



---

## Penalty Fares Policy

---

### Table of contents

- [1 Introduction](#)
- [The need to protect revenue](#)
- [What are 'penalty fares'?](#)
- [What is the role of the SRA?](#)
- [The purpose of this document](#)
- [2 Background](#)
- [Origins](#)
- [The Railways Act 1993 and Transport Act 2000](#)
- [The Railways \(Penalty Fares\) Regulations 1994](#)
- [The Penalty Fares Rules 2002](#)
- [Penalty fares schemes](#)
- [Penalty fares on the London Underground](#)
- [3 The SRA's role](#)
- [4 How we will decide whether to approve a penalty fares scheme](#)
- [Is a penalty fares scheme appropriate?](#)
- [Basic conditions](#)
- [Penalty fares trains](#)
- [Penalty fares stations](#)
- [Compulsory ticket areas](#)
- [Ticket facilities](#)
- [Unstaffed stations](#)
- [Publicity](#)
- [Warning notices](#)
- [Authorised collectors](#)
- [Selecting and training authorised collectors](#)
- [Instructions given to authorised collectors](#)
- [Checking that ticket facilities are available and warning signs are displayed](#)
- [Selling tickets on penalty fares trains](#)
- [Arrangements between operators](#)
- [Appeals](#)
- [The Independent Penalty Fares Appeals Service \(IPFAS\)](#)

- [5 Guidelines for operators who want us to approve a scheme](#)
  - [Informal discussion](#)
  - [Formal notice](#)
  - [Description of the scheme](#)
  - [6 Changing, suspending or withdrawing a scheme](#)
  - [Changing a scheme](#)
  - [Withdrawing a scheme](#)
  - [Suspending a scheme](#)
  - [7 When the SRA may prevent an operator charging penalty fares](#)
- 

## 1 Introduction

### The need to protect revenue

1.1 Each year, the UK rail network carries 750 million passengers and earns over £3 billion from the sale of tickets. Even if only a small percentage of these passengers travel without paying, the rail network will lose a considerable amount of money. Reducing the number of people who travel without a ticket is not only in the interests of the operator, but also in the interests of most fare-paying passengers. Few of us want to pay more for our tickets because some people avoid paying, and the loss of income due to people travelling without tickets reduces the money available to invest in a better rail service.

### What are 'penalty fares'?

1.2 Train operators can reduce the number of people who travel without a ticket in a number of ways. On long-distance trains, it is often possible for the on-board staff to check every passenger's ticket. On rural routes, trains stop more often, but as they usually have fewer coaches and carry a smaller number of passengers, on-board ticket checks can also be effective. However, on urban and suburban routes, where station stops are frequent and the trains are often busy, it is not always possible to check every passenger's ticket between every station. In the past, tickets have been inspected by staff at ticket barriers, but it is very expensive to provide staff at every ticket barrier and also inconvenient for passengers. An alternative is to operate a 'penalty fares' scheme.

1.3 A penalty fares scheme works on the same principle as a 'pay and display' car park, where motorists may have to pay a penalty if they do not buy a ticket when they park. Where penalty fares apply, rail passengers must buy their tickets before they start their journey wherever there are facilities for them to do so. If a passenger gets on a train without a ticket at a station where ticket facilities are available, they will have to pay a penalty fare if asked to do so by a ticket inspector who has been appointed as an 'authorised collector'. The penalty is £10 or twice the full single fare from the station where the passenger got on the train to the next station at which the train stops, whichever is the greater. If the passenger wants to travel beyond the next station, they must also pay the relevant fare from that station to their final destination.

## What is the role of the SRA?

1.4 To protect fare-paying passengers, all penalty fares schemes must follow a set of regulations made by the Secretary of State and a set of rules made by the Strategic Rail Authority (SRA). Under the rules, any operator who wants to charge penalty fares on all or part of their network must send us details of their scheme and get our approval. We will make sure that they follow the rules, regulations and the contents of their scheme.

## The purpose of this document

1.5 This document explains our policy on penalty fares, and sets out how we will decide whether or not to approve a particular penalty fares scheme. It is written to help train operators' staff design and operate a penalty fares scheme, and for members of the public and other people who want to know how we protect the interests of rail users where penalty fares are charged. **You should read this policy statement with the SRA's Penalty Fares Rules 2002, which can be found in appendix A.**

## 2 Background

### Origins

2.1 A penalty fares system was first developed in the late 1980s by the Network SouthEast sector of British Rail (BR), as a way to protect revenue in its particular circumstances. As well as reducing the expense of inspecting tickets at ticket barriers, BR also wanted to reduce the number of cases that were referred to the courts. Before penalty fares were introduced, the only way to deter people from travelling without a ticket was to prosecute them under the Regulation of Railways Act 1889. This was time-consuming, costly and often ineffective. For a prosecution to be successful, it had to be proved that the passenger intended to avoid paying. This was often difficult as most passengers without tickets were willing to pay if they were challenged, but did not pay if they were not challenged.

2.2 The British Rail (Penalty Fares) Act 1989 allowed BR to name particular train services or areas at stations in which people without a valid ticket would have to pay a penalty. Nine Network SouthEast divisions introduced penalty fares schemes under this act between 1990 and 1994, and each scheme was approved by the Secretary of State for Transport as required by the legislation. The system included a right of appeal to an organisation within BR which was independent of the management of individual penalty fares schemes. For people who regularly travelled without a ticket, BR kept the right to prosecute them in the courts as before.

### The Railways Act 1993 and Transport Act 2000

2.3 When the railways were restructured for privatisation, section 130 of the Railways Act 1993 ('the Act') became the new legal basis for charging penalty fares. The Railways Act allows the Secretary of State to make regulations in connection with penalty fares, and the regulations allowed the Regulator to make rules. Section 130 of the Railways Act is still the legal basis for charging penalty fares, but in February 2002 the Transport Act 2000 transferred responsibility for making rules to the Strategic Rail Authority. There is a copy of section 130 in appendix C.

