- 2.10 In considering the decision to prosecute, TfL operational officers submit cases to the Prosecutions team for their review. A member of the team will then take a decision on whether or not to prosecute the case depending on the facts and circumstances. The Prosecutor must seek



to rely on relevant and admissible evidence having regard to matters of disclosure, in accordance with the provisions of the Criminal Procedure and Investigations Act 1996 and the Attorney General's Guidelines on disclosure of evidential materials.

- 2.11 TfL is bound by the provisions of the Human Rights Act 1998 and Investigators/Prosecutors must have regard to the principles of the European Convention on Human Rights in accordance with the Act.
- 2.12 TfL will comply with the General Data Protection Regulations and the Data Protection Act 2018 in relation to all aspects of investigations and prosecutions. This includes the collection of personal data and its retention, disclosure and other processing. It is to be noted that personal data will not be disclosed to third parties except in accordance with the law.

3. Types of Offences

- 3.1 TfL will prosecute the following offences:
 - a) All Passenger and fare evasion offences in contravention of the Regulations of Railways Act 1889 and TfL Byelaws.
 - b) All passenger and fare evasion offences in contravention of the Public Passengers Vehicles Act 1981 and the Public Service Vehicles (Conduct of Drivers, Investigators, Conductors and Passengers) Regulations 1990.
 - c) Offences under The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020
 - d) All other offences perpetrated against TfL's interests including employees and assets.
 - e) TfL may also seek an injunction or a Criminal Behaviour Order under the Anti-Social Behaviour Crime and Policing Act 2014 against any person whose behaviour is found to have caused or is likely to cause any TfL employees or passengers using TfL services or on TfL premises, harassment, alarm or distress.



4. Who will prosecute?

- 4.1 Offences listed in paragraph 2.1 above will normally be prosecuted by TfL Approved Prosecutors.
- 4.2 **This policy is restricted to those prosecutions that are conducted by TfL and plays no part in the process of prosecution applied by the Crown Prosecution Service.**

5. Young Offenders

- 5.1 TfL will not normally prosecute any person under the age of 18 on the day of the relevant offence. This is in line with the Home Office guidelines of diverting youths, where possible, away from the criminal justice system. However, where the offence is of a serious nature, TfL may prosecute or in appropriate cases refer such an offence to the Police.

TfL considers the following offences to be of a serious nature:

- a) Assaults on staff or other Public Order offences
- b) Offences under The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020
- c) Criminal damage to TfL property
- d) Forgery and counterfeiting of TfL travel tickets and passes
- e) Illegal production/reproduction or sale of TfL travel tickets and passes
- f) Using valued passes issued to TfL Employees / Freedom pass holders
- g) Repeat offences of any nature or offences committed after a previous warning.
- h) Breach of an Injunction or Criminal Behaviour Order under the Anti-Social Behaviour Crime and Policing Act 2014.

- 5.2 TfL will consider all offences objectively in deciding whether to prosecute. Youth offenders will be prosecuted in accordance with the TfL prosecution criteria contained in this policy after taking all surrounding factors into consideration including necessary Home Office guidelines.

- 5.3 Where TfL has established proper restorative process liaisons with local Youth Offending Teams (YOT), youth offenders may be diverted accordingly. TfL will participate in the YOT scheme aimed at preventing future youth offences. Repeat young offenders will be processed in accordance with this policy and with due regard to the Home Office Final Warning Scheme.



- 5.4 Passengers in receipt of concessionary travel from TfL will be subject to the agreed TfL Behaviour Code associated with the concessionary travel scheme. A breach of the TfL Behaviour Code could lead to enforcement action taken against the holder of the concessionary travel pass ranging from temporary to a permanent withdrawal of the concession depending on severity. For full details of the Behaviour Code and consequences of breach, please refer to TfL's Zip Enforcement and Appeals policy on the TfL website at www.tfl.gov.uk

6. Decision to prosecute

Fair and effective prosecution is essential to the maintenance of law and good practice – prosecution punishes wrongdoing, deters repetition and acts as a warning to others.

