

REQUEST FOR MAYORAL DECISION – MD1474

New Penalty Fares Order for the extension of London Overground services and new Transport for London rail services

Executive Summary:

From May 2015, Transport for London (TfL) will assume responsibility for the operation of services which are currently provided under Department for Transport's (DfT) Greater Anglia train operating franchise. These services will become part of TfL's London Overground network and the TfL Rail network.

The Greater London Authority Act 1999 requires the Mayor to make a penalty fares order in order for the penalty fare provisions in that Act to apply to a train service. The proposed Greater Anglia London Overground and TfL Rail Services Penalty Fares Order 2015 will apply penalty fare provisions to the West Anglia extension of the London Overground and East Anglia rail services.

Decision:

The Mayor approves and signs the Greater Anglia London Overground and TfL Rail Services Penalty Fares Order 2015, which is attached at Annex A.

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:

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

Decision required – supporting report

1. Introduction and background

- 1.1 The Mayor has campaigned over an extended period of time for greater control over services provided in the London area on the National Rail network, to enable the quality of these services to be improved.
- 1.2 TfL is assuming responsibility for certain West Anglia train passenger services between Enfield Town / Chingford / Cheshunt via Seven Sisters to Liverpool Street, and Romford to Upminster. These services, which are currently provided under DfT's Greater Anglia train operating franchise, will become part of TfL's London Overground network. This change will take effect in May 2015.
- 1.3 In addition, TfL will assume responsibility with effect from May 2015 for certain East Anglia services currently operated between Liverpool Street and Shenfield. These services, which are also currently provided under DfT's Greater Anglia train operating franchise, will become part of TfL's Rail network.
- 1.4 TfL operates a consistent penalty fares regime across its public passenger transport network. Schedule 17 of the Greater London Authority Act 1999 ('the GLA Act') sets out the circumstances in which a passenger is liable to pay a penalty fare which, stated simply, are when a passenger does not have a valid ticket or fails to touch in if using Oyster pay as you go. The penalty fare is £80 which is reduced to £40 if paid within 21 days. A passenger who is liable to pay a penalty fare must give his name and address if he is required to do so by an authorised person and failure to do so is an offence. TfL must put up appropriate notices on its services and within its stations about the applicable penalty fares.
- 1.5 When TfL introduces new services or extends existing services, the penalty fare provisions of Schedule 17 do not automatically apply. Instead, the Mayor may make an order that provides that the penalty fare provisions have effect in respect of the train or other services specified in the order. Most recently, the Mayor made a penalty fares order in respect of the Emirates Air Line (cable car) in 2012 and has also done so in respect of the London Overground in 2007 and the East London Line extension in 2010. The amount of the penalty fare was increased by way of two penalty fares orders in 2011.
- 1.6 It is proposed that the penalty fares regime should apply to the West Anglia extension of the London Overground and to the East Anglia services. It is essential to the discharge of the Mayor's general transport duty that an effective and uniform penalty fares regime applies across the TfL network.

2. Objectives and expected outcomes

- 2.1 To apply the penalty fares provisions in Schedule 17 of the GLA Act to the new services TfL is assuming responsibility for so that there is a consistent penalty fares regime across TfL's network. It is expected that a uniform penalty fares regime will ensure that fare evasion is limited on all of TfL's services.

3. Equality comments

- 3.1 Under section 149 of the Equality Act 2010, as public authorities, the Mayor and TfL must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. Protected characteristics under the Equality Act cover age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, marriage or civil partnership status (duty to eliminate unlawful discrimination only). The

duty applies to the Mayor's duty to direct TfL as to the general level and structure of fares under the GLA Act 1999.

- 3.2 The penalty fares provisions apply to all passengers and only impact on those who travel without a valid ticket or who fail to touch in with their Oyster card or contactless payment card if using pay as you go. Certain people with protected characteristics will be eligible for a Freedom pass so the penalty fares regime is unlikely to be relevant to them.