## **The Railways (Penalty Fares) Regulations 1994**

2.4 The Secretary of State has made regulations, as allowed by the Act, known as the Railways (Penalty Fares) Regulations 1994. These came into force on 1 April 1994 and set out (amongst other things):

- the amount of the penalty fare (currently £10 or twice the full single fare from the station where the passenger started their journey to the next station at which the train stops, whichever is the greater);
- that operators may recover unpaid penalty fares as a civil debt;
- that passengers may be charged a penalty fare or prosecuted for a given offence, but not both; and
- that it is an offence for a passenger to refuse to give his or her name and address if an authorised collector asks them to do so. The regulations set an appropriate level of fine for this offence.

The regulations allow us to make rules about charging penalty fares on matters other than these. There is a copy of the regulations in appendix B.

## **The Penalty Fares Rules 2002**

2.5 We have made rules about charging penalty fares, as we are authorised to do by the Act and the regulations. The current rules are the Penalty Fares Rules 2002 (the 'Rules'), which came into force on 1 May 2002. They replace the Penalty Fares Rules 1997 which were introduced by the Rail Regulator on 28 April 1997.

2.6 Under the rules, any operator who wants to charge penalty fares must send us details of their scheme and get our approval. The rules set out the circumstances in which passengers may or may not be charged a penalty fare, and they make a number of requirements about how penalty fares are charged. The rules allow us to stop operators charging penalty fares, either completely or in part, if the operator fails to follow any of the rules or regulations, or if we believe that penalty fares are being charged in a way which does not provide sufficient protection for passengers. There is a copy of the Penalty Fares Rules 2002 in appendix A.

## **Penalty fares schemes**

2.7 At the time of writing, the following train companies have a penalty fares scheme which we have approved on all or part of their network.

- Connex South Eastern (inner suburban area only)
- SouthCentral (inner suburban area only)
- South West Trains (inner suburban area only)
- Thameslink (Bedford to Redhill only)
- First Great Eastern (most routes other than paytrain lines)
- c2c Ltd (all routes)
- Arriva Trains Merseyside (most stations, but this scheme is currently suspended)
- Thames Trains (West Drayton to Paddington and branches only)
- Central Trains (Birmingham area only)
- Nexus (Tyne & Wear Metro) (all routes)
- Chiltern Railways (all routes)

- West Anglia Great Northern (all routes except passengers to and from Stansted Airport)
- Arriva Trains Northern (Leeds area only)

## **Penalty fares on the London Underground**

2.8 London Underground Limited (LUL) also has a penalty fares scheme. However, the basis for this scheme is the London Regional Transport (Penalty Fares) Act 1992 and the Greater London Authority Act 1999. We have no authority over the Underground penalty fares scheme, which is not covered by this policy or by the Penalty Fares Rules.

## **3 The SRA's role**

3.1 We believe that train operators should be responsible for protecting their own revenue, as they have a direct incentive to make sure that their procedures are effective. Each train operator must devise its own revenue protection strategy, and decide for themselves whether this should include a penalty fares scheme. We do not intend to either promote or discourage the operation of penalty fares schemes.

3.2 A penalty fares scheme reverses the normal 'burden of proof' which would apply if a person was prosecuted for not paying their fare. In that case, the train operator would have to prove beyond reasonable doubt that the defendant intended to avoid paying their fare. Under a penalty fares scheme, anyone found without a valid ticket must normally pay a penalty, if they have previously been given the opportunity to buy a ticket and have passed the penalty fares warning signs. In this case, the passenger would have to show that they had a valid reason for not having a ticket. For this reason, we see our main role as making sure that the interests of honest passengers are protected, both in the way existing schemes are run and in the contents of any new schemes which we approve.

3.3 In protecting passengers' interests, it is very important that passengers know about penalty fares schemes and how they work. We believe that this will be easier to achieve if different operators' schemes are made more consistent. The amount of the penalty, the circumstances in which passengers are and are not liable to a penalty fare, and the way in which appeals are decided, have been consistent across all schemes for some time. However, other aspects of penalty fares schemes are different for different operators. We recognise that penalty fares schemes may need to be adapted to suit local circumstances, but we will encourage greater consistency between schemes.

3.4 We acknowledge that ticketless travel has a negative effect on fare levels and investment, and so has a negative effect on most passengers. Although our main aim is to protect honest passengers, we recognise that train operators need to protect their revenue if they are to provide an effective rail service.

## **4 How we will decide whether to approve a penalty fares scheme**

### **Is a penalty fares scheme appropriate?**

4.1 When considering a penalty fares scheme, we will first consider whether penalty fares are appropriate, given the type of train service provided and the other ways in which that operator could protect its revenue. A penalty fares scheme is most suited to urban or suburban train services where most stations have ticket facilities, and where busy trains and short intervals between stations make it impossible to

check every passenger's ticket between every stop. We may question the need for a penalty fares scheme to cover long-distance services, where a conductor is able to check every passenger, or rural services operated as 'paytrains', where most stations are unstaffed and it is normal practice to buy tickets on board the train. Also, automatic ticket gates are being used at more stations to control entry to the platforms. A penalty fares scheme might not be necessary if all, or almost all, of the stations concerned had these gates.

## Basic conditions

4.2 As long as we think that a scheme is appropriate in principle, we will assess penalty fares schemes according to the following basic conditions.

a **Passengers must be fully informed** before they get on a penalty fares train or enter a compulsory ticket area that they need to buy a ticket or permit to travel before starting their journey, and that they may have to pay a penalty if they do not.

b Passengers must be given a sufficient opportunity to buy a ticket or permit to travel before they get on a penalty fares train or enter a compulsory ticket area.

c Passengers must not be made to pay a penalty fare if they were not given the opportunity to buy a ticket or permit to travel before they got on a penalty fares train or entered a compulsory ticket area.

The following paragraphs describe the features which we think a penalty fares scheme must have in order to meet these basic conditions. We have come to this conclusion through consultation with passenger groups and train companies, and through experience of how penalty fares schemes operate, including industry best practice.

## Penalty fares trains

4.3 'Penalty fares trains' are the train services for which penalty fares may be charged. A train operator will normally name as penalty fares trains all the trains which it runs within a particular geographical area or on a particular route or routes. A train service does not have to be a penalty fares train for the whole of its journey. It will be a penalty fares train while it is within the specified area or travelling over the specified section of route, and will not be a penalty fares train on the part of its journey outside this area or section of route. In deciding which trains should be penalty fares trains, an operator should take account of the geography of the train service, the ticket facilities available at the stations which will be served and whether the area covered can be easily explained to passengers.