- 6.1 It is recognised that the decision to prosecute a person suspected of an offence is an important and serious one. TfL will therefore only prosecute if:
- a) The evidence shows that there is a realistic prospect of conviction; and
 - b) It is in the public interest and in the interest of justice to prosecute.

6.2 The Evidential Test

In deciding whether there is a realistic prospect of conviction, the Prosecutors will have regard to the following:

- a) Relevance and Admissibility of available evidence
- b) Reliability of evidence relating to the identity of the alleged offender
- c) Reliability of evidence of any observation of the alleged offender
- d) Reliability of any admissions and confessions including comments as recorded in the Investigators original notes or in the Travel Irregularity Report as the case may be
- e) Reliability of Prosecution Witnesses

If TfL considers that there is insufficient evidence upon which to base a prosecution, no prosecution will be brought. Consideration may however be given to other responses, such as to dispose of the matter by way of a Warning in appropriate cases.

6.3 Public Interest and Interest of Justice

Even where the evidential test has been satisfied, the prosecution of an alleged offence must be in the public interest and in the interests of justice, i.e. must be seen to be appropriate, fair and properly brought. There can be no definitive guidance as to when it may not be in public



interest or in the interest of justice to prosecute an alleged offence, as each case will turn on its own individual merit.

7. Injunction or Criminal Behaviour Order under the Anti-social Behaviour Crime and Policing Act 2014

- 7.1 TfL will continue to work closely with Police partners to pursue Criminal Behaviour Orders against individuals that commit offences on TfL services in accordance with the Anti-social Behaviour Crime and Policing Act 2014.
- 7.2 TfL may seek an injunction where perpetrators have acted in an anti-social manner on or in relation to any land or vehicles used in connection with, or for the purposes of, the provision of any relevant transport service.
- 7.3 For the purposes of the Anti-social Behaviour Crime and Policing Act 2014, relevant transport service includes a bus service, tramway, cable, river transport or train service provided by TfL or any of its subsidiaries or by any person pursuant to an agreement with TfL.

8. Prosecution Criteria

- 8.1 TfL will have regard to the following factors in favour of prosecution:
 - a) The offender has a previous conviction for a relevant offence or where the offender has committed a similar offence on any of TfL or Train Operating Company services.
 - b) The offender has previously been issued a Penalty Fare on any of TfL or Train Operating Company services.
 - c) The offender has previously been issued with a Formal Warning by TfL
 - d) The offender has committed any of the offences of a serious nature as set out in paragraph 5.1 of this policy.
 - e) The offence occurred in an area or on a service known to occasion high revenue loss to TfL.
 - f) The offender has failed to pay for the service or failed to have sufficient Oyster card credit before boarding a relevant service¹
 - g) The offender has unlawfully used or transferred a Freedom pass, Staff Pass or other concessionary passes or travel documents issued to named holders other than the offender.

¹ Note: Relevant service refers to a service provided directly by TfL or Concessionaires



8.2 TfL will have regard to the following factors against prosecution

- a) Insufficiency of evidence
- b) Where it appears that there has been a genuine mistake of fact ² by the alleged offender
- c) Age of the offender.
- d) The offender's mental health supported by satisfactory medical proof from a Medical Expert in the relevant field.
- e) Where, owing to circumstances beyond the offender's control, commission of the offence was unavoidable.
- f) Where there is no realistic prospect of conviction.

8.3 TfL will have regard to the following factors in the decision to discontinue proceedings:

- a) New and compelling evidence not previously available to TfL and likely to undermine the case of the Prosecution or assist the Defendant's case.
- b) Insufficient evidence to proceed with the prosecution.
- c) Where the continuance of proceedings is likely to lead to an abuse of the process of the courts.
- d) Where continued proceedings are likely to be deemed malicious or in fact likely to be prejudicial to TfL's interest.
- e) Exceptional circumstances.
- f) Where the decision to discontinue is due to (e) above, the Appeals & Prosecutions Manager may set the terms and conditions for such withdrawal.

