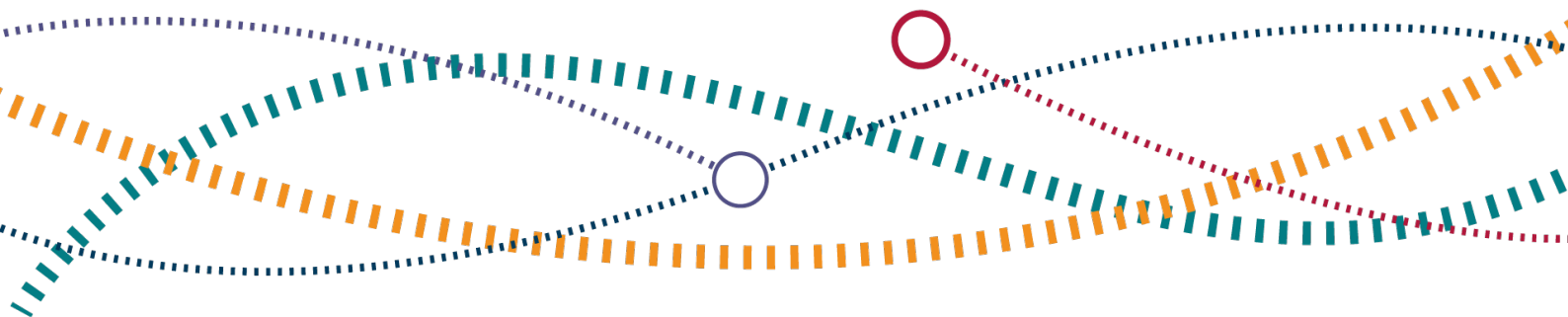




Independent review of train operators' revenue protection practices

A report to the Secretary of State for Transport

Published on 4 June 2025



Contents

Executive summary	4
Introduction	4
Background	5
Main findings and recommendations	7
Matters relevant to our recommendations	16
1. Context to the review	18
Introduction	18
Factors leading to this review	20
Key challenges for the rail industry	25
The organisations involved in revenue protection	29
The legislative framework dealing with fare evasion	32
2. Approach to the review	35
Introduction	35
Governance structure	35
Evidence gathering and development of findings	36
Acknowledgements	39
3. Retail	40
Introduction	40
Information provision	46
Complexity of ticket T&Cs	53
Additional areas for consideration	61
4. Revenue protection policies and practices	63
Introduction	63
Revenue protection enforcement practices	64
Classification and treatment of ticket non-compliance	74
Communication with passengers	88

Operator assurance and accountability	91
<hr/>	
5. Prosecutions	96
Introduction	96
Options and approaches to prosecution	97
TOCs' approach to the charging decision	106
Assessing the scale and impact of TOC prosecutions	114
<hr/>	
6. Recommendations	126
<hr/>	
Annex A: Glossary	132
<hr/>	
Annex B: Timeline	139
<hr/>	
Annex C: Train operators and retailers within the scope of this review	142
<hr/>	
Annex D: Organisations we met during the review	144
<hr/>	
Annex E: Flowcharts and indicative escalatory approach	146

Executive summary

Introduction

1. Fare evasion is a crime and costs Britain's railway hundreds of millions of pounds every year, denying train operators legitimate revenue and undermining fare-paying passengers' sense of fairness in the system. Less industry revenue means higher fares, higher taxpayer subsidy and less money for investment to improve services.
2. It is therefore right that there are measures in place to deter and hold to account those who deliberately evade their fare. However, it is vital that these are applied appropriately and fairly, and in a way that maintains trust in the system.
3. During 2024, the media reported on a number of cases of train operators appearing to take disproportionate action against passengers who, on the face of it, had made genuine errors with their tickets. This led, in some cases, to prosecution.
4. These cases involved individuals being penalised for seemingly unintentional or minor transgressions of fares and ticketing rules, including where:
 - (a) there was no possible revenue loss to the industry; and
 - (b) a rule had technically been broken, but the circumstances were such that the passenger's error appeared to have been made innocently and without them realising. For example, where the terms and conditions (T&Cs) of a railcard may not have been clear to a passenger when purchasing their ticket.
5. In addition, in August 2024, the Chief Magistrate quashed six fare evasion convictions that had been prosecuted incorrectly using the fast-track 'Single Justice Procedure' (SJP). This then led to just over 59,000 similar convictions being quashed. While this was on the grounds of a specific procedural error by train operators (rather than a fundamental problem with the case for prosecution), it raised concerns about the oversight and assurance of the processes for prosecution within both the train operating companies (TOCs) involved and the court system.
6. In response, on 13 November 2024 the then Secretary of State for Transport [commissioned](#) the Office of Rail and Road (ORR) to conduct an independent review of train operators' revenue protection practices. Her overriding priority in doing so was to ensure that fare evasion was being addressed, but in a way that was fair to passengers and in line with the correct procedures.

Background

7. There are a range of circumstances in which a passenger may innocently attempt to travel without a valid ticket for their journey. For example, they may make a mistake during purchase, they may accidentally board the wrong train, they may misplace their ticket or leave their railcard at home.
8. However, many of these reasons can also be used as excuses by passengers who deliberately choose to underpay or avoid their fare. This creates a number of 'grey areas' where it can be difficult for rail staff to determine the passenger's intent and decide how to address the situation.
9. Making this more challenging is the railway's complex fares and ticketing framework. This has grown more complicated over time, with more features being added as the industry has responded to developments such as the introduction of mobile apps for ticket purchases, and has offered new ticket products to meet evolving passenger needs and expectations.
10. While this has provided a wide array of choice, it has also increased the scope for passenger confusion and error, with more options and T&Cs to understand. In the past, passengers were able to rely on the advice of booking office staff to get this right. But with [around 60%](#)¹ of tickets now bought online or at ticket machines, there is now much greater onus on passengers themselves to navigate this.
11. The complexity and nature of the system has also increased the number of vulnerabilities available for fare evaders to exploit. In this context, as intent can be hard to determine, a passenger making an innocent mistake may be assumed to have acted deliberately.
12. The rail industry's ticketing rules impose a strict requirement on passengers to hold a valid ticket for their journey (with a few limited exceptions). Added to this, under railway byelaws, it is an offence not to be able to present a valid ticket for a journey – regardless of the passenger's intent. This 'strict liability' framework makes the consequences for a passenger not holding a valid ticket potentially very serious.
13. This, and the challenge of verifying a passenger's true intention, can mean that disproportionate action can end up being taken against some passengers.

¹ Source: Table 10, [Ticket purchasing behaviour and preferences among rail passengers](#), DfT. Research carried out in February and March 2023.

The passenger perspective

14. As part of our review, we issued a Call for Evidence inviting passengers to submit their experience of revenue protection practices. We have included a number of quotes and case studies from this in our report and include some of these below to illustrate some of the reported outcomes that have arisen under the current system.

A sample of passenger case studies from our Call for Evidence

- A passenger was threatened with prosecution for accidentally selecting a 16-25 railcard discount when they had a 26-30 railcard. Both railcards provide the same discount. So, although the ticket was technically invalid, there was no difference in the fare and therefore no net loss to industry. The case was eventually dropped after their MP became involved.
- A passenger's printed e-ticket was water damaged and so could not be scanned by a member of rail staff. Despite subsequently providing proof of a valid ticket for the journey, they were threatened with prosecution and in the end agreed to settle out of court for £81 to avoid the risk of conviction.
- A passenger successfully appealed a penalty fare but discovered four years later (after a criminal records check for a job) that they had been convicted for fare evasion without knowing about it (they claimed they had never received any documentation or court material).

The rail industry perspective

15. Fare evasion is a crime and rigorous enforcement action is needed to tackle deliberate fare evasion and related fraud. In addition, rail staff can face challenges in dealing with aggressive and abusive behaviour when undertaking revenue protection duties.
16. Rail staff we spoke to described how fare evasion is becoming normalised among certain passenger groups and increasingly more challenging to tackle. As well as occasional opportunistic fare evaders, there are some individuals who use a range of techniques to persistently underpay and avoid their fares. Added to this, some fare evaders consider that it is a victimless crime and are either not aware of or are undeterred by the consequences of being caught.

17. It was clear from our conversations with revenue protection teams that they consider that passengers making genuine mistakes should be treated fairly and proportionately. But, as noted, establishing this intent can be difficult.

Conduct of this review

18. We structured our review around the issues that the Department for Transport (DfT) asked us to investigate, as set out in the review's [terms of reference](#).
19. We have followed an evidence-based approach, underpinned by significant stakeholder engagement, taking into account the perspectives of both passengers and the rail industry. We have been informed and challenged throughout by both an [Expert Advisory Group](#) comprised of outside experts in relevant fields and a Cross-Industry Working Group.
20. We have also shadowed ticket office staff and revenue protection teams from a cross-section of TOCs. This enabled us to witness some of the circumstances in which passengers can make innocent mistakes and to see first-hand the challenges that revenue protection staff face in tackling fare evasion.

Main findings and recommendations

Overview of our findings

21. We have found that current revenue protection practices in rail are not working as well as they need to and require improvement in the interests of passengers, the rail industry and taxpayers.
22. Fare evasion and revenue loss are increasing, despite new technology that can aid detection. In response, enforcement action by TOCs has become more frequent and robust within the context of the strict liability framework. And process changes – such as the introduction of the SJP – have made it easier for TOCs to prosecute passengers.
23. However, passenger safeguards have not kept pace with these developments, and current revenue protection practices are largely weighted towards the industry. This may result in unfair or disproportionate outcomes with passengers being penalised for innocent or minor mistakes.
24. Action needs to be taken to improve fairness, consistency and transparency while ensuring that TOCs are able to deal with deliberate and persistent fare evaders robustly. Our recommendations to address this are set out below.

Recommendation 1: Make buying the right ticket simpler and easier

Passengers need clearer information about ticket types, ticket validity, usage restrictions, and peak/off-peak travel times at the point of sale.

Ticket rules and restrictions can be complex, poorly explained or not widely understood – leading to confusion and unintentional mistakes, and passengers being penalised for genuine errors. This in part is because of outdated retail systems that can make it hard for retailers to access and present clear information to passengers. This lack of transparency can raise concerns in the context of consumer law. However, we have seen examples of good practice that work around some of these issues and which could be adopted more widely in the interim until these systems issues are addressed.

Actions

- (a) Short / medium-term – Provide plain English explanations of ticket types, validity and restrictions (e.g. on timing, routes, railcard usage, etc.) at the point of purchase.
- (b) Medium / longer term – Redesign ticketing systems and review policies to eliminate known points of confusion and to ensure that essential T&Cs are presented clearly at the point of sale (such as on restrictions relevant to the use of railcards).

- 25. Our review found that where passengers are buying tickets online or at a ticket vending machine, key information on validity restrictions and other relevant T&Cs is not always provided, or provided clearly. This is particularly the case for tickets with time, route or operator restrictions or where railcards are used.
- 26. Whereas some gaps in information provision could be resolved easily, others are more difficult to address. Outdated retail systems can make it hard for retailers to access and present clear information to passengers. However, we have seen some retailers demonstrate good practice by developing ways to work around some of these issues, and in principle these could be adopted elsewhere to benefit more passengers.
- 27. And while key information may not be consistently provided at the point of purchase, more broadly we found clear evidence that many passengers do not understand key terms. Areas of confusion, lack of awareness and error include (among others):
 - (a) the meaning of certain ticket types and ticket restrictions;

- (b) railcard T&Cs. For example, some railcards have restrictions that only apply from September to June; and
- (c) the child age limit causing confusion because the adult ticket age is from 16 years old, whereas some other transport systems set the adult age at 18.