## Penalty fares stations

4.4 Passengers on a penalty fares train may only be charged a penalty fare if they got on that train at a station which has been named as a 'penalty fares station' by the relevant penalty fares scheme. At these stations, penalty fares warning notices must be displayed and sufficient ticket facilities provided.

4.5 Operators must normally name each of the stations served by penalty fares trains as a penalty fares station. For example, if all trains within an area bounded by stations x, y and z have been named as penalty fares trains, all stations within that area, including x, y and z, should normally be named as penalty fares stations. However, an operator may not want to include certain stations for a number of

reasons. For example, if the station:

- has no ticket facilities as it is unstaffed, and not enough passengers use the station to justify a ticket or 'permit to travel' machine (PERTIS);
- has no ticket facilities as it is unstaffed, and the amount of vandalism means that it is not practical to maintain an operational ticket or 'permit to travel' machine; or
- serves a port or airport and is used by a large number of foreign visitors and people who do not often travel by train, making it undesirable to charge penalty fares to passengers from this station.

Operators must make sure that if these stations are not made penalty fares stations, this does not cause confusion or make the scheme difficult to explain to passengers.

## **Compulsory ticket areas**

4.6 The Penalty Fares Rules allow an operator to create compulsory ticket areas (CTAs) at stations. A CTA is an area at a station, usually the platforms and any footbridge, subway or circulating area linking the platforms, in which everyone must have a valid ticket or platform ticket, even if they have not travelled yet or are not going to travel.

4.7 CTAs increase the risk to honest passengers because people who have not travelled, or who do not intend to travel, may also be charged a penalty fare if they do not have a platform ticket or other authority allowing them to enter the CTA. This could include people who are meeting passengers or seeing passengers off, or people who are simply using the station facilities. Operators do not need to create a CTA to charge penalty fares to passengers who have got off a train. Penalty fares may be charged to someone leaving a train, and the rules make it clear that 'a person leaving a train' includes someone who is present at or leaving a station having left a train arriving at that station. CTAs are only necessary at larger and busier stations, where revenue protection can only be carried out effectively if it is no longer necessary for authorised collectors to prove who has and has not got off a train.

4.8 A CTA should normally only be created if all the train operators using that station (or the particular part of the station covered by the CTA) have a penalty fares scheme. CTAs should not normally be created at stations (or parts of stations) that are served by trains which are not part of any operator's penalty fares scheme.

4.9 Warning notices must be placed at each entrance to the CTA, in line with rule 4. CTAs can cause confusion if there are no barriers at the entrance to the platforms because people think that they are free to walk onto the platforms without a ticket. So it is very important that a CTA is clearly marked so that people know they must have a ticket or platform ticket before they enter that area.

4.10 At stations with a CTA, operators must make arrangements for people who are not travelling to be allowed into the part of the station covered by the CTA, if they have a good reason. This includes people who are meeting passengers, seeing passengers off or helping them with luggage, people helping passengers with disabilities, and people such as railway enthusiasts. The arrangements might include making platform tickets available at the ticket office or from a machine. People who are helping passengers with disabilities should not be charged to enter a CTA.

## **Ticket facilities**

4.11 One of the SRA's three basic conditions for approving a penalty fares scheme is that passengers must be given a sufficient opportunity to buy a ticket or permit to travel before they get on a penalty fares train or enter a compulsory ticket area. Every penalty fares station must have sufficient facilities for selling tickets.

4.12 Where penalty fares apply, passengers must allow enough time to buy a ticket, including time to queue, if necessary. Under normal circumstances, passengers may still be charged a penalty fare if they join a train without a ticket, even if there was a queue at the ticket office or ticket machine. However, we expect operators to provide enough ticket windows, ticket machines and staff at staffed stations to meet the queuing standards set out in the Ticketing and Settlement Agreement and their Passenger's Charter under normal circumstances. This standard is normally five minutes at peak times and three minutes at other times. If queues at a particular station regularly fail to meet these standards at certain times or days of the week, the operator must either take action to sort out the problem before a penalty fares scheme is introduced or make sure that passengers are not charged penalty fares when these queuing standards are not met. This might include providing extra staff or ticket machines. A penalty fares scheme must include arrangements for telling authorised collectors when long queues build up at ticket offices (see paragraph 4.33).

4.13 At staffed stations, operators must provide a second way of selling tickets in addition to the ticket office. This might be a 'permit to travel' machine or one or more self-service ticket machines. This is necessary because the ticket office may not be open at all times when trains are running, and there may be times when the ticket office is closed because of staff sickness or for other reasons. There may also be a need to provide back-up at busy times when queues might build up. Arrangements must be in place for the machines to be checked regularly by station staff and any faults put right quickly. Arrangements must be in place for any 'permit to travel' machine to be switched on when the ticket office is closed, temporarily unstaffed, or when long queues build up.

4.14 In exceptional circumstances, an operator may not need to provide a second way of selling tickets, if the ticket office is open at all times when trains are running and suitable arrangements have been made to deal with problems such as staff sickness, for example, through a system of stand-by staff who can be sent to any ticket office which does not open when it should.

## **Unstaffed stations**

4.15 We do not recommend that large numbers of unstaffed stations are included in a penalty fares scheme. However, unstaffed stations can be penalty fares stations as long as they have at least one self-service ticket machine or one 'permit to travel' machine. Suitable processes must be in place to make sure that the machines are checked regularly and any faults put right quickly. A system must be in place which allows authorised collectors to confirm that these machines are working properly, and this must be effective. The instructions given to authorised collectors must tell them that if they are not sure whether the machines are working properly, they must give passengers the benefit of the doubt.

## **Publicity**

4.16 A penalty fares scheme will only be effective in reducing the number of people who travel without a ticket if passengers know about the scheme. The best way to prevent honest passengers having to pay a penalty is also to make sure that they know about the scheme. Operators must think carefully about how they will publicise their scheme, both before and after it is introduced, and must set aside enough money for this purpose.

4.17 Under rule 3, notices must be displayed at every penalty fares station, for at least three weeks before a new penalty fares scheme is introduced, to tell passengers about the scheme. Less than three weeks may not be enough warning for less regular travellers, but much longer periods should be avoided because the effect may wear off before the scheme is introduced. The format and content of the notices must be in line with rule 4.3.

