

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD3210

### Increase in the Penalty Fare on Transport for London Services

#### Executive summary:

Transport for London (TfL) is proposing an increase in the penalty fare on its services. Revenue enforcement officers working across TfL's public transport networks currently issue a penalty fare of £80 (reduced to £40 if paid within 21 days) to anyone who fails to present a valid authority for travel. The proposal in this Mayoral Decision is to increase the penalty fare on these services from £80 to £100 (reduced to £50 if paid within 21 days), with effect from 3 March 2024.

TfL estimates that fare evasion currently costs over £130m per year. The increase in the penalty fare is one action that TfL is taking to ensure an ongoing, robust deterrent to fare evasion. It will also ensure other transport fares can be kept as affordable as possible, by ensuring the costs of fare-evasion enforcement are borne by those who fail to pay the correct fare for their journey.

#### Decision:

That the Mayor approves an increase in the penalty fare from £80 to £100 (reduced by 50 per cent if paid within 21 days), with effect from 3 March 2024, on the TfL public passenger transport network. The Mayor therefore approves:

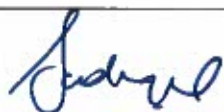
- the TfL (Penalty Fares) Order 2024 (attached for signing - Appendix 3.1)
- the Croydon Tramlink (Penalty Fares) Order 2024 (attached for signing - Appendix 3.2)
- the London Cable Car (Penalty Fares) Order 2024 (attached for signing - Appendix 3.3).

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

18/1/24

## PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

### Decision required – supporting report.

#### 1. Introduction and background

- 1.1. Fare evasion is a crime that negatively impacts TfL's customers, its staff, and its finances. It can make public transport feel unsafe and deter people from choosing to use sustainable travel options. Fare evasion and fare disputes are a precursor to half of all reported work-related violence and aggression incidents towards frontline colleagues across the network. Fare evasion also impacts on TfL's financial sustainability and denies TfL vital revenue to both operate and continually invest in its networks. In addition to lost revenue, the costs of combatting fare evasion place further pressure on TfL's budget that could be better invested to the direct benefit of paying customers.
- 1.2. Tackling fare evasion requires a comprehensive programme of interventions to deter, detect and deal with fare evaders. Enforcement is a crucial element of this, with revenue enforcement teams working across TfL's network.
- 1.3. Penalty fares can be issued by TfL in circumstances where a passenger is unable to present a valid authority for travel but is not suspected of deliberately avoiding paying their fare. More serious cases of fraudulent, deliberate, and repeated fare evasion are reported for prosecution in line with TfL's enforcement policy, which is published on its website. The current penalty fare is £80 (reduced to £40 if paid within 21 days). Penalty fares were set at £80 in January 2011 and have not increased since.
- 1.4. It is proposed to increase the penalty fare from £80 to £100, reduced by 50 per cent to £50 if paid within 21 days, in line with NR services. Table 1, below, compares the current penalty fare levels on TfL and NR services. TfL's analysis has also shown that the proposed penalty fare is broadly in line with other urban areas in the UK and other global cities.

**Table 1: penalty fare levels and changes on TfL and National Rail (NR) services**

Service	Current penalty fare	Date introduced	Previous penalty fare	Date introduced
TfL	£80*	January 2011	£50	January 2009
NR	£100**	January 2023	£20**	May 2005

\* TfL penalty fare is reduced by 50 per cent if paid within 21 days.

\*\*On NR, the penalty fare is £100, plus the appropriate single fare to the destination customers are travelling to on that train. This amount is reduced by 50 per cent if paid within 21 days.

- 1.5. Any change to the penalty fare is subject to prior consultation with the Secretary of State for Transport and such other persons or bodies as the Mayor considers appropriate to consult. This consultation has been undertaken and is explained in section 4, below.

#### 2. Objectives and expected outcomes

##### Fare evasion on the TfL network

- 2.1. From 2020 to date, there has been an upturn in the rate of fare evasion on the TfL network. TfL has identified a range of factors behind this increase:
  - a cessation of all ticket-checking duties for safety reasons during the COVID-19 pandemic (2020 and 2021), when all staff were assigned to face-covering enforcement

duties instead; this led to some customers deciding not to pay their fare, as the risk of being ticket-checked was reduced

- a decline in the deterrent value of the penalty fare, given increases in fares and inflation
- a reduction in the use of paper tickets and more widespread use of contactless payment cards, which are sometimes not correctly validated to pay the full fare
- increased levels of working at home contributing to the unauthorised transfer and use of concessionary passes.