Recommendation 2: Strengthen consistency in how passengers are treated when ticket issues arise

Passengers should be treated fairly and consistently when they are found without a valid ticket, with a focus on industry targeting intentional fare evasion as opposed to genuine mistakes and responding proportionately.

Train operators use a wide range of policies, approaches and legal powers that can lead to inconsistent treatment of passengers and sometimes unfair or disproportionate outcomes, where the scope for passengers to challenge this may be limited.

Actions

- (a) Short / medium term – Adopt consistent principles as part of a new governance framework for revenue protection, including use of an escalated approach to determining the appropriate response based on likely passenger intent.
- (b) Short / medium term – Identify and adopt best practice in encouraging behavioural change, including through better passenger education and awareness of the importance of travelling with the correct ticket and the potential consequences of not doing so.
- (c) Medium / longer-term – Improve data sharing across the industry to support identification of persistent offenders, while protecting those who have made genuine mistakes. This data could also support identification of and action against other systematic fraudulent activity.

28. Individual TOCs have considerable scope to set their own approach to revenue protection. Different TOC policies, as well as variation in how frontline staff apply these, mean that passengers can face inconsistent treatment and outcomes for similar types of ticketing issue across the network.

29. Aside from penalty fares (which are prescribed in legislation, with a three-stage appeal process), most of the tools used by TOCs to deal with invalid tickets are not defined in any consistent or transparent way across the industry. While there is a

need to reflect specific operational and commercial circumstances, some differences appear arbitrary. This can result in action being taken against a passenger with no formal appeals process in place should the passenger wish to challenge that action.

30. When a passenger claims to have made a mistake with their ticket, the challenge is determining whether this is genuine or not. The judgement of frontline staff plays a key role in this. However, while new technology can help, it is not always possible to determine a passenger's intent accurately. In such circumstances, a passenger who has made a 'one-off' mistake might be penalised or a deliberate fare evader may be given the benefit of the doubt.
31. Building on some existing good practice we have seen, one way of addressing the issue of intent would be for the industry to establish a more systematic approach to recording incidents of ticket irregularities. Where passenger intent is unclear, revenue protection staff could check whether the passenger has a track record of travelling without a valid ticket. If they do not, they could give them the benefit of the doubt, but log the passenger's details. The passenger could then pay the correct fare due, without being penalised, and the TOC would have greater assurance that they have not let a repeat fare evader off the hook.
32. Likewise, where a penalty fare is appealed, if the appeals body is able to see whether a passenger has a track record of ticket irregularities, that would enable them to better judge whether to give the passenger the benefit of the doubt.
33. Making better use of data in this way would also allow an escalatory approach to be adopted where, if a passenger is found without a valid ticket on subsequent occasions, the consequences become increasingly more serious. This would help to rebalance protections so that they are fairer for fare-paying passengers who have made a 'one-off' mistake, while providing for TOCs to deal robustly with those intentionally defrauding the railway.
34. This approach would also be consistent with TOCs putting a greater emphasis on encouraging behavioural change among passengers, which we know a number of TOCs are increasingly looking to do. This includes ensuring passengers see and experience a system that is working for them, where they get support to buy a valid ticket and that they are aware of the consequences of not doing so.
35. In considering this further, we recommend that the industry should establish a common framework for dealing with cases of ticket irregularities. This would include a set of consistent tools underpinned by clear principles, including for example:
 - (a) a fair and consistent right of appeal for all types of notice;

- (b) not penalising passengers where there is a ticket irregularity involving no risk of revenue loss;
 - (c) consistent with a more escalatory approach, not prosecuting passengers under byelaws for a first or second offence unless there are aggravating factors (such as tailgating or refusing to remedy the lack of a valid ticket); and
 - (d) a more coordinated approach to training and evaluation for frontline revenue protection staff to ensure consistent high standards and application of policy.
36. As part of this, there is an opportunity for governments to make clear the overarching strategy for revenue protection. For example, this could make clear the importance of fairness to the process.

Recommendation 3: Introduce greater consistency and fairness in the use of prosecutions

Prosecution decisions should consider fair, evidence-based criteria and only be taken when clearly justified and in the wider public interest.

Prosecution policies vary considerably across train operators. This includes decisions on whether to bring charges against an individual (the test for prosecution); the choice of law and legal procedure; use of third-party agents; the approach to out of court settlements; and the use of digital tools that quicken and streamline the prosecution process. This means that passengers can face significantly different outcomes and treatment for similar issues depending on which TOC they travel with.

Actions

- (a) Short-term – Introduce a consistent test for prosecution, including guidance on weighing public interest factors in favour of (or against) prosecution.
- (b) Short-term – Develop best practice principles applying to the use of out of court settlements, including the basis of calculating the settlement fee.
- (c) Longer-term – Undertake a wider review of revenue protection legislation to simplify, clarify and provide greater consistency across the rail sector, including the use of railway byelaws, where currently a passenger can be prosecuted for travelling with an invalid ticket, even when a genuine mistake has occurred.

37. Our review found that prosecutions for ticketing offences have been increasing. Charges brought against passengers under the Railway Byelaws 2005 have risen by 52% in recent years (2023 compared to 2019), while passenger numbers have fallen by 7%. However, the extent to which each TOC uses prosecution varies considerably, even when normalised for passenger numbers.
38. Prosecutions should only be undertaken where it is appropriate to do so, given that a conviction is a serious and potentially life-changing matter.
39. Crown prosecutors in England and Wales² must meet key criteria both to ensure there is sufficient evidence of a crime to secure a conviction and that it is in the public interest to prosecute. This is known as the 'Full Code Test'. TOCs, as private prosecutors, are not obliged to follow this test but there are good reasons for them to apply or align with it.
40. While it was reassuring to find that many TOCs apply a test that is similar to the Full Code Test, this is not the case for all the TOCs that prosecute. There were six TOCs for whom we either did not see evidence of a formal test or where it was unclear what test they were applying in practice. And more broadly, we saw scope for improvement in the tests that some TOCs applied.
41. The lack of a consistent robust and transparent decision-making framework across the industry risks prosecutions being undertaken where they are not in the public interest, as well as arbitrary treatment depending on which TOC a passenger travels with. There is evidence both from our Call for Evidence and from Transport Focus [research](#) that passengers have been prosecuted (or faced prosecution) where it would not be in the public interest.
42. Instead of pursuing a prosecution, TOCs can offer passengers the opportunity to settle out of court. This can sometimes serve the public interest better than a prosecution and provide a better outcome for the passenger. However, it is important that TOCs do not use the prospect of prosecution to leverage an unfair settlement.

² Private prosecutions are very rare under Scottish Law, and so this section focuses on England and Wales.

“I thought the settlement offer and threat of court was unfair and heavy handed, considering the nature of the offence and impact it had on myself. I do not think the case would pass the public interest test for [prosecution].”

Call for Evidence respondent

43. While we found the policies of several TOCs to be reasonable in terms of how they calculate out of court settlements, and some examples of good practice that could be adopted more widely, the policies of other TOCs were less clear.
44. There were also some TOCs whose written policies state they may pursue out of court settlements even where there is insufficient evidence to prosecute. We have been unable to clarify this point owing to the time constraints of the review and therefore have no clear evidence that it is happening in practice. However, if TOCs were doing this while leaving passengers under the impression that they will be prosecuted if they do not pay, we consider this would be without basis and unreasonable.
45. TOCs that prosecute need to have fair, evidence-based criteria and should only proceed when it is clearly justified and in the wider public interest. Equally, TOCs need to have similarly clear best practice principles for using out of court settlements.

Legislation

46. We note that current byelaw strict liability offences regarding travel without a valid ticket empower TOCs to prosecute passengers where there is no evidence of intent or revenue loss and provide passengers with very limited defences in law. While this can be helpful in enabling TOCs to take action against deliberate fare evaders, it puts passengers who have made an honest mistake at risk of prosecution.
47. Following TOCs being [authorised](#) to use the SJP to prosecute railway byelaw offences in April 2016, it has arguably become easier for them to prosecute. The roll-out of a new digital case management system ('Common Platform') by HM Courts & Tribunal Service is likely to make it even easier.
48. There is a case therefore for a broader review of the legislation used by the industry to deal with fare evasion. This would include ensuring that there is an appropriate balance between protecting passengers who have made an innocent mistake and protecting the railway and taxpayers from the impact of fare evasion.

Ministry of Justice consultation on reforms to private prosecutions

49. During our review, the Ministry of Justice (MoJ) launched a [consultation](#) on reforms relating to private prosecutions, including introducing (among other things): a mandatory code of practice; an inspection regime; safeguards for the use of the SJP; and greater data transparency. These matters have relevance to the issues and recommendations covered by this report. MoJ's consultation closed on 8 May 2025 and it is currently considering the responses it has received.

Recommendation 4: Make information on revenue protection easy to access and understand

Passengers should be able to easily find and understand information about T&Cs, their rights, how penalties, prosecutions, out-of-court settlements, and appeals work, including through online information and in any letters or formal notices they may receive.

Actions

- (a) Short/medium term – Review and improve passenger-facing revenue protection information to ensure it is accessible, clear, and easy to understand. Where action is taken against a passenger, the process should be clearly set out, with access to further information and any options for resolution where appropriate.
50. Our review found very limited information about industry revenue protection policies or the consequences of travelling with an invalid ticket on third-party retailer apps and websites. TOC apps and websites provide more relevant revenue protection information but this can be spread across different webpages and documents. Documents often cross-refer to other relevant material but do not always provide links, leaving it for the passenger to seek these out. And policies do not always make clear important things like the circumstances in which a TOC is likely to prosecute.
51. There is scope for greater use of plain English (rather than legalistic drafting that passengers may not understand). There is also an opportunity for the industry to develop more high-quality single source information, drafted clearly and concisely, that can be broadly adopted (including, for example, passenger correspondence templates).
52. In relation to penalty fares, we note that there is a lack of clarity on the key ground for appeal (which provides for appeals to be upheld if there are "[compelling reasons](#)" why a passenger should not have to pay a penalty fare). Given the strict liability framework on the one hand, and the [intent](#) behind the [Railways \(Penalty Fares\)](#)

[Regulations 2018](#) that established the current appeal system on the other, the meaning of this could be clearer both for passengers and the industry.

53. There is also scope to enable passengers to more readily access key T&Cs by streamlining and simplifying the National Rail Conditions of Travel (NRCoT) to make them clearer and more accessible. As well as improving the wording, this would include incorporating other relevant T&Cs into the NRCoT to avoid passengers having (as now) to locate, read and understand different sets of T&Cs that may be applicable to their journey. The Rail Delivery Group is already in the process of a staged review of the NRCoT; this may provide a good opportunity to take account of the issues we have identified.

Recommendation 5: Greater coordination, oversight and transparency of revenue protection activity

Revenue protection activity should ensure passengers are treated fairly, support the sharing of best practice in tackling revenue loss, and make effective use of data to drive efficiency and improvement in how this is done.

Processes and practices have proliferated over time. The legal framework is complex and poor implementation or inconsistent practices can impact both individual passengers and wider industry. There is no body with a role in oversight of this area and limited data to assure the public on how effectively the system is working.