4.18 As well as displaying the notices required by the rules, we expect operators to publicise a new penalty fares scheme in other ways. This should include posters, announcements on trains and stations, and perhaps adverts in newspapers and on local radio or television.

4.19 We expect operators to produce leaflets to explain their scheme to passengers. The leaflets must explain how the scheme works and must include a route map showing the routes on which penalty fares trains run, and the stations which are penalty fares stations or which have a CTA. The leaflets should normally be made available three weeks before the scheme is introduced at every staffed penalty fares station and by post from the operator's customer services department. Operators must produce enough leaflets (and must print more leaflets when necessary) to make sure that copies are always available from each staffed penalty fares station and from customer services for as long as the scheme continues. The leaflets may be used as the summary of the scheme which, under rule 8.4, the operator may be asked to send to a passenger who is charged a penalty fare.

4.20 Leaflets in large print or on audio tape must be available from the operator's customer services department for people who have poor eyesight. In areas where a large number of people do not speak English as their first language, or when the penalty fares scheme will cover stations serving ports and airports, operators may need to produce leaflets and notices in other languages.

## **Warning notices**

4.21 Penalty fares warning notices must be displayed at every entrance to a CTA and at every penalty fares station so that at least one notice can be easily seen by anyone joining a penalty fares train (rule 4 of the Penalty Fares Rules). The best way to do this is to place a warning notice at every entrance to the station platforms. The notices must be prominent, easy to read, and easy to distinguish from other notices and the general surroundings. The notices must give the name of the operator, the circumstances in which a penalty fare may be charged and the amount of a penalty fare. To make sure that warning notices are consistent between different operators, they must be in line with a code of practice approved by the SRA. The Association of Train Operating Companies (ATOC) has produced a code of practice which we have approved for this purpose

4.22 The warning notices must be in place when the scheme is introduced, and must stay in place for as long as the scheme continues. If the notices at a particular station are covered up, damaged or removed for any reason, passengers who join a train at that station cannot be charged a penalty fare (rule 7). For this reason, the notices must be checked regularly and operators should include a check in their routine station audits.

4.23 As well as the fixed notices required by the rules, penalty fares warnings should be shown in the departure information for each penalty fares train shown on customer information screens and indicator boards at stations. For example, **'Please buy your ticket before boarding as penalty fares apply to this train'**. This is especially important at larger stations, where penalty fares apply to certain trains but not others.

4.24 Another best practice is to display warning notices on trains, although this may not be possible if rolling stock is also used on routes where penalty fares do not apply.

## **Authorised collectors**

4.25 Penalty fares may only be charged by staff who have been appointed as 'authorised collectors' (rule 5 of the Penalty Fare Rules). Under rule 5, authorised collectors must carry formal identification, which should include a photograph and identify the authorised collector by either name or number. To make sure that the form of identification is consistent between different operators, it must follow a code of practice approved by the SRA. ATOC has produced a code of practice which we have approved for this purpose.

4.26 Authorised collectors and other staff who sell tickets on trains often receive commission on the value of the tickets they sell. Some operators also pay staff a small amount of commission (typically 5%) on the value of the penalty fares charged. We have no objection to this, as long as the percentage is small and the relevant instructions about the use of discretion and the circumstances in which penalty fares may or may not be charged are strictly followed.

## **Selecting and training authorised collectors**

4.27 Schemes sent to us for approval must explain the arrangements for selecting and training authorised collectors. Schemes must also explain the arrangements for giving authorised collectors 'refresher' training and regular briefing. Authorised collectors have the power to charge a penalty fare to passengers who do not have a valid ticket, but they also have the discretion not to charge a penalty in certain circumstances. Selection procedures must make sure that the people appointed as authorised collectors can handle this discretion, and the training must make sure that they know how to use it.

Authorised collectors must be properly trained in the Penalty Fares Rules and the relevant penalty fares scheme or schemes, ticket types and restrictions, excess fare instructions, the National Routeing Guide and the National Rail Conditions of Carriage. We also expect training to be given in customer care and how to avoid conflicts.

Each trainee must be assessed after training, and they may only be appointed as an authorised collector (and given the formal identification referred to in rule 5) when their knowledge and ability is judged to be satisfactory. As well as initial training, authorised collectors will need refresher training at sufficient intervals to keep their knowledge up to date. A system of routine briefing is also needed to make sure that

they are aware of day-to-day issues and events as they arise. We will need to be sure that these arrangements are satisfactory.

## Instructions given to authorised collectors

4.28 Operators sending us a scheme for approval must enclose a copy of the written instructions and information which will be given to each authorised collector, containing guidance and rules about their appearance, behaviour and use of discretion (rule 3 of the Penalty Fares Rules). The instructions must give authorised collectors the information they need about penalty fares trains and stations, ticket facilities and ticket office opening hours.

4.29 **When a penalty fare cannot be charged.** The instructions must make clear to authorised collectors when they can charge a penalty fare and when they can't. In particular, the instructions must remind authorised collectors of situations where passengers are not liable to a penalty fare under the Penalty Fares Rules, for example in circumstances where the National Rail Conditions of Carriage allow the passenger to pay an excess fare. The instructions must cover the following instances.

- **Interchange.** A passenger who changes onto a penalty fares train at a penalty fares station may normally be charged a penalty fare if ticket facilities were available at the interchange station and warning notices were displayed where they could be seen by anyone changing onto the penalty fares train. However, under condition 7 of the National Rail Conditions of Carriage, the full normal range of tickets must be made available to any passenger who started their journey at a station where no ticket facilities were available. In these circumstances, a passenger should not be expected to buy a ticket at the interchange station if they do not have enough time to do so without missing their connection. If it is not possible to check whether or not ticket facilities were available at the station where the passenger started their journey (which may be a station run by a different train company), a penalty fare should not be charged.
- **Ticket restrictions.** Many types of ticket cannot be used at certain times of day, on certain days of the week or on certain trains. These ticket restrictions can be complicated, and even familiar tickets such as cheap day returns can have different restrictions on different routes. If a passenger travels on a train on which their ticket is not valid, it is more likely that the restrictions were not properly explained to them than that they are deliberately trying to avoid paying the right fare. We believe that it is up to the train operators to make sure that each passenger understands the restrictions which apply to the ticket which they are sold. Under rule 7, a passenger may not be charged a penalty fare if he or she has a ticket for the journey which they are making that is not valid on that train only because of a ticket restriction. In these cases, the passenger only needs to pay the excess fare, in line with the National Rail Conditions of Carriage.
- **Ticket routing.** A passenger who has a ticket for the journey they are making, but who is using a route on which their ticket is not valid, may not be charged a penalty fare. The National Rail Conditions of Carriage allow the passenger to pay an excess fare to travel on a different route from that shown on their ticket.
- **Season ticket left at home.** We expect allowances to be made for season-ticket holders who, for one reason or another, fail to carry their season ticket or photocard. The system used by most operators is that a penalty fare notice will be issued, but no payment will be taken. On two occasions for each person in any 12-month period, the penalty fare will be cancelled when the passenger appeals. Some operators have procedures for cancelling penalty fares notices without having to go through the appeals process and we want to encourage this. The instructions given to authorised collectors must