2.2. TfL's approach to fare evasion focuses on three main elements: certainty, severity, and immediacy of sanctions to deter crime and problem behaviour. While TfL's detection activities and communication of this approach increase the real and perceived likelihood of getting caught, the sanction for fare evasion is another key factor in deterring customers from fare evading. The penalty fare system establishes clear and immediate financial consequences for those travelling without a valid ticket or authority to travel. Over time the deterrent effect of the penalty fare has reduced, as it has not increased in line with inflation.

2.3. TfL's most recent annual estimate of fare evasion (2022-23) across all of its public transport modes is 3.9 per cent, which equates to over £130m in unpaid journeys. Some of this is recovered through revenue-enforcement activity, amounting to £7.2m in 2022-23 in penalty fare and prosecution income. Penalty fare income is used to help offset the costs of enforcement but does not come close to covering these in full.

2.4. As part of TfL's approach to tackling fare evasion, it is now taking stronger action against customers who have been detected for fare evasion and issued a penalty fare but have failed to pay it. In 2022, TfL introduced a new enforcement process: unpaid penalty fares are reviewed, and, after standard debt-chasing/reminder letters (which take 39 days), the penalty fare is cancelled, and recipients are prosecuted for the original fare evasion offence. This brings TfL's unpaid penalty fare process in line with national train-operating companies, provides a stronger deterrent to fare evasion, and encourages those issued a penalty fare to pay (or appeal) or challenge it in the Magistrates' court.

#### The proposed changes to the level of penalty fares

2.5. From 3 March 2024, it is proposed to increase the penalty fare on TfL services from £80 to £100 (reduced to £50 if paid within 21 days). The rationale for the change is:

- to provide a more robust deterrent to fare evasion
- to restore the value of the penalty fare in real terms
- to have a coordinated and clearer approach to the control of fare evasion across TfL and NR services, with the same level of penalty
- to help offset the costs of enforcement and recover lost revenue from fare evaders.

2.6. Based on the current levels of penalty fare volumes, it is estimated that the increase in the penalty fare would generate between £500k and £1m per annum for TfL, to be used to help offset the costs of enforcement. TfL is also driving improvements in the level of performance and productivity of its revenue enforcement and inspection teams. This should, in time, result in a reduction in fare evasion levels.

### **3. Equality comments**

- 3.1. TfL and the Mayor of London, as public authorities, are subject to the public sector equality duty, which consists of a general equality duty as set out in section 149 of the Equality Act 2010. Under that section, the Mayor and TfL must, when exercising their functions, have 'due regard' to the need to:
- eliminate unlawful discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act
  - advance equality of opportunity between people who share a relevant protected characteristic and those who do not
  - foster good relations between people who share a relevant protected relevant characteristic and those who do not.
- 3.2. Relevant protected characteristics under section 149 of the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The duty applies to the Mayor's power to change penalty fares.
- 3.3. TfL completed an Equality Impact Assessment (EqIA) of the proposed increase in penalty fares, which is attached at Appendix 1. By way of a general summary, the EqIA identified that the proposed increase in penalty fares on TfL services may have impacts on different demographic groups as follows:
- Age: younger and older individuals may find it more challenging to afford the increased penalty, as they are generally on lower incomes than other age groups. Certain age groups, such as under 18s with specific Oyster cards, as well as those aged sixty or over with Concessions, may however be less likely to incur a penalty fare in the first place.
  - Disability: disabled individuals without a Disabled Persons' Freedom Pass (DPFP) may face difficulties affording the penalty fare increase as disabled people are generally on lower incomes than non-disabled people. Some disabled customers, especially those with learning difficulties or cognitive impairments, may unintentionally travel without the correct ticket, and may face challenges in understanding and paying the penalty fare.
  - Gender: the penalty fare increase may have a more pronounced negative impact on women, as they are generally more likely to be on lower incomes than men.
  - Race: Black, Asian, and minority ethnic (BAME) customers who incur a penalty fare may face difficulties affording the increased penalty as BAME people are generally on lower incomes than others. Some BAME individuals may encounter challenges in paying the penalty or understanding the process due to English language barriers, potentially leading to a higher likelihood of incurring the increased penalty fare.
- 3.4. The proposed penalty fare increase may therefore negatively affect some demographic groups, including those on lower incomes, disabled individuals without a DPFP, women, and BAME individuals, including those with language barriers. However, the impact is expected to subside as inflation and living costs decrease.
- 3.5. In addition, measures have been implemented to alleviate these potential adverse impacts. Updated guidance has been issued to revenue officers, emphasising the importance of safeguarding BAME, disabled, and other vulnerable customers, including those with language barriers or hidden disabilities such as learning difficulties or cognitive impairments. Officers have discretion not to issue penalties in appropriate circumstances and are explicitly directed to permit these customers, as appropriate, to pay the correct fare (as opposed to issuing a penalty) while providing necessary advice, guidance, and assistance. Moreover, revenue