Actions

- (a) Short-term – Establish an appropriate forum or body tasked with identifying and promoting best practice across all aspects of revenue protection policy and enforcement (underpinning recommendations 2, 3 and 4).
- (b) Medium-term – Create a shared revenue protection dataset with consistent measures to support long-term oversight, improve transparency through publication of key metrics, and help the industry make the best use of its resources.

54. Our review found that, despite TOCs having significant powers to penalise and prosecute passengers, there is very little external oversight of whether they are using these powers fairly, consistently and proportionately. In addition, there is no transparency, as no data is published on what actions TOCs are taking and what the outcomes of these are for passengers or in reducing revenue loss. This means there is very little accountability.

55. The data that TOCs record internally to measure and analyse their revenue protection activities varies across the industry. Based on what was submitted to us in this review, we did not find that all TOCs have data covering the range of actions they take and the outcomes of these for passengers – for example, in relation to prosecutions. This means that some TOCs may not have sufficient oversight of their own processes to provide meaningful assurance that their approach is operating fairly or to support continuous improvement.
56. Similarly, there is no external oversight of the two companies that determine penalty fare appeals to ensure that they are making decisions in line with the spirit of the regulations. While one company publishes some basic data on the outcomes of appeals, greater transparency would help provide assurance to passengers regarding the effectiveness of the appeals process.
57. Furthermore, there are no consistent metrics across the industry and TOCs use different terminology for similar processes and actions. This means that data is not always directly comparable. This limits the ability of TOCs to share data to benchmark their performance and identify what interventions work best both to address repeat fare evasion and optimise the efficient use of resources.
58. While there is good practice among TOCs, during this review we have noted that there is scope for the industry to do more to collaborate and coordinate to continuously improve how revenue protection is undertaken.
59. For example, we are aware from our engagement with ticket office and revenue protection staff that they see common issues arising from the retail of tickets that lead to passengers travelling without a valid ticket (both unintentionally and intentionally). However, there is no system for this feedback to be acted on. Greater collaboration between retailers and revenue protection teams, along with stronger change control at the design stage of new products, has the potential to address issues before they lead to revenue loss and before innocent passengers fall foul of them.

Matters relevant to our recommendations

60. While our recommendations are relevant to the industry as it is now, we recognise that the creation of Great British Railways (GBR) will lead to significant structural changes. In particular, 14 TOCs currently running passenger services on behalf of DfT will enter public ownership under GBR. However, several mainline TOCs will remain outside of GBR, including open access TOCs and those operating on behalf of the Scottish and Welsh governments and devolved city regions.

61. Rail reform will inevitably affect how the recommendations in this report are addressed, but it does not mean that the changes need to wait. We have highlighted some areas where improvements could be made quickly. Also, under the UK Government's public ownership programme, TOCs currently contracted by DfT will gradually move into DfT Operator Limited as their contracts expire. This may provide impetus for the industry to begin acting in a more coordinated way and lead to some of the medium and longer term actions that underpin our recommendations being addressed ahead of the creation of GBR.
62. We have not had time within the constraints of this review (or indeed the data) to consider the full cost implications of the recommendations or to carry out cost benefit analysis. This would need to be considered separately. However, in some cases there may be existing or planned work by government or the rail industry that could take account of our recommendations in a way that minimises additional costs.

Next steps

63. ORR's role was to investigate and report in line with the terms of reference for this review. The next step will be for the Secretary of State and DfT to consider the recommendations and how (and the extent to which) these should be implemented. While our role is now complete, we stand ready to support this in any way we can.

1. Context to the review

Introduction

- 1.1 On 13 November 2024, the (then) Secretary of State for Transport [commissioned](#) ORR to undertake an independent review of train operators' revenue protection practices.
- 1.2 Broadly speaking, the term 'revenue protection' relates to the policies, procedures, activities and other arrangements that may be put in place by a train operator or other industry party to:
 - (a) ensure passengers pay the correct fare for their journey;
 - (b) discourage or prevent individuals from evading the correct fare or carrying out related fraudulent activity; and/or
 - (c) detect and investigate suspected fare evasion and minimise or recover any losses arising.
- 1.3 The need for revenue protection reflects the fact that free-riding on the network is a significant issue for the rail industry, with hundreds of millions of pounds of revenue estimated to be lost each year.
- 1.4 As the railway is funded principally through fare revenue and public subsidy, fare evasion impacts both honest fare-paying passengers and taxpayers. This defrauded revenue cannot be put into lowering fares, improving services or reducing subsidy that can then be used to fund other parts of the public sector.
- 1.5 The Secretary of State asked ORR to assess and make recommendations on revenue protection in relation to two principal areas: train operators' and ticket retailers' consumer practices, including how they communicate ticket conditions; and train operators' enforcement and broader consumer practices in this area, including the use of prosecutions.
- 1.6 This commission was a response to concerns from passengers and the media, among others, regarding how revenue protection practices have been operating. These arose following a number of cases where train operators appeared to have taken disproportionate action against some passengers for apparently unintentional or minor transgressions of fares and ticketing rules, or where prosecutions were undertaken incorrectly. These are discussed below.

- 1.7 ORR was asked to carry out this review because of its role as the independent regulator for the railway in Great Britain. Established by and accountable to Parliament, ORR is independent of government, the rail industry and passengers, but is guided by [statutory duties](#) – including its duty to protect the interests of users of railway services.
- 1.8 This review was commissioned under section 51 of the Railways Act 2005, which enables ORR to provide advice, information and assistance to national authorities (including the Secretary of State) on request.

Scope of the review and implications of rail reform

- 1.9 This review covers:
- (a) all train operating companies (TOCs) operating regular scheduled services predominantly on the mainline network – including those operated on behalf of the Department for Transport (DfT), devolved governments and city regions. It does not cover London Underground or other metro systems, but does include London Overground and Elizabeth line services; and
 - (b) in terms of ticket retailers, it includes all the TOCs and third party ticket retailers (TPRs) licensed to sell tickets for the mainline railway. It also covers all available channels for purchasing tickets including ticket offices, ticket vending machines (TVMs) and those online.

The specific TOCs and TPRs within the scope of the review are listed in Annex C. The full [terms of reference](#) for the review are available on our website.

- 1.10 It is important to note that wider fares and ticketing reform is outside the scope of this review. The UK Government has already committed to reviewing this area, with the aim of simplifying the fares system and making other improvements to benefit passengers. This report therefore does not cover broader ticketing policy.
- 1.11 We have not had time within the constraints of this review (or indeed the data) to consider the full cost implications of our recommendations or to carry out cost benefit analysis. This would need to be considered separately. However, in some cases there may be existing or planned work by government or the rail industry that could take account of our recommendations in a way that minimises additional costs.
- 1.12 While our recommendations are relevant to the industry as it is now, we recognise that the creation of Great British Railways (GBR) will lead to significant structural changes. In particular, 14 TOCs currently running passenger services on behalf of

DfT will enter public ownership under GBR. However, several mainline TOCs will remain outside of GBR, including open access TOCs and those operating on behalf of the Scottish and Welsh governments and devolved city regions.

- 1.13 The UK Government's programme of rail reform will inevitably affect how the recommendations in this report are addressed, but it does not mean that the changes need to wait. We have highlighted some areas where improvements could be made quickly.
- 1.14 Also, under the UK Government's public ownership programme, TOCs currently contracted by DfT will gradually move into [DfT Operator Limited](#) as their contracts expire. This may provide impetus for the industry to begin acting in a more coordinated way and lead to some of the medium and longer term actions that underpin our recommendations being addressed ahead of the creation of GBR.
- 1.15 The rest of this chapter provides further background to the review. Note that there are some terms used that may not be fully explained until later in this report. These are defined in the glossary in Annex A. There is also a timeline of events relating to the review in Annex B.

Factors leading to this review

Requirement to hold a valid ticket

- 1.16 By way of context, around 1.6 billion journeys were made on the mainline railway in 2023-24. For these, passengers bought around 450 million tickets through retail channels (tickets sold at ticket offices, on trains, at TVMs and online), with the remainder of journeys being made via 'Pay As You Go' options including Contactless bank cards and smartcards such as Oyster³.
- 1.17 All passengers are required to hold a valid ticket when travelling on the rail network. This obligation is set out in condition 6 of the [National Rail Conditions of Travel](#) (NRCOT). In general terms, those travelling without a valid ticket (or other authority) for their journey are at risk of being penalised or prosecuted, unless an exemption applies – such as there being no facilities for the passenger to purchase a valid ticket before boarding.

³ Source: [ORR Data Portal](#) (journeys) and Rail Delivery Group ticket sales data, 2023-24.

- 1.18 Where a passenger is found to be travelling without a valid ticket, this is termed a 'ticket irregularity'. Some examples of ticket irregularities are set out in the box below.
- 1.19 As we set out in chapter 4, there are a range of responses that a TOC may take where there is a ticket irregularity, depending on the circumstances. It may involve no further action, one of several types of notice (such as a penalty fare) or potentially a prosecution leading to a conviction.

Examples of ticket irregularities

- An adult travelling using a child ticket.
- Travelling with a ticket at an invalid time (e.g. in the peak period but with an off-peak ticket, or using an 'Advance' ticket for a specific service on a different train from that permitted on the ticket).
- Being unable to present a railcard when such a railcard has been used to buy a discounted ticket for a journey or using it in breach of the terms and conditions.
- Not carrying a valid photocard where one is required (e.g. for a season ticket).

Controversy in the media regarding revenue protection practices

- 1.20 During 2024, there were a number of reports in the media about individuals found without a valid ticket who were penalised or prosecuted (or threatened with prosecution) in circumstances where they appeared to have made an innocent mistake, typically in relation to minor breaches of the terms and conditions (T&Cs). These include the following:
- (a) **Infringement of 16-25 Railcard terms:** The [16-25 Railcard T&Cs](#) include a restriction regarding travel on weekdays before 10am. Before 10am, it is only permissible to use a ticket with a 16-25 Railcard discount if the cost of the ticket is £12 or more (except during July and August or on public holidays, when this condition does not apply, or unless the ticket is an 'Advance' ticket). This restriction seems to be not well known and, in particular, its applicability to tickets labelled for use "Anytime" appears to have been a source of misunderstanding for passengers.
- (i) As [reported](#), in September 2023, a woman travelled to Wigan with an Anytime Day Return ticket bought with a 16-25 Railcard. The normal

price of this ticket was £4.80, but with a railcard discount this would have been £3.20 (a saving of £1.60). However, she travelled before 10am and her ticket price was less than £12. Having been allowed through the gateline with her ticket at her departure station, her ticket was checked later onboard the train and she was told it was invalid.

She received a conviction via the fast-track 'Single Justice Procedure' (SJP) and received a fine of over £450. However, she denied receiving a summons regarding the prosecution and so did not have the opportunity to plead not guilty or provide mitigation in her case; the first she heard of the prosecution was on receiving a letter informing her that she had been convicted.

- (ii) In early September 2024, a [student faced prosecution](#) for travelling before 10am with an 'Anytime' ticket bought with a 16-25 Railcard discount. On realising his mistake, the student offered to pay the difference in cost (£1.90), but this was declined and he was subsequently threatened with prosecution. This threat was later dropped after the case gained widespread public attention.

- (b) **Boarding the 'wrong' train:** Certain tickets are only valid on specific trains but there is scope for confusion about this – particularly during disruption. For example, in April 2024, a [student was travelling back](#) to university during a period of rail strike disruption. She had a ticket for a particular TOC's service. Given the disruption to services, she asked station staff whether she could board the next train (which was that of a different TOC). She said they had advised her that in the circumstances she could board it. Later, on the train, she was informed by the ticket inspector that she had an invalid ticket, despite explaining what the station staff had said.