explain what the authorised collector and the season-ticket holder must do in this situation.

- **Passengers travelling in first class accommodation with a standard class ticket.** Under the Penalty Fares Rules 2002, passengers who have standard class tickets but who travel in first class accommodation may be charged a penalty fare. This applies equally to season ticket holders and holders of tickets other than season tickets. However, a penalty fare may not be charged if permission to occupy first class accommodation has been given by a member of staff or by a notice.

**4.30 Using discretion.** Authorised collectors must be given the discretion not to charge a penalty fare in a particular instance, even where the passenger is liable to pay a penalty fare under the Penalty Fares Rules. Operators must think carefully about the guidelines they give to authorised collectors about how they should use this discretion. We expect authorised collectors to use discretion towards:

- passengers who have mobility problems and passengers who are frail, elderly or heavily pregnant, who may not be able to reach the ticket office easily at the station where they joined the train, particularly if this would involve a footbridge, steps or a long walk (frail, elderly, or heavily pregnant passengers may not be able to stand in a ticket queue for very long);
- passengers who are not aware of the scheme because they are blind or partially sighted, are a foreign visitor who lives abroad, do not speak English very well, or have learning difficulties;
- passengers who are travelling from stations where the only ticket facilities available are ticket machines or a 'permit to travel' machine, and who have enough money (or a credit or debit card) to buy a ticket but not in the form needed to use the ticket or 'permit to travel' machine;
- passengers who are travelling from stations where the only ticket facilities available are ticket machines and who claim that the machines were accepting coins only, or the exact fare only, and the passenger did not have the necessary coins (unless the authorised collector can confirm that the machines were in fact working normally);
- passengers who are travelling from a station where the authorised collector has been told that long ticket office queues have built up, or where fewer ticket windows are open than normal;
- passengers with standard class tickets who are elderly or pregnant and who are travelling in first class accommodation because no standard class seats are available; and
- all passengers when the train service is severely disrupted.

**4.31 Minimum payment.** The instructions must remind authorised collectors that passengers do not have to pay all of the penalty fare immediately. Authorised collectors may require the passenger to make a minimum payment that is equal to the normal fare payable for the journey which the passenger is making. However, passengers have 21 days in which to pay the rest of the penalty fare. The instructions must give authorised collectors the discretion not to require this minimum payment, but to allow passengers 21 days in which to pay all of the penalty fare. It may be appropriate to use this discretion towards season-ticket holders who have failed to carry their ticket (see paragraph 4.29), as well as towards people who are at risk.

**4.32 People at risk.** Authorised collectors must take special care with children and other vulnerable passengers, such as people who are elderly, frail or heavily pregnant. This is particularly important at night or on last trains. In particular, children or other people at risk must not be left without enough money to return home, for example, if they need a bus fare or money for a phone call when they reach their destination. In the case of children, if an authorised collector decides to charge a penalty fare, no payment should normally be taken on the spot. Instead, the authorised collector should tell the child to hand the penalty fare notice to his or her parents or guardian when they return home. In such cases,

authorised collectors must also be given the discretion to make the penalty fare notice valid for the child to travel to their final destination.

## **Checking that ticket facilities are available and warning signs are displayed**

4.33 Under rule 7, a person cannot be charged a penalty fare if there were no ticket facilities available at the station where they joined the train, or if the warning notices required by rule 4 were not properly displayed. If a passenger says that they could not buy a ticket or that there were no warning signs, an authorised collector must be able to check that the warning signs are in place and not covered up or damaged, and whether ticket machines are working properly or the ticket office is open. Authorised collectors also need to know when long queues build up at a ticket office so that they can use their discretion towards passengers travelling from that station. This is usually done by giving each authorised collector a mobile phone and a pager to keep them in contact with a central control centre. Arrangements must be made for station staff to contact the control centre if a ticket office closes early or if long queues build up, and to advise the control centre of any ticket or 'permit to travel' machines that are not working. Operators must explain how 'permit to travel' and ticket machines at unstaffed stations will be monitored.

## **Selling tickets on penalty fares trains**

4.34 The basic principle of any penalty fares scheme is that passengers must buy their tickets before they get on their train. If passengers find that they can buy their ticket on the train from the conductor or guard, it undermines this message. For this reason, we will not allow tickets to be sold on penalty fares trains unless either:

- a. the on-train staff are trained as, and act as, authorised collectors, so they can charge a penalty fare to any passenger who is liable for one; or
- b. the on-train staff issue a printed penalty fares warning, as well as a ticket, to any passenger who is liable to a penalty fare, and draw the passenger's attention to the warning.

In the case of (b), on-train staff must be given suitable training (and, when necessary, refresher training) in how the penalty fares scheme works, and how to issue these penalty fares warnings. A system must also be in place to make sure that on-train staff use the warnings properly. Where the warnings are issued using a portable ticket machine, such as 'SPORTIS', machine print-outs might be used to check that staff are issuing them. Any system must make sure that each individual conductor or guard is regularly monitored.

## **Arrangements between operators**

4.35 The operator of a penalty fares scheme may give the authorised collectors of another train company permission to collect penalty fares on its behalf. In line with rule 5, the identification which each of these authorised collectors carries must show that they are authorised to collect penalty fares on behalf of that operator. These authorised collectors must be given suitable training about the penalty fares scheme, including the relevant instructions and discretion guidelines which may be slightly different from those of the penalty fares scheme run by the operator which employs them. When a passenger is charged a penalty

fare, it must always be made clear which operator's penalty fares scheme applies.