8.4 Where TfL takes the decision to discontinue a case on public interest grounds, the Defendant may be requested to pay the value of any agreed unpaid fares in relation to the discontinued proceedings. TfL may also issue proceedings in a county court for the recovery of agreed unpaid fares.

8.5 In exceptional circumstances, the Appeals & Prosecutions Manager (or those authorised by him) may withdraw a case against any person. What constitutes exceptional reasons will be determined on the facts of individual cases and the decision to discontinue a case can only be taken by the relevant Appeals & Prosecutions Manager.

² Note: It is not an acceptable mistake to believe erroneously that your Oyster card contains sufficient credit, or a failure/omission to validate an Oyster card, or to use another person's pass/ticket which is non-transferable when on any TfL services.



TfL may decide, in exceptional circumstances, to dispose of an offence by way of a Warning Letter³ in lieu of prosecution after considering several factors: -

- a) The offender has admitted the offence;
- b) The offender is willing to accept the warning;
- c) There must be sufficient evidence to provide a realistic prospect of a conviction if the offender were to be prosecuted;
- d) The offence is not one where a prosecution is required in the public interest
- e) There is likely to be a low risk of re-offending;
- f) Satisfactory mitigation has been provided;
- g) Referral of a youth offender to a Youth Offending Team.

9. Verification Letters

- 9.1 TfL Investigators/Prosecutors will send a Verification Letter to all those suspected of fare evasion or other offences. The Verification Letter invites the alleged offender to provide an explanation under caution for the alleged offence or to provide any comments about the alleged incident.
- 9.2 Any explanation/comments given by the alleged offender will be considered in arriving at the decision to prosecute.

10. Investigations

- 10.1 TfL Investigators will “caution” any suspect in accordance with the Police and Criminal Evidence Act 1984 (PACE), where questions put to the suspect are likely to result in admissions or confessions prejudicial to the suspect’s case.
- 10.2 Please note that questions merely establishing facts and relating only to a suspect’s identity, address and possession of a particular ticketing product are unlikely to trigger a caution within the meaning of PACE.
- 10.3 In administering the caution to a suspect, the TfL Investigator will read out the caution and ask if the suspect understands. If the answer is 'no' the Investigator will then explain the caution as simply as possible and then ask again if the suspect understands. Any reply to the caution must be recorded in the Investigator's notebook or any other recording medium used for this purpose.

³ Note: Depending on the circumstances of each case, TfL reserves the right to proceed to prosecution without issuing a Warning Letter.



11. Disclosure

- 11.1 TfL Investigators/Prosecutors will have regard to the Criminal Procedure and Investigations Act 1996 and the associated Code of Practice in the disclosure of prosecution materials.
- 11.2 TfL Prosecutors will endeavour to retain and preserve evidence that may be relevant to a prosecution, whether or not that evidence is to form part of the prosecution case.
- 11.3 TfL recognises that the rules of disclosure in Magistrates' Court are less formal in comparison to disclosure rules in the Crown Court. However, in the interest of justice, TfL will endeavour in all cases to adopt a consistent approach to disclosure by disclosing prosecution materials in advance of any hearing and in any event in accordance with the Criminal Procedure Rules.

12. Policy Owner

- 12.1 This policy is owned by the TfL Director of Compliance, Policing & On-street Services (CPOS).
- 12.2 This policy will reside with the following TfL officials who will be responsible for responding to all policy related queries in the first instance:
 - a) Senior Enforcement & Prosecutions Manager CPOS
 - b) Appeals & Prosecutions Manager CPOS

13. Policy Review

- 13.1 This policy will be reviewed periodically to reflect any changes in the law, regulations, Byelaws or any TfL policies in force at the time. Any amendments will be reflected in the policy and published as appropriate.
- 13.2 TfL will publish a copy of this policy on its official website and will provide a copy on request in appropriate cases.