4. Other considerations

a) Key risks and issues

- 4.1 If the penalty fare provisions of Schedule 17 are not applied to the West Anglia arm of the London Overground or the East Anglia rail services then TfL will be limited to the more costlier enforcement method of prosecuting passengers for fare evasion. The anomalous position of these services compared to the rest of the TfL transport network is likely to become known publically leading to a greater incidence of fare evasion on those services than if the penalty fares provision were made to have effect.

b) Links to Mayoral strategies and priorities

- 4.2 One of the goals that the Transport Strategy seeks to deliver is improving the safety and security of all Londoners. The proposed Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015 will ensure that a consistent penalty fares regime applies across the TfL network so that fare evasion is tackled in a uniform and efficient manner.
- 4.3 Although there are no specific proposals in the Transport Strategy regarding penalty fares, the Strategy makes it clear that a consistent approach between modes will benefit passengers, as follows:

Policy 4B.2 Fares policy will aim to make public transport more attractive and affordable, with more consistency between modes, greater simplicity and convenience for passengers, shorter queues and quicker journeys.

c) Impact assessments and Consultation

- 4.4 The Mayor is not required to consult on the making of a penalty fares order which gives effect to the provisions of Schedule 17 to a new or extended train or local service. He is required to consult on a penalty fares order which increases or decreases the prescribed amount of the penalty fare but the proposed Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015 does not seek to do this.

5. Financial comments

- 5.1 There will be no financial implications for the GLA arising from this decision.

6. Legal comments

- 6.1 Paragraphs 3 to 8 of Schedule 17 to the GLA Act comprise the penalty fares provisions which, by virtue of paragraph 2, apply to train, local and qualifying services provided by TfL, any of its subsidiaries or an operator pursuant to a relevant agreement. A train service is defined as a service for the carriage of passengers by rail. The extended London Overground services will be provided for TfL by its contractor London Overground Rail Operations Limited pursuant to a relevant agreement that provides that schedule 17 is to apply to the services. The East Anglia services are to be provided by MTR Corporation (Crossrail) Limited pursuant to a relevant agreement that provides that Schedule 17 is to apply to the services. The services are, therefore, ones to which schedule 17 will apply.

- 6.2 As noted above, paragraphs 2(3) and (4) of Schedule 17 provide that the penalty fare provisions do not have automatic effect and the Mayor is required to make an order which provides that the penalty fare provisions shall have effect to a train service or any part of a train service from such day as may be specified in the order.
- 6.3 The proposed Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015 specifies the services to which it applies in its Schedule and provides that it will come into force on the first day on which the services are provided on 31 May 2015. The Order applies the penalty fares provisions without modification.
- 6.4 If the Mayor makes the Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015, TfL will be required by paragraph 7 of Schedule 17 to ensure that notices are put up at every station and in every carriage of every train which set out the circumstances in which a passenger may be liable to pay a penalty fare and the amount of the penalty fare.

7. Investment & Performance Board

- 7.1 GLA officers have advised that this decision does not need to be considered at Investment & Performance Board as the scheme replicates penalty fare arrangements in place elsewhere on the TfL network.

8. Planned delivery approach and next steps

Activity	Timeline
Delivery Start Date	31 May 2015
Delivery End Date	Ongoing

Appendices and supporting papers:

Appendix A – The Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? No

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be 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:

Claire Hamilton, Transport Manager has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Assistant Director/Head of Service:

Debbie Jackson, Assistant Director – Regeneration, has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

Fiona Fletcher-Smith, Executive Director – Development, Enterprise and Environment, has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Isabel Dedring, Deputy Mayor for Transport, has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

CHIEF OF STAFF:

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

Signature

Date

APPENDIX A

GREATER LONDON AUTHORITY ACT 1999

The Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015

Made

2015

Coming into force

In accordance with article 1

The Mayor of London, in exercise of the powers conferred on him by section 245 of, and paragraph 2(4) of Schedule 17 to, the Greater London Authority Act 1999, and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as The Greater Anglia London Overground and TfL Rail Penalty Fares Order 2015 and shall come into force on 31 May 2015.

Application of the penalty fare provisions

2. The penalty fare provisions as defined in paragraph 1 of Schedule 17 to the Greater London Authority Act 1999 shall have effect with respect to the train services which are operated on behalf of Transport for London on the routes specified in the Schedule to this Order.

2015

Mayor of London

Schedule

Article 2

The Specified Routes

Liverpool Street station to Cheshunt station (via Southbury).

Liverpool Street station to Chingford station.

Liverpool Street station to Enfield Town station.

Romford station to Upminster station.

Liverpool Street station to Shenfield station.

EXPLANATORY NOTE (This note is not part of the Order)

This Order gives effect to the penalty fare provisions in Schedule 17 to the Greater London Authority Act 1999 in respect of the Greater Anglia London Overground and East Anglia rail services operated on behalf of Transport for London.