officers are empowered to issue temporary travel authorities, allowing individuals without the correct ticket to proceed with their journey.

- 3.6. TfL is committed to enhancing the training provided to revenue officers and appeals-handling staff, aiming to deepen their understanding of the unique challenges faced by BAME, disabled, and other vulnerable customers. These procedural enhancements, coupled with comprehensive staff guidance, are designed to prevent the issuance of penalty fares in inappropriate circumstances and promote equitable outcomes in the appeals process.
- 3.7. In view of the above, and the reasons for proposing the increase in penalty fares identified above, the EqIA concluded that the proposed increase is a proportionate means of achieving a legitimate aim and is justified.

#### **4. Other considerations**

##### Key risks

- 4.1. Maintaining the level of the penalty fare at its current level will have a negative impact on TfL's measures to control fare evasion across its public transport networks. It will mean it is less effective as a deterrent which is expected to result in higher levels of fare evasion as fare evaders weigh up the risks and consequences of getting caught. It would also mean that TfL is out of kilter with NR services.

##### Links to Mayoral strategies and priorities

- 4.2. Implementing a higher level of penalty fare supports the strategy of making fare evasion less attractive, thereby increasing the deterrent effect, and reducing offending and reoffending behaviour on TfL's transport network. This supports [Section 2.4 of the Mayor's Police & Crime Plan](#) and Policy 13 (page 137) of the [Mayor's Transport Strategy 2018](#) (updated November 2022).
- 4.3. TfL regards tackling fare evasion as a key activity in reducing antisocial behaviour and ensuring the public transport network is safe for customers and staff. Fare disputes and fare evasion are the triggers in around 50 per cent of work-related violence and aggression incidents towards frontline transport staff working on TfL's public transport networks. Fare evaders contribute to the public transport network feeling unsafe. The penalty fare is one element of TfL's Revenue Protection programme, a corporate priority to reduce fare evasion and ticket fraud.
- 4.4. Protecting TfL's revenue is important for TfL's financial sustainability. Reducing lost revenue through fare evasion means that TfL can invest in improvements to its transport network, delivering on the Mayor's Transport Strategy.

##### Consultations and impact assessments

- 4.5. Before an order can be made to change penalty fares, the Mayor is required to consult with the Secretary of State for Transport, and such persons or bodies representing local authorities; users of the services; and other persons as he considers appropriate. TfL managed this on the Mayor's behalf, with a consultation that was sent to 23 stakeholders in October 2022. Responses were received from five. Most were supportive of the increase, but some specific points of note are summarised below. The issues raised have been addressed in the full response at Appendix 2.
- 4.6. London TravelWatch (LTW) acknowledges the importance of TfL addressing fare evasion but expressed concern that the justification for the penalty fare increase needed further consideration and explanation. LTW commented that the increase was disproportionate to TfL's fare levels compared to NR services, expressing concern about potential unintended

consequences on TfL's income. LTW highlighted the absence of an increase in enforcement, which is crucial for tackling fare evasion effectively. TfL's response to these concerns is that the proposal accounts for the diverse journeys (and therefore costs) often made by its customers on the TfL network on a single day; and aligns with penalty fare practices in other cities. TfL believes that the penalty fare level should take into account associated costs such as issuing penalty fares, handling appeals and debt chasing, which have risen with inflation, rather than being a comparison to the cost of tickets. Mitigating measures, including discretion in allowing appeals and payment instalment plans, are in place, and revised guidance aims to address incidents involving disabled customers without issuing penalty fares where appropriate.