4.36 Passengers travelling on the trains of another train operator cannot be charged a penalty fare if that operator does not have a penalty fares scheme, or if the authorised collector has not been authorised to collect penalty fares on behalf of that operator. The training and written instructions given to authorised collectors must make this clear.

## Appeals

4.37 A passenger may want to appeal against a penalty fare if they think that it has been charged incorrectly or unfairly, so an effective and independent appeals process is an essential part of any penalty fares scheme. However, we do not have the resources to deal with appeals ourselves, and we do not think it is appropriate for us to do so. Instead, under rule 9, every penalty fares scheme must include a process for handling and deciding appeals in line with a code of practice which we have approved.

4.38 We consider that an appeals procedure will need to have the following features if we are to approve it as part of a penalty fares scheme.

- **Independence.** The organisation deciding the appeals must be, and must be seen to be, independent of the day-to-day commercial management of individual operators. The cost of this organisation should be met by the operators, as it is part of the cost of using penalty fares as a way of protecting revenue. However, the funding of the appeals organisation should be independent of whether it accepts or turns down the appeals it processes.
- **Clear criteria for accepting or turning down an appeal.** We believe that appeals should be accepted in the following situations.

**If an operator has failed to meet the requirements of its scheme, the rules or the regulations.** For example, if warning notices were not properly displayed in line with rule 4, or the passenger could not buy a ticket because there were no ticket facilities available at the station where they joined the train.

**Where appropriate discretion has not been used.** For example, if the authorised collector has not used his or her discretion in line with the guidelines which he or she has been given.

In both cases, the staff who handle appeals must be given clear and specific criteria to decide whether a particular appeal should be accepted or turned down.

- **A consistent approach.** It is important for both passengers and operators to know that any appeal will be dealt with consistently. We believe that the best way to achieve this is to have a single appeals organisation. Appeals are unlikely to be dealt with consistently if each operator handles its own appeals.
- **Appropriately trained staff.** Staff who deal with appeals must have appropriate experience and training.
- **Access to the information needed to decide each appeal.** The appeals staff will need to assess whether the operator has failed to meet the requirements of its scheme, the rules and the regulations. To do this, operators must keep records of, for example, the actual opening hours of ticket offices, when ticket machines have broken down, and so on, and to give this information to the appeals organisation when it is needed. Appeals staff will also need to assess whether an authorised collector

has used his or her discretion in an appropriate way. To do this, arrangements will need to be made for authorised collectors and other staff to give their version of events to the appeals organisation when necessary.

Appeals must also take account of people's rights under the Human Rights Act 1998 and the European Convention on Human Rights. The appeal procedures must be compatible with these rights.

## **The Independent Penalty Fares Appeals Service (IPFAS)**

4.39 Every penalty fares scheme which has so far been approved has arranged for appeals to be dealt with by the Independent Penalty Fares Appeals Service (IPFAS), in line with the IPFAS code of practice. We have approved this code of practice for the purposes of rule 9.

4.40 IPFAS is managed by Connex SouthEastern Ltd, but as a separate unit whose management does not report to the commercial director. When the Regulator asked for opinions from the public and the rail industry a few years ago, most people agreed that appeals must be dealt with independently and consistently, but there was little agreement on what the practical arrangements should be. Some people questioned the need to change what was already in place. Without a practical alternative offering any clear advantages, we believe that the current arrangements are satisfactory, as long as IPFAS:

- remains a separate unit, with its own accounts and a line management that does not report to the commercial director;
- continues to decide appeals in line with a set of specific criteria which we have approved;
- continues to be funded independently of the outcome of the appeals it processes, for example, by receiving a set fee for each appeal, no matter whether that appeal is accepted or turned down; and
- continues to receive enough funding to carry out its functions, while costs are fairly distributed between operators using the service. To make sure that this is the case, we have agreed the charging arrangements between IPFAS and the operators who use the service.

4.41 We recognise that there may come a time when operators may want to change these arrangements. However, existing penalty fares schemes will need to be changed to reflect the new arrangements. We will need to be sure that the new arrangements are in place and are satisfactory before we approve any changes.

## **5 Guidelines for operators who want us to approve a scheme**

### **Informal discussion**

5.1 We strongly recommend that any operator who is considering introducing a penalty fares scheme should first discuss its plans with us informally. Operators should also discuss their plans informally with the relevant Rail Passengers Committee (RPC), any relevant Passenger Transport Executive (PTE), and any other train or station operator (including, if appropriate, London Underground) who will be affected. It is also good practice to advise the local British Transport Police. This will allow everyone to understand how the proposed scheme will work, and any possible problems can be sorted out at this stage. We are happy to provide guidance on draft penalty fares schemes, and we strongly recommend that a draft of the scheme is sent to us informally before the formal notice is sent.

## Formal notice

5.2 When informal discussions have been completed, and the operator is confident that there are no serious objections, a formal notice should be sent to us in line with rule 3 of the Penalty Fares Rules. Under rule 3, a formal notice must be sent to us at least three months before the date when the penalty fares scheme will be introduced. This is normally enough for us to approve the scheme and for the operator to give passengers the necessary three weeks' notice, as long as the scheme has been thoroughly discussed in draft form beforehand. If any major issues have still not been sorted out when the formal notice is sent, more time might be needed.

5.3 The notice must give the reasons for wanting to introduce a penalty fares scheme, which should include a brief description of the expected benefits and the reasons for selecting penalty fares over other possible ways of protecting revenue. The notice must give the date on which the operator wants to start charging penalty fares.

5.4 The operator must send copies of the notice to the relevant RPC and any PTE whose stations or trains are covered by the scheme.

## Description of the scheme

5.5 A description of the penalty fares scheme must be sent with each copy of the notice. We recommend that operators send this in a loose-leaf ring binder. This will make it easy to update the document if any changes need to be made before we approve it, or if the operator wants to make any changes at a later date under rule 11. Each page must carry a page number and the date of issue so that changes can be tracked.

5.6 The issues which the description of the scheme must cover are listed in rule 3 b of the Penalty Fares Rules. The guidelines which follow explain in more detail what we expect to be included under each of the headings listed in that rule. Operators must give enough detail for us to confirm that the scheme deals with each of the issues raised in that section.