She was subsequently charged with the offence of not providing a valid ticket on request. She pleaded guilty by correspondence under the SJP but set out the mitigating circumstances when doing so. She was convicted and fined.

- (c) **Confusion regarding when you can buy a ticket on board a train and when you cannot.** For example, a [62 year old man](#) who had previously bought tickets on board a particular service could not do so on one occasion as there was no conductor. After alighting from the train he said he went to buy a ticket from the ticket office but this was refused and instead he was issued with a penalty fare.

- 1.21 Such cases have contributed to a sense that TOCs are taking a disproportionate approach to tackling fare evasion, with some people being penalised for what seem to be innocent and minor breaches of the rules amid a complex system. That is – complicated ticket conditions, different approaches across the network and inconsistent approaches by rail staff.
- 1.22 However, there are challenges for TOCs in dealing with cases like these. We explore these below in paragraphs 1.39-1.41.

Use of the Single Justice Procedure and quashing of fare evasion convictions

- 1.23 Leaving aside the issue of whether some TOCs have been taking a disproportionate approach to enforcing revenue protection, there have also been concerns about how TOCs conduct and manage private prosecutions. In the summer of 2024 the Chief Magistrate [quashed](#) six fare evasion convictions that had been prosecuted by two TOCs. These test cases then led to just over 59,000 other passenger convictions being quashed. These passengers had been prosecuted by one of eight TOCs who had incorrectly used the SJP to prosecute offences under the Regulation of Railways Act 1889 ('RoRA')⁴.
- 1.24 The SJP is discussed further in chapter 5. In short, it is a procedure that allows adult individuals to plead guilty to minor, non-imprisonable, offences without going to court. The outcome is determined by one magistrate with a legal advisor, rather than two or three magistrates under the conventional 'open court' process. The cases referred to above were quashed because the [2016 Order](#) permitting mainline train operators to use the SJP only permits its use for certain offences. These include those under railway byelaws but not under RoRA (byelaws are discussed further in paragraphs 1.59-1.60 below). Other offences, such as those under RoRA, have to be brought through conventional proceedings in open court.
- 1.25 It is important to note that these cases were quashed due to a procedural error by the TOCs. If they had sought to prosecute these cases using the railway byelaws or used the conventional open court process – it is likely that many (if not most) of the convictions – other things being equal – would have stood. This matter raises issues about the oversight of prosecution proceedings by TOCs and also the conduct of SJP prosecutions by the court.

⁴ Due to a change in ownership, unlawful prosecutions were brought by nine legal entities, with the TOCs involved listed on the [gov.uk](https://www.gov.uk) website.

- 1.26 However, there have been concerns about how the SJP is used more broadly within the criminal justice system, beyond its use by TOCs. These include whether private prosecutions are being brought using the SJP that are not in the public interest and whether the process provides for fairness. In November 2024, the UK Government committed to review the SJP and private prosecutions more generally. The Ministry of Justice has since [consulted](#) on proposals to improve oversight and regulation in this area and at the time of publication of this report is in the process of considering the responses it received.

Impact of fare evasion

- 1.27 While noting the apparent disproportionality involved in some of the cases discussed above, it is important to recognise the rail industry's perspective on this. Revenue protection is largely a necessary response to the significant financial loss caused by people intentionally avoiding paying the correct fare.
- 1.28 An updated estimate from earlier this year (from the Rail Delivery Group (RDG), GBR Transition Team and DfT) indicates that fare evasion and ticket fraud accounts for at least £350 to 400 million of lost revenue each year. Anecdotally, some industry stakeholders have told us that they believe the actual level of fare evasion is somewhat higher.
- 1.29 Given the scale of fare evasion and the impact it has, it is right that there are sanctions in place to deter or punish those who deliberately evade their fare. Indeed, there are periodic reports in the media of individuals being successfully prosecuted for clear and egregious cases of fare evasion.

Consequences of a system that passengers perceive to be unfair

- 1.30 Where passengers are penalised or prosecuted for genuine mistakes, it is important to note the consequences of this both for them and the industry. The range of consequences those passengers may face could include:
- (a) a penalty fare;
 - (b) claims by the TOC for recovery of the full undiscounted train fare and any related TOC investigation costs (and – if the passenger challenges this – potential County Court Judgements via the civil courts that affect their credit rating); and
 - (c) a conviction for criminal offences that may blight their reputation, career and financial prospects.

- 1.31 Above all, there may be a feeling of injustice, particularly if there was an intention to comply with ticketing rules and they believed that they were acting in a law-abiding way. This is likely to undermine trust and confidence in the railway and may discourage those passengers from using it in future. It is also likely that they will discourage others from using it given their experience. That is a bad outcome all round – for them and for the rail industry.

Key challenges for the rail industry

Complexity of the system

- 1.32 The current fares and ticketing system is widely recognised as being overly complicated and confusing for passengers and explains why many passengers unintentionally end up travelling without a valid ticket.
- 1.33 As new developments have emerged (such as ticket apps and contactless tickets), the system has adapted incrementally over time to meet evolving passenger needs and expectations, with new features largely bolted on, adding to the complexity. This has been done with good intentions. At the same time, the increasing volume and complexity of rail products has created opportunities for exploitation by passengers who seek to under pay or avoid their fare. This is a tension that explains many of the issues highlighted in this report.
- 1.34 Some examples of complexity and areas for confusion in the current system include:
- (a) the role of conductors or guards on some services. If a passenger boards at a station without ticket-buying facilities, they can buy a ticket from the conductor or guard. However, passengers who had the opportunity to buy before boarding are generally expected to have done so, and are at risk of being penalised if they do not. The presence of a conductor/guard therefore can lead people to think they can buy on board in all circumstances;
 - (b) a wide range of tickets (and prices) available for essentially the same journey. It is not always clear what the difference between the ticket options is and which is the best one for that passenger;
 - (c) a wide range of conditions that may or may not apply, or can vary depending on circumstances. For example, whether a journey can be broken mid-way, whether a railcard can be used, or when the off-peak or peak begins and ends (and it can vary by TOC, by station and by direction of travel);

- (d) ticket names and terminology which are not intuitive or immediately obvious to a layperson (e.g. 'Super Off-Peak', 'Advance', or 'Any permitted route'); and
- (e) 'split ticketing' – the nature of the current system is such that it can be possible to buy separate single tickets for different stages of a journey that, in total, are cheaper than a single ticket covering the whole journey. This leads some passengers to legitimately seek out cheaper options when planning a trip. However, certain conditions may need to be met to avoid falling foul of the rules.

- 1.35 For balance, it is right to point out that, for all the disadvantages of complexity, the current system does provide an array of choice to suit different passengers – provided they know what they are buying.
- 1.36 It is also important to note that some of the complexity may have been entirely rational within the context in which it was introduced. A good example is the 16-25 Railcard minimum fare restriction discussed earlier. When this rule was introduced, all tickets were purchased from a ticket office. Rail staff would have applied this rule themselves when selling a ticket, depending on when a passenger wanted to travel. It was therefore much harder for a passenger to inadvertently make a mistake and travel with an invalid ticket.
- 1.37 However, in an era when the majority of tickets are bought online or via a ticket vending machine (TVM) without the advice of staff, there is a much greater risk of people making mistakes. And this is the problem more broadly with a complex system where more ticket options, alongside more complex ticket types, necessitates the provision of more information to allow the passenger to make an informed choice.
- 1.38 This can increase the time and cognitive burden on passengers when buying a ticket – particularly for those making a journey as a 'one-off'. In this context, it is inevitable that some people will make innocent mistakes and end up travelling with an invalid ticket. This complexity also creates a tension with modern app-based online retail options. These platforms prefer a 'quick and easy' transaction model to aid sales, which does not readily facilitate communication of complex terms.

'Grey areas'

- 1.39 The rail industry, in principle, will not want to knowingly penalise someone who has made an innocent mistake. However, there are a number of grey areas in which it can be difficult to determine whether a mistake has been made innocently

or not. The complexity of the fares and ticketing system outlined above is just one source of these. But there will be some individuals who know about the grey areas and seek to exploit these to avoid or underpay a fare, with the intention of feigning innocence if caught. A few examples of these are:

- (a) buying a cheaper ticket with a certain condition (e.g. a ticket for a specific train service) and boarding a train on which the ticket is not valid.
- (b) forgetting or losing a ticket, or travelling with the wrong portion of a return ticket (for example, using an unsurrendered outward bound ticket for a return journey); and
- (c) not tapping-in with a contactless bank card or smartcard rail ticket: a person may have thought they tapped-in (and not realised that the system had not registered their card) or innocently and absentmindedly forgot to do so.

1.40 In all these cases a person could have acted deliberately and it can be difficult for a ticket inspector to know definitively whether a person has acted innocently or not. The scope for people to make innocent mistakes or be inadvertently caught out raises the question of whether (and what) safeguards might be established to provide a level of protection for genuine mistakes.

1.41 But the industry has to be mindful that any change that makes the system more 'reasonable' for those who have made a genuine mistake or who are acting with good intentions may risk introducing a new vulnerability to be exploited by those that wish to evade their fare or commit a related fraud.

Risk factors for fare evasion

1.42 The nature of a train service and the network it serves has an important bearing on the vulnerability of a TOC to fare evasion, and accordingly on the level of challenge for them in seeking to mitigate this risk.

- (a) The majority of stations are 'open' (that is, they do not have ticket gates). As such, it is easy at these locations for people to enter and exit the rail system without a ticket, unless manual ticket checks are being carried out.
- (b) Where there are onboard ticket checks, it is not always practical to check everyone's ticket – particularly for services where there are relatively short distances between station stops.
- (c) Ticket gates help to reduce the scope for people to travel without any ticket. But installing these is expensive, and they must still be staffed.

- (d) By contrast, some types of service are less vulnerable to fare evasion. For example, on services with long distances between stops and where tickets are generally always checked (such as sleeper and some long distance services).

Different types of fare evader and ticket fraud

- 1.43 A further challenge for TOCs is that there is no single type of fare evader, which means there is unlikely to be a simple strategy for a TOC to adopt to address evasion. However, understanding the profiles of typical fare evaders can help to inform a more effective revenue protection approach. Some organisations have established categories of fare evader to help inform their approach (for example, Transport for London (TfL) in its [revenue protection strategy](#)). Illuminas's report for Transport Focus also profiled [different types of fare evader](#) and there are others.
- 1.44 While the characterisation of different evader profiles can vary, they are broadly similar. Figure 1.1 below sets out one version of this, building on the different approaches to this we have seen.

Figure 1.1 Profiles of different types of fare evasion

Profile type	Accidental and unintentional	Opportunistic	Calculated	Chronic
Occurrence	Rare or 'one-off'	Occasionally, when opportunity arises	Where the reward outweighs the risk (including over time)	Frequently
Motivation or cause	Lack of familiarity with network, misunderstanding or accident	Varies, including: difficult personal finances; lack of staff to check tickets ("if they can't be bothered to check, why should I pay?"); views about the quality or cost of the service ("why should I pay when the trains are late and I don't get a seat"); or a perception that fare evasion is a victimless crime.		
Typical view of fare evasion and response to enforcement activity	Considers fare evasion to be wrong. Likely to comply	Views range from it being wrong to acceptable. Likely to comply with enforcement	Likely sees evasion as acceptable and justified. More likely to comply than 'chronic' evaders	Evades as a point of principle. Unlikely to comply and will seek to avoid challenge

- 1.45 The industry also has to deal with a range of fraudulent activity that contributes to fare evasion, including the altering or counterfeiting of tickets. This ranges from an individual undertaking such activity themselves through to more systematic organised criminal activity that defrauds the railway.