- 4.7. TfL's Independent Disability Advisory Group was supportive. It considered that relevant safeguards are in place to prevent unnecessary impact on disabled users. These safeguards are identified in the EqlA (and are summarised in section 3 above).
- 4.8. The Secretary of State for Transport was supportive of the proposal, especially as it would bring TfL's penalty fare in line with that charged on NR services. The response states that penalty fares set at an effective level, and with appropriate protections for passengers who receive one in error, remain an important tool for combatting fare evasion on the transport network.
- 4.9. Unite the Union's only comment was the need to ensure the safety of staff collecting fares and the assurance of violence-at-work protection when collecting fares. TfL does not consider that increasing the amount of the TfL penalty fare will lead to an increase in violence or assaults toward authorised officers. There was no evidence to this effect during the last, much larger increase (from £50 to £80) in 2011. Providing a greater deterrent to fare evasion may help to address instances of workplace violence and aggression.

#### Conflicts of interest

- 4.10. There are no substantive conflicts of interest to note. However, those involved in drafting and clearing the decision are liable for penalty fares in the same way as any passenger travelling on TfL services.

## **5. Financial comments**

- 5.1. There are no direct financial consequences for the GLA from the proposal. Higher penalty fares will provide a more effective deterrent to fare evasion, protecting TfL's fare revenue which can be invested in improvements to transport services for all Londoners. The estimated positive revenue implications have been factored into the TfL business plan.

## **6. Legal comments**

### Process of changing the penalty fare

#### *Trains and buses*

- 6.1. Under section 245 of, and Schedule 17, paragraph 5 (2) to, the Greater London Authority Act 1999 (GLA Act), the Mayor is empowered to make an order to increase penalty fares on TfL train and bus services.
- 6.2. Train services are 'services for the carriage of passengers by rail' (see Schedule 17, paragraph 1) that are provided by TfL or any of its subsidiaries; or by any other person pursuant to an agreement to provide such services entered into by TfL under section 156(2) or 3(a) of the GLA Act, or any of its subsidiaries under a transport subsidiaries agreement (see: section 169 of the GLA Act).



- 6.3. The TfL bus services in respect of which the Mayor can make a penalty fares order are 'local services' (Schedule 17, paragraph 2 (1-2), and 3 of the GLA Act). 'Local services' are those using one or more public-service vehicles for the carriage of passengers by road at separate fares that are of a prescribed maximum length, and which are provided by TfL or any of its subsidiaries; or by any other person pursuant to an agreement to provide such services entered into by TfL under section 156(2) or 3(a) of the GLA Act, or any of its subsidiaries under a transport subsidiaries agreement (see: GLA Act, sections 179-183).
- 6.4. Under Schedule 17, paragraph 5 (2) to the GLA Act, the Mayor may by order prescribe that the amount of penalty fare in respect of any journey on a local bus (TfL bus service) and in respect of any train service (TfL train service) shall be different to the amount prescribed in Schedule 17, paragraph 5 (1) to the GLA Act.
- 6.5. The Mayor may only make an order to increase penalty fares on TfL's train and bus services after consultation with the Secretary of State for Transport, and such persons or bodies representing local authorities; users of the services; and other persons as the Mayor considers appropriate. The consultation that has been undertaken has been explained in section 4, above.
- 6.6. The proposed order for increasing penalty fares on TfL train and bus services is attached at Appendix 3.1. The proposed order applies to these services covered by the 'penalty fares provisions' as defined in Schedule 17, paragraph 1 to the GLA Act. The 'penalty fares provisions' empower TfL to charge penalty fares if there is an order in place (made by the Mayor under Schedule 17, paragraph 2(4) of the GLA Act) applying the penalty fares provisions to those services.

#### *Croydon Tramlink*

- 6.7. Services on Croydon Tramlink are designated in the Greater London (Penalty Fares) (Croydon Tramlink Designation) Order 2000/1442 as services to which paragraph 9 of Schedule 17 to the GLA Act is to apply.
- 6.8. Under the GLA Act, Schedule 17, paragraph 9(2), the Mayor may make an order applying Schedule 17 to the GLA Act to services to which paragraph 9 of Schedule 17 of that Act applies, namely the Croydon Tramlink. The Mayor made such an order, which is the Croydon Tramlink (Penalty Fares) Order 2009 (and which was modified by the Croydon Tramlink (Penalty Fares) Order 2018 but to no material effect in relation to the decision proposed in this Mayoral Decision).
- 6.9. The Croydon Tramlink (Penalty Fares) Order 2009 specifies that a modified version of Schedule 17 applies to services for the carriage of passengers by Tram on Tramlink as provided in Schedule 1 to that Order.
- 6.10. Paragraphs 5(2-3) of that modified Schedule 17 provide that the Mayor may, by order, increase penalty fares on the Croydon Tramlink, but only after consultation with the Secretary of State for Transport, and such persons or bodies representing local authorities; users of the services; and other persons as the Mayor considers appropriate. The consultation that has been undertaken has been explained in section 4, above.
- 6.11. The proposed order for increasing penalty fares on the Croydon Tramlink is attached at Appendix 3.2.