5.7 A template penalty fares scheme is attached in appendix D, and we recommend that operators use this as the basis for their scheme. The template should be changed as necessary to reflect the details of the scheme.

### **'the train services which will become penalty fares trains for the purposes of the scheme'**

5.8 The description of the scheme must name the train services which are to be penalty fares trains. This may be done by area or by route, for example, 'All train services operated by [name of operator] within the area bounded by [list of boundary stations]' or 'All train services operated by [name of operator] on the following routes: station x to station y, station p to station q'.

5.9 A map or plan should be included showing the routes and area which the scheme will cover.

### **'the stations which will become penalty fares stations for the purposes of the scheme'**

5.10 The description of the scheme must list the names of the stations which will be penalty fares stations.

5.11 The description of the scheme must list any stations that are directly served by penalty fares trains but which will **not** be made penalty fares stations, giving the reason.

**'the stations where there will be compulsory ticket areas, and the location and extent of these areas'**

5.12 The description of the scheme must list:

- the name of any station where there will be a CTA;
- a brief description of the part of the station that the CTA will cover (for example 'all platforms and the footbridge');
- the reason why the CTA is necessary; and
- the arrangements that will be made to allow people who are not travelling to enter the part of the station covered by the CTA, if they have a good reason for doing so.

**'the ticket facilities available at each penalty fares station'**

5.13 The description of the scheme must give, for each penalty fares station:

- the opening hours of any staffed ticket office;
- the number and type of self-service ticket machines;
- the number of 'permit to travel' machines (PERTIS);
- the arrangements for switching on any 'permit to travel' machine when the ticket office is closed, temporarily unstaffed, or when long queues build up;
- the arrangements for checking ticket or permit machines, and putting any faults right; and
- confirmation that under normal circumstances, the queuing standards set out in the operator's Passenger's Charter and in the Ticketing and Settlement Agreement are met at that station, or, if they are not, a description of what will be done to make sure that the standards will be met in future or to make sure that passengers are not charged penalty fares when the standards are not met.

For each type of ticket machine, there should be a brief description of the range of ticket types sold by that type of machine, the number of destinations available and the methods of payment which are accepted.

**'the arrangements for publicising the penalty fares scheme and for displaying warning notices in line with rule 4'**

5.14 The description of the scheme must include:

- confirmation that notices will be displayed at each penalty fares station for at least three weeks before the scheme is introduced, in line with rule 3.4 (the wording of these notices should be attached to the description of the scheme);
- confirmation that staff (including platform staff, ticket office staff, traincrew and customer services staff) will be briefed on the scheme and how it will work;
- details of the planned publicity before the scheme is launched, including details of posters, announcements on trains and at stations, and any newspaper or radio adverts (if possible, the script of any announcement and the wording of any poster should be attached to the description of the scheme);

- confirmation that leaflets explaining the scheme will be produced and made available at each staffed penalty fares station at least three weeks before the scheme is introduced (the wording of the leaflet should be attached to the description of the scheme);
- a commitment to make sure that these leaflets are available at every staffed penalty fares station and from the operator's customer services department for as long as the scheme is in force;
- confirmation that large print and audio versions will be available from the operator's customer services department if passengers ask;
- confirmation that penalty fares warning notices will be displayed at every penalty fares station and at each entrance to each CTA in line with rule 4, and that these will follow a code of practice which we have approved (the wording and design of these notices should be attached to the description of the scheme);
- details of the arrangements for checking that the warning notices are properly displayed; and
- details of how customer information systems will be used to show penalty fares warnings for individual trains.

**'the procedures for selecting and training, and briefing and refresher training, the people who are to be appointed as authorised collectors'**

5.15 The description of the scheme must include:

- a description of the selection processes for authorised collectors (if a person specification will be used, it should be attached to the description of the scheme);
- a description of the initial training which authorised collectors will receive;
- the training standard, if training is to be given to a particular recognised standard;
- details of the procedures for assessing and certifying authorised collectors after training;
- a description of the arrangements for regularly briefing authorised collectors; and
- a description of the refresher training and re-certification of authorised collectors, including details of how often they will be given refresher training.

**'the systems and procedures to allow authorised collectors to check that ticket facilities are available and that warning notices are displayed at each penalty fares station for the purpose of rule 7'**

5.16 The description of the scheme must explain the arrangements for telling authorised collectors about ticket offices which are closed when they should be open, 'permit to travel' and ticket machines which are not working properly and ticket offices where long queues have built up. The description must include the opening hours of any control centre.

**'the arrangements for selling tickets on board penalty fares trains'**

5.17 The description of the scheme should normally say one of the following.

- a. The operator does not intend to train its on-train staff as authorised collectors. However, staff who are not trained as authorised collectors will not be allowed to sell tickets on board penalty fares trains unless they are accompanied by an authorised collector.
- b. The operator will train its on-train staff as authorised collectors. Any staff who are not trained as authorised collectors will not be allowed to sell tickets on board penalty fares trains unless they are accompanied by an authorised collector.

c. The operator does not intend to train on-train staff as authorised collectors. On-train staff will check and sell tickets on board penalty fares trains, but will give a printed penalty fares warning to any passenger who is liable to a penalty fare, and draw that passenger's attention to the warning.

5.18 In the case of penalty fares schemes which use the printed warnings described in c above, the following information must also be provided.

- The wording and a description of the printed warning, and details of how it will be issued.
- Details of the training which on-train staff will receive about the principles of the penalty fares scheme and how to use the printed penalty fares warning.
- Details of 'refresher' training which on-train staff will receive and how often it will be given.
- Details of the processes and procedures which the operator will use to make sure that each member of on-train staff issues the penalty fares warnings properly.

**'any arrangements which will apply between the operator and any other operator relating to:**

- collecting penalty fares at stations which are served by more than one operator; and
- charging penalty fares in connection with a compulsory ticket area at a station that is served by trains of more than one operator.'

5.19 The description of the scheme must name any penalty fares stations or stations with a CTA which are served by trains of other operators (including London Underground). If another operator does not have a penalty fares scheme covering trains calling at that station, the scheme must say that passengers without tickets getting on or off that operator's trains at that station will not be charged penalty fares, but will be dealt with in line with the current National Rail Conditions of Carriage.