The organisations involved in revenue protection

Train operators

- 1.46 Reflecting that revenue protection is an important commercial matter, since privatisation it has been for TOCs to each set their own revenue protection strategy and approach, within the broader legislative framework. This includes employing staff or agents to support this – such as ticket inspectors, conductors, gateline staff, and back-office teams to investigate and if necessary prosecute individuals for fare evasion.
- 1.47 For TOCs that are operated on behalf of government, their approach will be influenced by any obligations relating to revenue protection placed on them by their sponsoring government body. For example, those TOCs contracted by DfT generally have contractual requirements regarding:
- (a) minimising or mitigating the impact of any factors that would lead to revenue being reduced (or increasing slower than forecast). This obligation is monitored via targets for reducing ticketless travel; and
 - (b) regular reporting on revenue protection activities to DfT.
- 1.48 Most TOCs have published their revenue protection policies on their websites, setting out what passengers can expect. This can include any relevant processes such as how to appeal against a penalty fare and the role of any third party agents.
- 1.49 How TOCs approach revenue protection is further explored in chapter 4.

Rail Delivery Group

- 1.50 Although responsibility for revenue protection matters in the rail industry lies with TOCs, RDG provides support for this. In particular, it coordinates changes to the NRCOT and operates the National Rail retail website which provides information for passengers about ticket types and railcards and passes customers on to TOC retail sites for ticket purchases. It also provides the underlying industry systems that generate most of the data for tickets (this is discussed further in chapter 3).

Government

- 1.51 Government (at UK and national devolved level) generally has two distinct roles in relation to fare evasion:

- (a) creating or amending legislation regarding fare evasion and overseeing its effectiveness. This includes laws that provide for prosecution of those caught evading fares and also regulation relating to penalty fares (where these are used); and
- (b) where TOCs are contracted to government or publicly owned, setting any objectives for addressing fare evasion (such as obligations to reduce ticketless travel as noted above) and monitoring the TOC's performance – e.g. to ensure they are actively working to minimise revenue loss in an effective manner.

Third party contractors

1.52 Many TOCs have contracted third party companies to support their revenue protection approach. These are discussed further in chapter 4 but in summary these companies offer a range of services including:

- (a) carrying out ticketless travel surveys for TOCs;
- (b) the provision of agency staff to carry out customer facing activities on behalf of the TOC (including onboard and gateline ticket inspection);
- (c) the investigation of potential cases of fare evasion and related communication with the passenger – including enforcement and potentially decisions to prosecute. This includes considering disputes and mitigations raised by passengers; and
- (d) provision of specialist software used for revenue protection (e.g. electronic systems for logging passenger details where there is a ticket irregularity and subsequent document and case management for any subsequent action).

Penalty fare appeals bodies

1.53 TOCs that issue penalty fares are required to provide an independent appeal service for passengers to use. TOCs currently use one of two companies to deliver this service, 'Appeals Service' (a trading name of ITAL Group Limited) or Penalty Services Limited. The appeals process is discussed further in chapter 4. Some TOCs contract with the penalty fares appeals bodies to provide a form of appeals process for other unregulated notices that they issue (i.e. unpaid fare notices).

British Transport Police

1.54 The British Transport Police (BTP) has a role in supporting certain categories of revenue protection work. This may include supporting significant ticket checking

operations and supporting staff dealing with difficult passengers (including where a person will not give their details). BTP also investigates rail fraud where it is of a particularly high value. The Crown Prosecution Service (CPS) (in England and Wales) or Crown Office and Procurator Fiscal (in Scotland) would act as the prosecutor in these cases. However, BTP has finite resources and it will continually prioritise its focus on what it regards as areas of the greatest potential threat, risk and harm across the range of its responsibilities.

Consumer bodies

Transport Focus and London TravelWatch

- 1.55 As the statutory representative bodies for passengers in Great Britain and the London area respectively, Transport Focus and London TravelWatch have an interest in how TOCs carry out revenue protection. Neither body has a formal role in relation to revenue protection. However, by arrangement with DfT, Transport Focus oversees appointments to the independent panel that determines the third and final stage of appeals in relation to penalty fares. TfL also consults London TravelWatch regarding the independent panel for its own [penalty fare regime](#).
- 1.56 However, as a consumer advocate, Transport Focus has been campaigning for better protections for passengers who find that they have inadvertently infringed the ticketing rules. Its 2012 '[Ticket to Ride](#)' and 2015 '[Ticket to Ride – an update](#)' publications show that concern about this is longstanding.
- 1.57 More recently in January 2025, Transport Focus published [a list of proposals](#) for improving the passenger experience in relation to revenue protection. Alongside this list of proposals, it also published [research](#) (commissioned from Illuminas) on passenger attitudes to fare evasion and revenue protection. This involved interviews with different categories of passengers, including honest fare-paying passengers and fare evaders.

Rail Ombudsman

- 1.58 The Rail Ombudsman, which provides a free service to passengers to investigate unresolved complaints, does not generally have a role in relation to complaints about revenue protection. However, it can investigate complaints about the quality of an interaction between revenue protection staff and a passenger, such as when a penalty fare or other such notice is being issued. We commissioned the Rail Ombudsman to produce a report on the complaints it has considered in this area, which we discuss further in chapter 2.

The legislative framework dealing with fare evasion

1.59 The legislative framework for addressing fare evasion has developed over time. Parliament has previously determined that intentional fare evasion can be dealt with as a criminal matter, and this has been the position since the 19th century. Parliament has also provided for railway byelaws to be made covering issues such as fare evasion and ticketing. Byelaws need to be issued under the [authority](#) of a government minister, but do not require further parliamentary oversight.

1.60 The most relevant legislation⁵ for prosecuting fare evasion is as follows:

(a) **Regulation of Railways Act 1889 (RoRA):** In summary, [section 5](#) of this Act makes it an offence:

- (i) for a passenger to not provide their name and address upon request where they are unable to provide a valid ticket (section 5(1));
- (ii) to travel without paying the fare with intent to avoid payment (section 5(3)(a));
- (iii) having paid the fare for a certain distance, to intentionally travel beyond that distance with the intention of avoiding paying the additional fare (section 5(3)(b)); or
- (iv) to give a false name and address (section 5(3)(c)).

It provides for fines of up to £1,000 or, for repeat offences under section 5(3), imprisonment of up to three months as an alternative to a fine.

(b) **Railway byelaws:**

- (i) Among other things, these byelaws make it an offence to travel without a valid ticket or to fail to produce a ticket on request (unless one of the few permitted defences applies). These are 'strict liability' offences, where the intent of a person does not matter. That is, a successful conviction does not require proof of intent. So, an innocent mistake such as forgetting a ticket can potentially lead to prosecution and a fine of up to £1,000.

⁵ The listed legislation is the main legislation relevant to this review. Other legislation exists but is used less often (such as the Fraud Act 2006, which may be used in England and Wales to prosecute particularly serious cases of fare evasion or related fraud).

- (ii) The [Railway Byelaws 2005](#) apply to the mainline railway in most of Great Britain, except in relation to services or stations operated: (1) by or on behalf of TfL; or (2) Merseyrail. Instead, these are covered by separate (but substantively the same) byelaws (for further information, see [TfL byelaws](#) and [Merseyrail byelaws](#)). [Byelaws 18\(1\) and 18\(2\)](#) are particularly relevant to fare evasion. Where we refer to 'applicable byelaws' in this report, we mean any of these three sets of byelaws relevant in a particular situation.
- (iii) Since April 2016, TOCs have been [authorised](#) to use the SJP to prosecute byelaw offences

- 1.61 In addition, or as an alternative to prosecution, TOCs may seek to recover unpaid fares via civil legal action.
- 1.62 Since first legislating for them in 1989, Parliament has also provided for penalty fare regimes to be established on the mainline network, providing a way to discourage people from travelling without a valid ticket outside of the criminal law.
- 1.63 Penalty fares are discussed in chapter 4 later, but it is worth noting this area has evolved since the early 1990s, with an inconsistent approach across Great Britain. Not all TOCs use penalty fares, and of those that do, all are based in either England or Wales. The current regime is based on the [Railways \(Penalty Fares\) Regulations 2018](#) (the '2018 Regulations').
- 1.64 However, since then, further devolution to the Welsh Government has occurred. So, when the 2018 Regulations were amended in 2022 to increase the penalty fare level (via the Railways (Penalty Fares) (Amendment) Regulations 2022 (the '[2022 Regulations](#)')), this change did not extend to certain services in Wales. This means a different penalty fare level applies for Transport for Wales services (except while these are in England).
- 1.65 Since responsibility was devolved to the Scottish Government for rail, it has not introduced regulations to permit penalty fares to be used on Scottish services.
- 1.66 TfL has a wholly separate [penalty fare regime](#) (applying to Elizabeth line and London Overground services, as well as other transport modes such as buses and the London Underground).
- 1.67 Overall, it is important to note that there is a range of legislation available, providing TOCs with choice around the legislative tools they can use when tackling fare evasion.

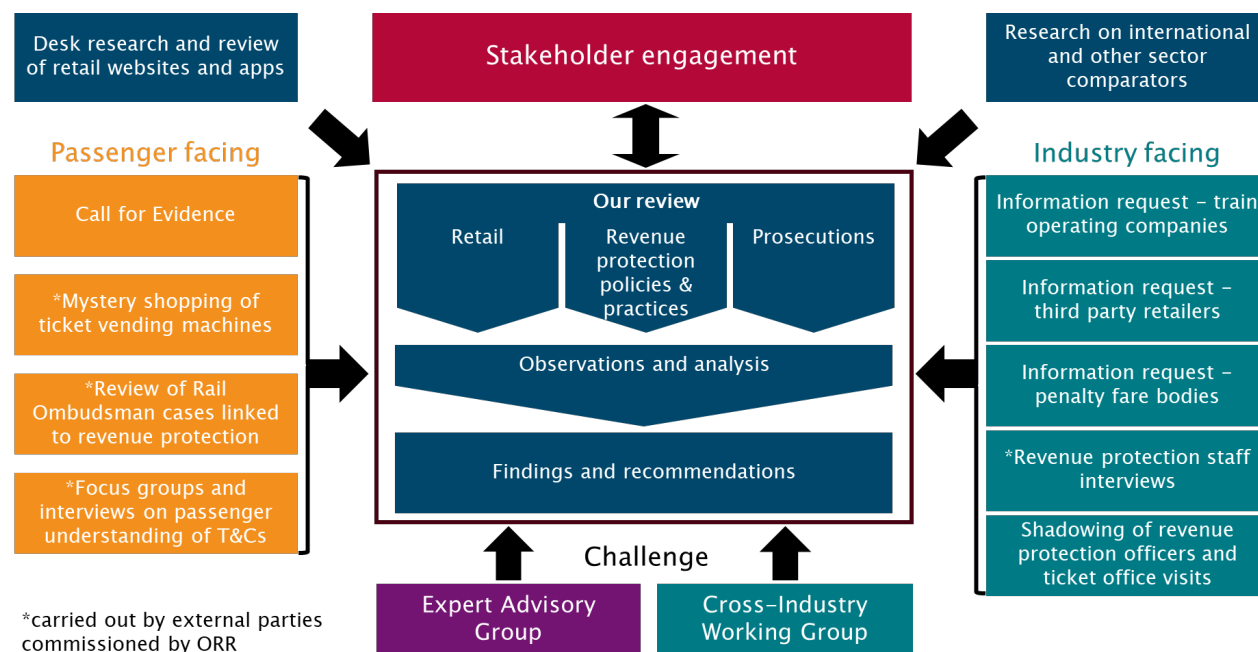
- 1.68 It is also relevant to note that the [Equality Act 2010](#) will have a bearing on revenue protection practices. For example, all TOCs have a duty to make reasonable adjustments for disabled passengers and must ensure that they do not discriminate against anyone with a protected characteristic, including for example age or disability.
- 1.69 [Section 149](#) of the Equality Act also creates a specific duty (“the Public Sector Equality Duty” or PSED) which applies to public sector organisations. This, among other things, requires them to have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not.
- 1.70 The PSED applies to those TOCs that are in public ownership. These include the TOCs controlled by Transport Scotland and Transport for Wales, and those owned by DfTO, as well as other bodies carrying out public functions.
- 1.71 As illustrated earlier, there are a significant number of parties involved (to varying extents) in revenue protection. At TOC level, there are: 14 TOCs operating services on behalf of DfT (either under contract or publicly owned under DfTO); two publicly-owned TOCs in Scotland and one in Wales; two TOCs contracted by TfL and one by the Liverpool City Region Combined Authority. There are also currently four open access TOCs. For the most part, they can each take their own approach to revenue protection.
- 1.72 Further, as noted above, the legislative landscape for revenue protection is not entirely consistent across Great Britain – particularly in relation to penalty fares. This reflects that over the last 20 years or so devolution has transferred some relevant responsibilities to the Scottish and Welsh Governments, and to the Mayor of London. In addition, Scotland has a different legal system to England and Wales, which has implications for how fare evasion prosecutions take place there. This is shown in the flowcharts in Annex E.
- 1.73 This makes the landscape for revenue protection complex for both industry and passengers, particularly in respect of services travelling across borders within Great Britain.