#### *London Cable Car*

- 6.12. Under Article 7 of the London Cable Car Order 2012/472, the London Cable Car system is deemed to be a "railway" for the purposes of paragraph 9 of Schedule 17 to the GLA Act, and services on the cable car are designated as services to which paragraph 9 of Schedule 17 to the GLA Act applies.

- 6.13. Under the GLA Act, Schedule 17, paragraph 9(2), the Mayor may make an order applying Schedule 17 to the GLA Act to services to which paragraph 9 of Schedule 17 of that Act applies; namely the London Cable Car. The Mayor made such an order, which is the London Cable Car (Penalty Fares) Order 2012.
- 6.14. The London Cable Car (Penalty Fares) Order 2012 specifies that a modified version of Schedule 17 applies to services for the carriage of passengers by the cable car system as provided in Schedule 1 to that Order.
- 6.15. Paragraphs 5(2-3) of that modified Schedule 17 provide that the Mayor may by order increase penalty fares on the London Cable Car, but only after consultation with the Secretary of State for Transport, and such persons or bodies representing local authorities; users of the services; and other persons as the Mayor considers appropriate. The consultation that has been undertaken has been explained in section 4, above.
- 6.16. The proposed order for increasing penalty fares on the London cable car is attached at Appendix 3.3.

### Equality Act 2010

- 6.17. Under section 149 of the Equality Act 2010, as public authorities, the Mayor and TfL are subject to the public sector equality duty and must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act ; advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and foster good relations between people who share a relevant protected characteristic and those who do not. Relevant protected characteristics under section 149 of the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.18. In deciding whether to approve this decision, the Mayor is required to have due regard to these matters and the equality impacts of the proposed decision assessed in the EqIA, which is attached at Appendix 1 and summarised in section 3, above.

### Notice requirements

- 6.19. Notices must be displayed in buses, trains, train stations and tram carriages, and at Tram stops, informing passengers of the level of penalty fares (GLA Act, Schedule 17, paragraph 7(4-7), and Croydon Tramlink (Penalty Fares) Order 2009 (as modified), Schedule 2, Article 5, paragraph 7). Arrangements are in place to deliver this by the proposed implementation date of 3 March 2024.

## **7. Planned delivery approach and next steps.**

- 7.1. It is proposed that the penalty fares change be implemented on 3 March 2024. Time is needed from a decision being made to allow for an update to TfL's IT systems and on-system signage (including statutory notices) and publicity.

<b>Activity</b>	<b>Timeline</b>
Mayoral Decision approved	January 2024
Penalty Fares Orders published	January 2024
Announcement	January 2024
Delivery start date (on-network implementation)	January 2024
New penalty fares effective and enforcement begins	3 March 2024



## **Appendices and supporting papers:**

Appendix 1: Equality Impact Assessment.

Appendix 2: TfL consultation letter and responses to consultation.

Appendix 3: Orders to be signed by the Mayor:

- 3.1 Transport for London (Penalty Fares) Order 2024
- 3.2 Croydon Tramlink (Penalty Fares) Order 2024
- 3.3 London Cable Car (Penalty Fares) Order 2024

### Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will be published either within one working day after it has been approved or on the defer date.

### Part 1 – Deferral

#### Is the publication of Part 1 of this approval to be deferred? YES

If YES, for what reason: To align with publication of the Mayor's fares proposals for 2024, so one communication is provided on fares systems changes for March 2024.

Until what date: 17 January 2024.

### Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

#### Is there a part 2 form? NO

### ORIGINATING OFFICER DECLARATION:

Drafting officer to  
confirm the  
following (✓)

#### Drafting officer:

Kat Stretton has drafted this report in accordance with GLA procedures and confirms the following:

✓

#### Sponsoring Director:

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

#### Mayoral Adviser:

Seb Dance has been consulted about the proposal and agrees the recommendations.

✓

#### Advice:

The Finance and Legal teams have commented on this proposal.

✓

#### Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 15 January 2024.

### INTERIM CHIEF FINANCE OFFICER:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

#### Signature



#### Date

18 January 2024

### CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor.

#### Signature



#### Date

18 January 2024