5.20 If another train operator also has a penalty fares scheme which covers trains calling at that station, the description of the scheme must say whether authorised collectors will be allowed to collect penalty fares on behalf of the other operator and whether the authorised collectors of the other operator will be allowed to charge penalty fares under the scheme being proposed.

5.21 If another train company's authorised collectors will be allowed to collect penalty fares under the scheme being proposed, the description of the scheme must also set out the arrangements which will be made to train the other company's authorised collectors in the details of the scheme and to allow these authorised collectors to check that ticket facilities are available and warning notices are displayed at penalty fares stations.

**'the arrangements for processing and deciding appeals'**

5.22 The description of the scheme must explain the arrangements to be made for handling and deciding appeals in line with a code of practice which we have approved. At the time of writing this policy document, all penalty fares schemes use the Independent Penalty Fares Appeal Service (IPFAS) to deal with appeals. We have approved a code of practice which IPFAS follows when deciding appeals.

5.23 The description of the scheme must confirm that details of the scheme, including details of penalty fares trains and stations, ticket facilities and instructions given to authorised collectors, will be provided to IPFAS and updated when there are any changes.

**'... a copy of the written instructions and information which will be given to each authorised collector containing guidance and setting rules for their appearance, behaviour and use of discretion'**

5.24 Operators must send us a copy of the instructions which will be given to authorised collectors. The instructions must deal with each of the points made in paragraphs 4.25 to 4.32.

## **6 Changing, suspending or withdrawing a scheme**

### **Changing a scheme**

6.1 An operator may want to make changes to their scheme, for example, if it wants to alter the area covered by penalty fares trains or revise the instructions given to authorised collectors. A penalty fares scheme will also need to be changed if the circumstances described in the scheme alter, for example, if ticket facilities are to be reduced at any penalty fares station, or if a new train service to which penalty fares do not apply will start calling at a station with a compulsory ticket area. As with a new scheme, we recommend that the operator first discusses any changes with us, the relevant RPC and any PTE informally.

6.2 The procedure for changing an existing scheme is set out in rule 11 of the Penalty Fares Rules. The operator must send a summary of the changes, which should include a brief explanation of the reason for them, to us, the relevant RPC and any relevant PTE at least six weeks before the date on which the changes will be introduced. The summary must be accompanied by a revised and complete version of the description of the scheme which was originally sent to us for approval under rule 3. If this was sent to us in a loose-leaf ring binder, only replacement pages for the relevant sections of the description need to be provided, but any new pages must be clearly marked with the page number and date of issue.

6.3 We will consider the changes and the revised description of the scheme against the policy set out in section 4 of this document. In particular, we will want to see that the changes receive enough publicity and that, if necessary, the operator will arrange for leaflets, notices and other publicity to be revised or reprinted to reflect the changes to the scheme. Any out-of-date leaflets or notices must be withdrawn. If any station stops being a penalty fares station as a result of the changes, the notices displayed under rule 4 must be removed immediately after the change takes effect.

### **Withdrawing a scheme**

6.4 The procedure for withdrawing a scheme is set out in rule 12. The operator does not need to give advance notice, but must tell us, the relevant RPC and any relevant PTE on or before the date on which they withdraw the scheme. If the operator wants to re-introduce the scheme later on, it must be treated as a new scheme, and the operator must follow the procedure set out in rule 3.

6.5 The withdrawal of a penalty fares scheme may affect the scheme or schemes run by other operators. If this is the case, the operator of the scheme that is to be withdrawn must tell the other operators in time for them to make any necessary changes to their own schemes.

6.6 If an operator wants to withdraw part of their scheme, for example, to reduce the number of penalty fares trains or penalty fares stations, this must be treated as changing the scheme and rule 11 will apply.

## **Suspending a scheme**

6.7 Sometimes, for various reasons, an operator may want to temporarily suspend their scheme. The Penalty Fares Rules do not force an operator to charge a penalty fare in any particular circumstances and if the operator simply intends to use extra discretion, or even stop charging penalty fares completely for a short period of time (for example, less than one month), no special arrangements may need to be made. However, if an operator stops charging penalty fares for a longer period of time, passengers may be led to believe that penalty fares are no longer charged. This may cause problems when the operator starts charging penalty fares again.

6.8 An operator who wants to suspend their scheme for longer than one month should discuss the proposal with us first. The operator must think carefully about publicity, especially for the time when they start charging penalty fares again. A pre-planned suspension should normally be treated as a change to a scheme under rule 11.

## **7 When the SRA may prevent an operator charging penalty fares**

7.1 Rule 13 of the Penalty Fares Rules allows us to stop an operator charging penalty fares if we have reason to believe that they are not following the rules, the regulations or their own penalty fares scheme. Operators must make sure that other operators (or other parts of their own company) do not introduce changes which affect their penalty fares scheme. For example, if a scheme says that certain ticket facilities will be provided at a station, and ticket machines at that station are removed or ticket office opening hours reduced, an operator will no longer meet the requirements of their scheme.

7.2 Rule 13 also allows us to stop an operator charging penalty fares if we think that a scheme is being operated in a way which doesn't give passengers sufficient protection. There are a number of circumstances where this might be the case, even if the operator is following the rules, regulations and its own scheme. For example, if:

- authorised collectors are put under unnecessary pressure to meet revenue targets, so that they do not use their discretion in cases where the scheme says that they should;
- the ticket facilities listed in the scheme are regularly unavailable because of staff shortages or ticket-machine breakdowns; or
- the ticket facilities listed in the scheme are insufficient because of serious queuing problems.

7.3 Rule 13 allows us to stop operators charging penalty fares either completely or in connection with particular penalty fares trains or stations, depending on the circumstances. For example, if an operator does not sort out a serious queuing problem so that passengers do not have sufficient opportunity to buy a ticket, we might stop them charging penalty fares to passengers who join trains at that station.

7.4 Under rule 5.5, if we are not satisfied that a person is a fit and proper person to be an authorised collector, we may tell the operator to withdraw that person's authority to collect penalty fares. We expect operators to fully investigate any public complaint about an authorised collector, and to take any necessary action quickly. It is essential that a full record is kept of each part of the investigation, as we may ask to see these records or ask for further investigation to be carried out in connection with this rule.