2. Approach to the review

Introduction

- 2.1 This chapter outlines the approach we took to inform our recommendations for improving fairness and effectiveness in revenue protection practices across the mainline railway network in Great Britain.
- 2.2 Our approach sought to build a strong evidence base, informed by primary research and broad stakeholder engagement, and tested through robust independent scrutiny.

Figure 2.1 Our approach to the review



Governance structure

- 2.3 Our report is centred around the [terms of reference](#) established by DfT at the start of the review in November 2024 and approved by the Secretary of State. These set out the issues we were asked to investigate and report on and, as such, reflect the concerns relating to revenue protection known at that time. In addition to setting out specific issues for investigation, the terms of reference also provided flexibility, recognising that our review might uncover other matters that should be investigated.
- 2.4 Our work was also supported by two key advisory bodies:

- (a) **Expert Advisory Group:** An independent group comprising six specialists with legal, consumer, regulatory and rail industry expertise. The group provided independent advice to ensure our findings and recommendations were credible, evidence-based, fair, and aligned with broader regulatory and financial objectives. Five members (including the chair) were external to ORR, with the sixth being an ORR non-executive director specialising in consumer affairs. The group's members are listed on our [website](#).
- (b) **Cross-Industry Working Group:** Chaired by RDG, this fortnightly forum included senior representatives from TOCs' revenue protection and commercial teams, owning groups, DfT, and Great British Railways Transition Team. The group contributed knowledge, raised questions, and provided ongoing feedback and challenge throughout the review process.

Evidence gathering and development of findings

2.5 As set out in Figure 2.1, we built a comprehensive evidence base through multiple sources:

- (a) **Desk-based research:** At the beginning of the review, we analysed publicly available information to understand current revenue protection arrangements and how legislation, industry policy, and TOC policies fit together. This helped us identify knowledge gaps and adapt our approach accordingly.
- (b) **Review of ticket retailing:** We reviewed the information available on rail retailers' websites and apps to examine how ticket information is presented to passengers and how this differs in content and presentation across platforms.
- (c) **Information requests:** We issued substantive information requests to TOCs and third-party retailers to gather internal documentation on policies, training, systems and procedures, alongside quantitative and qualitative data on revenue protection activities.
- (d) **Call for Evidence:** We asked passengers to provide details of their experience with revenue protection. The Call for Evidence was open from 16 December 2024 to 31 January 2025 and received over a thousand responses from passengers describing experiences where they:
 - (i) were required to buy a new ticket or pay an additional fare;

- (ii) were required to pay a penalty fare (including the cost of a new ticket); or
- (iii) faced prosecution or other action by a TOC.

While the results cannot be considered representative of the experiences of all passengers who engage with revenue protection staff (as those who responded were inevitably self-selecting), the results did enable us to identify themes to investigate further. We received supporting evidence such as photos, letters and emails for a number of these submissions.

- (e) **Independent Research Reports:** Following our initial review and engagement with stakeholders, we commissioned several reports into specific aspects of the revenue protection landscape.
 - (i) **Mystery shopping of ticket vending machines ('[ESA report](#)')**: ESA Retail carried out an assessment of a representative sample of TVMs across the network to evaluate the quality of information provided on ticket types and terms/conditions.
 - (ii) **Passenger understanding of ticket terms and conditions ('[Illuminas report](#)')**: Building on earlier work commissioned by Transport Focus, Illuminas facilitated focus group discussions and in-depth interviews exploring passengers' understanding of ticketing T&Cs. Illuminas also carried out follow-up in-depth interviews with respondents to our Call for Evidence.
 - (iii) **Interviews with revenue protection staff ('[Savanta report](#)')**: Savanta carried out in-depth discussions with frontline revenue protection staff and senior managers from TOCs within each of the main owning groups to understand their perspectives on revenue protection policy and practice.
 - (iv) **Report by the Rail Ombudsman on cases it investigated that relate to revenue protection ('[Rail Ombudsman report](#)')**: This provides an analysis of complaints referred by passengers to the Rail Ombudsman related to revenue protection, providing case studies and thematic insights.
- (f) **Stakeholder engagement:** We met with a broad base of stakeholders to inform both our approach to the review and our findings and recommendations. While we have included a full list in Annex C, it includes:

- (i) TOCs and owning groups;
 - (ii) TPRs;
 - (iii) passenger representative bodies Transport Focus and London TravelWatch;
 - (iv) revenue protection agencies and penalty fare appeal bodies;
 - (v) the National Union of Rail Maritime and Transport Workers (RMT), which surveyed 4,000 of its members and provided a written submission; and
 - (vi) Ministry of Justice, HM Courts and Tribunal Service (HMCTS) and BTP.
- (g) **Visits and shadowing:** As part of our engagement with TOCs we carried out a number of visits to learn more about the issues rail staff face in the course of their work. This included:
- (i) visits to ticket offices to observe staff selling tickets and gather their perspectives;
 - (ii) shadowing revenue protection teams from 15 TOCs to witness their interactions with passengers; and
 - (iii) meetings with back-office staff supporting revenue protection activities.
- (h) **Comparative Research:** We carried out research to understand revenue protection approaches across other sectors and international rail operators. This included reviewing European rail networks, UK tram and bus operators, and other sectors like car parking and TV licensing to identify potential good practice that might be relevant to our review.

Analytical process

2.6 In order to develop our findings and recommendations, we assessed the evidence we had gathered using a robust analytical approach. We:

- (a) developed principal observations based on the evidence, considering their importance to the terms of reference;
- (b) considered the level of harm to passengers on the one hand, and to TOCs, farepayers or taxpayers on the other;

- (c) refined initial observations through internal and external challenge, including from DfT, our Cross-Industry Working Group and the Expert Advisory Group;
- (d) distilled findings into primary themes and issues, and organised these into three main areas:
 - (i) retail systems and ticketing terms/conditions that create challenges (set out in chapter 3);
 - (ii) revenue protection policies and practices (set out in chapter 4); and
 - (iii) TOCs' prosecution policies and practices (set out in chapter 5)

2.7 Our recommendations are in chapter 6.

2.8 The scope of the review was limited both by the need to focus on answering the questions set out in the terms of reference but also the practical challenges of concluding the review within the prescribed six-month timeframe. Accordingly, there are some areas where further work would be required following the review to fully explore or confirm certain points or issues. We have identified these in the report.

Acknowledgements

2.9 As shown above, this review has involved a vast amount of information gathering, stakeholder engagement and analysis in a relatively short period of time. It would not have been possible without the input, support and goodwill of all those who have engaged with us and assisted us in our work. Among others, this includes those who have responded to our information and evidence requests, provided data, facilitated visits and otherwise given us their time. We are grateful to all who have supported us.

2.10 In particular, we would like to thank the members of our Expert Advisory Group and Cross-Industry Working Group for the constructive challenge and support they have provided. We also wish to thank colleagues at Transport Focus for granting us early access to their research prior to publishing their own work on revenue protection matters, and for sharing their insights and expertise in respect of this.

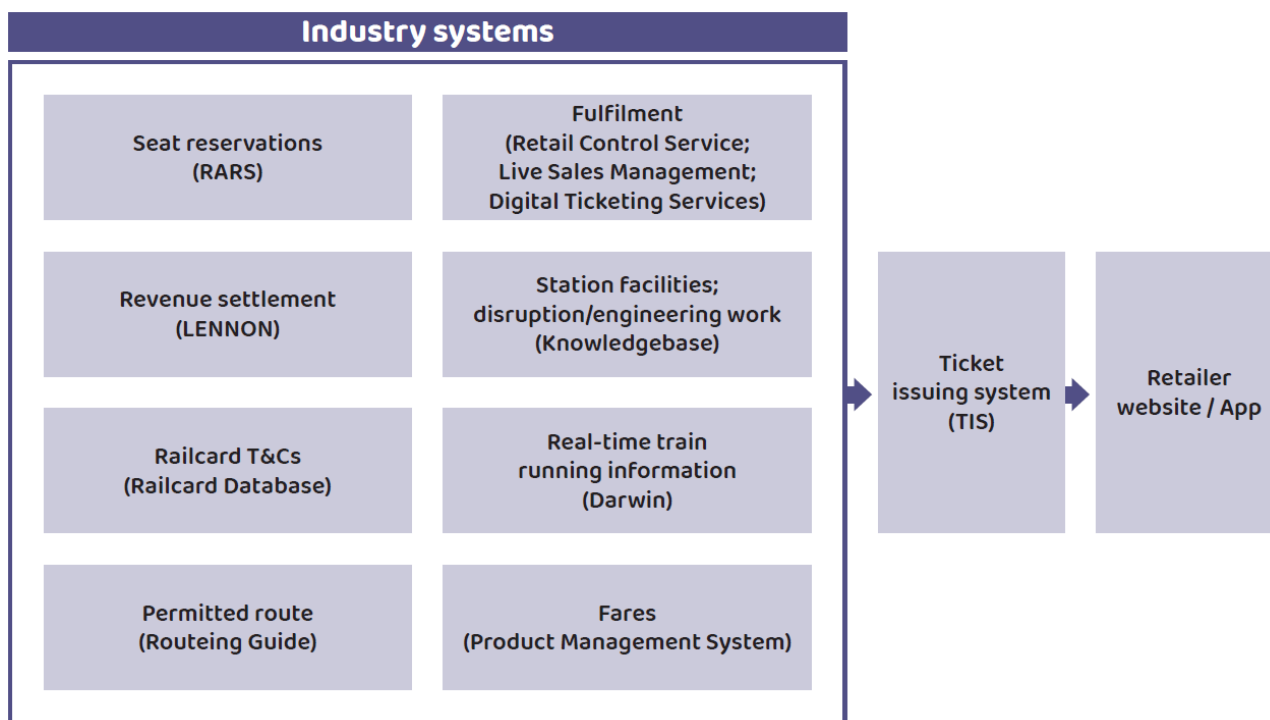
3. Retail

Introduction

- 3.1 This chapter focuses on the impact of ticket retailing and T&Cs on revenue protection, as recognised in the terms of reference for this review:
- (a) **retailing information** – including passengers' access to accurate and complete information, and whether this is clearly and effectively communicated during the sales process (including online, at TVMs and ticket offices); and
 - (b) **ticketing terms and conditions** – the clarity of ticketing T&Cs, including within the NRCOT, railcard T&Cs, and other ticketing conditions.
- 3.2 This chapter examines these matters in detail, exploring:
- (a) whether ticket sales channels provide passengers with the information they require, both to make an informed ticket purchase that meets their needs and to understand how they can use the ticket they have purchased;
 - (b) whether the industry systems and data that underpin ticket retailing affect passengers' access to material information regarding their ticket that is accurate, transparent, and provided in a timely way; and
 - (c) whether T&Cs or ticket validity restrictions are clear to passengers or whether the complexity of these: (1) affects the ability of the passenger to understand the validity of their ticket; or (2) provides potential opportunities for passengers to intentionally evade their fare.
- 3.3 As noted in chapter 1, travelling with an invalid ticket may arise because of either of the following at the ticket-buying stage of a passenger's journey:
- (a) unintentional: system errors, passenger confusion or an inadvertent mistake arising from the T&Cs or validity of their ticket or railcard; or
 - (b) intentional: passengers deliberately exploiting ticket types and T&Cs to evade fares on the railway.
- 3.4 However, before looking into these matters, it is important to note the broader landscape for the retail of rail tickets.

The ticket retailing landscape

- 3.5 Rail tickets are sold and purchased through different channels:
- (a) in-person sales at station ticket offices;
 - (b) at stations through TVMs; and
 - (c) online through websites and apps, by TOCs and TPRs.
- 3.6 In this report, when we refer to 'retailers', we mean both TOCs as retailers and TPRs.
- 3.7 There are also several companies that support these retailing activities by providing the underlying software for the online retailing platforms used by TOCs and TPRs. These are often referred to as 'white label' providers, with TOCs and TPRs then customising the look of these platforms on their websites and apps.
- 3.8 RDG oversees the online retailing of rail tickets. It licenses ticket retailers on behalf of TOCs and accredits the ticket issuing systems (TIS) that TIS suppliers and retailers build to sell rail tickets to passengers through online platforms. This process of licensing and accreditation is designed to ensure that:
- (a) passengers have access to accurate fare, reservation and timetable data; and
 - (b) data on ticket sales is accurately submitted to centralised industry systems used to calculate settlement values and distribute rail revenues between TOCs.
- 3.9 For a TIS to be accredited by RDG, the supplier must demonstrate that it can integrate with specified industry systems to ensure that the information provided to passengers reflects the data held on centralised industry systems. Retailers are not permitted to use information from other sources beyond those specified by RDG and could risk losing their accreditation if they do. The systems specified by RDG include those set out in Figure 3.1 below.

Figure 3.1 Key industry retail systems informing online ticket retail

Note: This diagram sets out the key systems TIS suppliers and retailers use to inform online sales channels and is not intended to be an exhaustive list. The systems referred to are defined in the glossary).

- 3.10 These industry retail systems have evolved over time to meet the growing demand for digital rail retail channels. Online sales channels have increased in popularity, with 77% of passengers now buying rail tickets through websites and apps at least some of the time according to [DfT research](#)⁶ from 2024.
- 3.11 To support online ticket sales, information that was originally intended for use by ticket office staff (who could interpret and explain it to passengers as necessary) has now been digitised and repurposed. It is now shared directly with passengers via online sales channels. However, this information was not designed to be presented to passengers without guidance or explanation.

Overview of ticket types

- 3.12 As noted in chapter 1, the current fares and ticketing structure in the rail industry is complex. However, within this structure there are several standard ticket types:

⁶ Source: Figure 4: [Ticket purchasing behaviour and preferences among rail passengers](#), DfT. Research carried out in February and March 2023.

- (a) **Anytime:**
 - (i) **Single** – Anytime Single tickets can be used within two days of the date shown on the ticket and up until 04:29 after the last day of validity. However, Anytime **Day** Single tickets are valid until 04:29 after the date shown.
 - (ii) **Return** – Anytime Returns are generally valid for one calendar month on the 'return' portion. However, Anytime **Day** Return tickets are valid only for the date shown and until 04:29 the following morning.
- (b) **Off-Peak and Super Off-Peak:**
 - (i) **Single** – a ticket that is only valid outside of peak-time. Off-Peak tickets are usually valid from 09:30 on weekdays in large cities and towns and from 09:00 elsewhere. The time restriction can be based on the time a train leaves or arrives at a city. Some cities also have evening peak-time restrictions.
 - (ii) **Return** – Off-Peak and Super Off-Peak Day tickets are only valid on the date shown on the ticket. Off-Peak and Super Off-Peak Returns are valid for one month from the date shown on the ticket.
- (c) **Advance** – Advance tickets are only valid on the date and train specified and therefore offer no flexibility for time or date of travel. These tickets can be bought from 12 weeks before travel and up to 10 minutes before departure.
- (d) **Season** – Season tickets allow unlimited travel for a particular journey and can be valid for periods from one week to one year.
- (e) **Pay as you go (PAYG)** – rather than buying tickets online or at the station, passengers can (depending on the location) pay for journeys through contactless payment methods at ticket gates, with the fare they pay determined by when and where they started and ended their journey. PAYG options can include contactless bank card, local schemes (such as Oyster in the London area) and smartcards issued by TOCs.

3.13 In addition to the fare types themselves, passengers (depending on their eligibility) can also purchase a railcard to obtain a discount against the cost of their journey. Table 3.1 lists the main railcards which enable passengers to save on most tickets. The list is not exhaustive; there are other railcards including 11 [regional railcards](#) that are not listed below. There are also concessionary travel schemes

which are not available from rail retailers such as the Jobcentre Plus Travel Discount card and the HM Forces Railcard.

Table 3.1 The main types of railcard in use in Great Britain

Railcard	Eligibility	Restrictions and validity	Exceptions to the restriction
16-17 Saver Save 50%	Everyone aged 16-17		
16-25 Railcard Save 1/3	Everyone aged 16-25 Mature students of any age	Min. fare of £12 before 10am Monday to Friday (excluding bank holidays)	Advance fares and July & August
26-30 Railcard Save 1/3	Everyone aged 26-30	Min. fare of £12 before 10am Monday to Friday (excluding bank holidays)	Advance fares
Disabled Persons Railcard Save 1/3	People with a disability that meet the eligibility criteria Includes an adult companion	No restrictions	
Family & Friends Railcard Save 1/3	Up to 4 adults travelling together with up to 4 children aged 5-15	Adult must be travelling with at least one child Not valid in London Southeast area during morning peak Monday to Friday (excluding bank holidays)	
Network Railcard Save 1/3	Everyone aged 16 and over for travel in London and Southeast area Can buy discounted tickets for up to 4 adults travelling together with up to 4 children aged 5-15	Min. fare of £13 at all times Not valid before 10am Monday to Friday (excluding bank holidays)	

Railcard	Eligibility	Restrictions and validity	Exceptions to the restriction
Senior Railcard Save 1/3	Everyone aged 60 and over	Not valid before 10am Monday to Friday in London and Southeast area	
Two Together Railcard Save 1/3	Everyone aged 16 and over	Valid only when two named people travel together Valid only on off peak journeys Monday to Friday and anytime during the weekend and bank holidays	
Veterans Railcard Save 1/3	Veterans aged 16 and over who have served at least one day in the UK Armed Forces or UK Merchant Mariners who have seen duty on legally defined military operations Includes adult companion	Min. fare of £12 before 10am Monday to Friday (excluding bank holidays) Companion must be travelling with named veteran	Advance fares and July & August

Overview of terms and conditions

- 3.14 Travel on the railway, like the purchase of many other products and services, is subject to T&Cs. These set out passengers' rights and responsibilities when travelling and the restrictions on the type of ticket they have purchased. In purchasing a ticket, passengers enter into a contract with the retailer and the TOC(s) whose services they will be using.
- 3.15 There are a number of different T&Cs that apply to passengers when travelling across the network, and usually multiple sets apply during the course of the passenger's journey, creating a layered contractual environment that can be difficult to navigate. Relevant T&Cs could include:
- (a) retailer T&Cs – these form the agreement between the passenger and retailer when using the retailer's website or app;
 - (b) the NRCoT, which form part of the agreement the passenger enters into with the train companies when they buy a ticket to travel on the mainline railway;

- (c) ticket T&Cs – these are specific to the ticket type and include validity restrictions, and are available on the National Rail website;
- (d) railcard T&Cs – these relate to the application of the railcard discount and can include time restrictions and minimum fares;
- (e) [TfL Conditions of Carriage](#) – these outline the rights and responsibilities of passengers using TfL services; and
- (f) T&Cs for payment types, e.g. [TfL Contactless Cards and Devices Conditions of Use](#), and [Oyster Conditions of Use on National Rail services](#).

The overarching legal and regulatory context

- 3.16 The retail of rail tickets is governed by a framework of consumer protection regulation (including the Consumer Rights Act 2015, Digital Markets, Competition and Consumers Act 2024 and other relevant legislation). Key principles include the following.
- (a) Terms are required to be fair and transparent to ensure that consumers can evaluate the impact of the term.
 - (b) Retailers are required to provide 'material information', which is the information the average consumer would need to make an informed transactional decision. If this is not provided, this could be classed as a ['misleading omission'](#) for the purposes of consumer law.

Information provision

Overview of issue

- 3.17 Our primary research and engagement with passengers and industry have highlighted a recurring concern regarding the provision of adequate information at the ticket buying stage. Evidence gathered for this review shows that, while there are examples of good practice in information provision, information provided across some retailers and some channels might not adequately set out the key T&Cs and validity restrictions of tickets.
- 3.18 Through industry engagement we understand that, while some gaps in information can be resolved through changing the information available on websites, apps or TVMs, some gaps are caused by the retail data and systems underpinning the ticket issuing systems used by ticket retailers.

- 3.19 The provision of material information on ticket restrictions and validity is vital for two reasons. It enables passengers who are intending to pay the right fare for their journey to buy a valid ticket. It also ensures that those seeking to evade fares cannot use the opportunity created by poor information to try to justify travelling without a valid ticket.

Findings

- 3.20 To assess the provision of validity information to passengers, we undertook three packages of primary research.
- (a) **Website and app reviews** – these were conducted internally between January and March 2025 to review whether websites and apps provide clear, accurate and timely information throughout the ticket buying process as well as on webpages about ticket types, railcards and T&Cs.
 - (b) **TVM mystery shopping** – ESA Retail (an independent research company that has previously carried out TVM research for ORR) reviewed information provision at TVMs through 500 mystery shops across 19 different TOCs.
 - (c) **Ticket office visits** – these were conducted by ORR staff to understand the systems, processes and training used at station ticket offices to provide information to passengers.
- 3.21 Our conclusions regarding information provision were also shaped by the findings from the wider work carried out to inform this review, including:
- (a) work undertaken by Savanta to understand the views of revenue protection staff;
 - (b) responses to our Call for Evidence;
 - (c) responses to our information requests; and
 - (d) reviews of previous broader research carried out by ORR and other bodies, such as Transport Focus.

Insufficient information provision on online retail channels

- 3.22 Our review of websites and apps found that retailers were not consistently providing adequate information on T&Cs or ticket validity restrictions to consumers. We observed this both through the ticket buying process and on the general information pages of retailer websites, such as webpages on different ticket or railcard types.

- 3.23 Examples of information gaps highlighted through our review of online sales channels included the following:
- (a) the time that Off-Peak and Super Off-Peak tickets are valid is often generic and high-level, with no specific times provided;
 - (b) age restrictions for child tickets are difficult to find through the ticket booking process. In some cases, age restrictions are set out across multiple pages on retailer websites with no central source of information; and
 - (c) some retailers do not highlight that railcard discounted tickets under £12 cannot be used before 09:30 or 10:00 (depending on the railcard used). Where this information is provided, it is only provided for a selection of railcards in the detailed T&Cs.
- 3.24 In addition to issues with information provision, our review also identified areas of good practice by some retailers. These include:
- (a) reminding passengers of the restrictions relating to minimum fares when applying a railcard discount – either highlighting in a coloured box that the railcard has been applied and so the ticket is only valid after 10am; or highlighting at the side of the booking flow that a railcard discount has been applied and minimum fare and time restrictions may apply; and
 - (b) boxes highlighting the times of other off-peak services on which the off-peak tickets being purchased are valid.

Insufficient information provision at ticket vending machines

- 3.25 TVMs were originally designed as 'queue busters' to allow passengers to make quick and easy ticket purchases at a station, rather than using station ticket offices. ESA Retail's review found that TVMs were not consistently providing adequate information on T&Cs or ticket validity to consumers.
- 3.26 Examples of information gaps highlighted through the review of TVMs included the following:
- (a) information regarding the exact time window for off-peak travel is often not available on a TVM. This leaves consumers needing to check other sources of information, such as speaking to station staff (if available), for full details about time restrictions;

- (b) information about railcard restrictions in force prior to 10am on the majority of TVMs, which may contribute to passenger confusion about the validity of their ticket; and
- (c) more than five taps/clicks to access validity information in the ticket selection process for some TVMs, meaning that passengers may not easily find this if they need it.

3.27 While the review found issues with information provision, it also identified areas of good practice at some TVMs:

- (a) some TVMs are clear that they only sell a limited range of tickets and provide information about where a greater range is available;
- (b) some TVMs provide useful information about off-peak restrictions, e.g. a list of which trains are classed as off-peak; and
- (c) some TVMs confirm whether the selected railcard is valid for the ticket purchased.

Retail systems and data contribute to information issues

3.28 Engagement with industry, in particular RDG and ticket retailers, highlighted that the structure of industry systems and the format of data underpinning online ticket sales mean it can be difficult to display full and accurate information regarding ticket validity in a clear, simple and user-friendly way.

3.29 In response to our information request, TPRs and providers of white label retail platforms for the industry provided examples of where, in their experience, industry retail systems were contributing to ticketing issues and confusion. The examples given included:

- (a) the systems allowing passengers to buy tickets that are not valid for their journey⁷. This was noted as a particular issue for off-peak tickets by two retailers;
- (b) inconsistent use of the systems by TOCs leading to the wrong fulfilment methods being made available to passengers (for example, providing passengers with an e-ticket, when they are not valid on a particular route); and

⁷ An example includes a passenger being sold a ticket that was not valid for travel on the London Underground although the journey included travel between London Underground stations.

- (c) a lack of consistency between the systems setting out validity information for railcards and for tickets.

- 3.30 Owing to some of the problems emerging from the piecemeal development of industry systems over time, industry retail systems are fed by several different data streams. The data for these is often held in different formats, some of which can be described as outdated (for example, flat text files that do not integrate with each other). This makes it difficult for retailers to extract and present information in a way that is accessible for passengers.
- 3.31 Within these systems, there is no single source of truth for ticket validity or restriction information. Instead, this is held across several different data sources, aggregated and then presented to the passenger. In addition, information on validity might be specified differently across these different sources of data. This is both a product of the design and content of the different data sets and is affected by how TOCs create fares within the industry systems, using different combinations of restriction codes. An example of this is given below.

Interplay between railcard and ticket T&Cs

Information on railcard T&Cs is held on a different system to information on ticket T&Cs and these two systems cannot integrate.

This means that, when a passenger buys an Anytime ticket with a railcard discount, the T&Cs of the ticket will continue to reflect Anytime ticket restrictions and will not include the additional restrictions on the ticket due to the railcard.

Source: Our discussions with RDG and retailers.

- 3.32 Additionally, the accreditation process for retailers (and the obligations arising from this) is primarily focused on enabling the tracking and allocating of ticket revenue, and on providing accurate and impartial information, rather than on providing information optimally to passengers (as the end users).
- 3.33 This reflects the need for retailers' TIS to effectively communicate with the industry system for ticket revenue settlement (LENNON), so that revenues can be collected and distributed correctly across the industry. To ensure this, retailers must use certain industry data systems, prescribed by RDG, when building their TIS. However, this means that, even if a different industry system or data source could

provide better information for passengers, retailers would not currently be able to incorporate this system into their TIS and retain their accreditation.

Lack of effective feedback loops to respond to issues identified by front-line staff

- 3.34 Our engagement with industry and the outputs from the Savanta research found that confusion arising from how ticket T&Cs and validity information have been presented has resulted in passengers travelling with invalid tickets. For example, the Savanta report highlighted issues with:
- (a) passengers not understanding or being aware of restrictions for off-peak tickets; and
 - (b) passengers not being clear on the restrictions of Advance tickets bought from TPRs.
- 3.35 Our engagement with ticket office and revenue protection staff revealed their concerns about information provision when passengers are buying tickets online, in particular split tickets. In these instances, passengers may not be aware that their ticket is a split ticket and this can cause confusion for passengers who believe they need to change trains at the station shown on their tickets (and so get off the train instead of remaining on the same train, and then board the next service for which their ticket is not valid), or when passengers mistakenly board the wrong train.
- 3.36 While frontline staff are aware of these issues, there is no effective feedback mechanism for this information to be acted on to support continuous improvement.
- 3.37 This was confirmed through our engagement with TPRs and providers of the white label retailing systems, who corroborated that there is no consistent way of this feedback reaching retailers in order for them to action changes to improve these issues with information provision.
- 3.38 Responses to our information request show that, while some data sharing agreements exist between TOCs and retailers, these mainly facilitate information sharing regarding ticket fraud. This means that issues commonly seen by revenue protection staff do not routinely become learnings for ticket retailers to drive continuous improvement in how tickets are described online.

Conclusions on information provision

- 3.39 The nature and scope of this review was not designed to carry out a detailed assessment of retail practices to determine whether a company's activities or

practices align with consumer protection laws. However, we have identified potential issues that may warrant further review and more in-depth analysis in future.

3.40 There is also potential broader harm for industry and taxpayers if retailers are not providing adequate information to consumers:

- (a) it would impact industry revenues if passengers are not buying valid tickets for their journey (and therefore not paying the correct fare). For example, a passenger not being informed of the off-peak time restrictions could mistakenly travel on a peak time train with a cheaper off-peak ticket; and
- (b) not providing information in a way that aligns with consumer law could mean that TOCs are not able to enforce the restrictions on tickets and demand the correct fare. This could both prevent TOCs from recovering their entitled revenue when they stop passengers who are travelling with the wrong ticket or allow those seeking to evade paying the correct fare to do so (by deliberately buying a cheaper but invalid ticket).

3.41 Our Call for Evidence and feedback from revenue protection staff highlighted that issues with information provision and confusion around the validity of tickets have led to passengers being subject to revenue protection action even when it appears they have made genuine mistakes. All of this means there is a need to address the potential for harm to passengers on the one hand and taxpayers, farepayers and the rail industry on the other.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 1 ('Make buying the right ticket simpler and easier')** addresses issues with retail systems and with information provision to passengers to support consumer law compliance.
- **Recommendation 5 ('Greater coordination, oversight and transparency of revenue protection activity')** covers the need for greater industry coordination to support revenue protection activity, including better data. This includes the need to establish better feedback loops between retail and revenue protection processes to address the issues we noted earlier.

Complexity of ticket T&Cs

Overview of issue

- 3.42 The second issue we have identified in relation to ticket retailing relates to the complexity of T&Cs and validity restrictions. Throughout our review, it has become apparent that the landscape of T&Cs across the rail industry leads to:
- (a) passenger confusion regarding the validity of tickets;
 - (b) layering of different sets of T&Cs;
 - (c) challenges regarding consumer law compliance due to the volume and complexity of T&Cs; and
 - (d) opportunities for those who are seeking to evade fares to capitalise on this perceived confusion.

Findings

- 3.43 As noted in chapter 2, we commissioned Illuminas to look at passenger experience and understanding of T&Cs. This work included:
- (a) focus group interviews with passengers across the country covering a range of ages, socioeconomic backgrounds and travel habits to understand passenger awareness of T&Cs and knowledge of ticket validity restrictions;
 - (b) in-depth interviews with specific groups of passengers to understand awareness of T&Cs and knowledge of ticket validity restrictions; and
 - (c) in-depth interviews with a selection of respondents to our Call for Evidence where confusion regarding T&Cs or ticket validity was the cause of revenue protection action.
- 3.44 In addition to this specific primary research, other elements of our wider approach to the review provided important evidence regarding our assessment of the clarity of T&Cs:
- (a) Savanta's research found that frontline revenue protection staff observed that passengers did not understand the ticket they had bought or had not read the T&Cs;

- (b) our engagement with industry stakeholders such as the Rail Industry Fraud Forum, Transport Focus and London TravelWatch highlighted the key issues with T&Cs and ticket restrictions; and
- (c) responses to our information request highlighted the ticket types and restrictions about which both TOCs and retailers receive the most complaints.

Passenger awareness of T&Cs

- 3.45 The Illuminas report concluded that passengers typically lack awareness of the NRCoT or what it contains and how it relates to their journeys. In focus groups, passengers generally said that they had not heard of the NRCoT and, despite their confidence that they understood the rules of travelling by train, they could not describe its contents.

“Unsure what they [NRCoT] are – do they cover things like behaviour from passengers? Maybe when trains are late, what compensation you can get for delays?”

Passenger from the Northwest, longer & infrequent journeys, 51-65 years

- 3.46 This aligns with a [publication](#) about consumer understanding of online contractual terms by the UK Government's Behavioural Insights Team which states that a very small proportion of consumers properly read or understand T&Cs when buying online.

Layering of T&Cs

- 3.47 When a passenger purchases a rail ticket, they may be bound by multiple layers of T&Cs, each addressing distinct aspects of features of the journey. While these T&Cs might be separate, they collectively contribute to the overall contractual framework for the consumer, and should align with relevant consumer protection laws, ensuring transparency, fairness and clarity in their application. This is a complex environment for any consumer to navigate and better, more innovative ways of clearly communicating material information are needed.
- 3.48 As set out earlier in this chapter, the NRCoT is not the only set of T&Cs that may apply to a passenger's journey:
- (a) different types of tickets have their own validity restrictions;

- (b) there are ticket fulfilment requirements for different journeys (for example, m-tickets (electronic tickets comprising of a barcode, stored on a mobile device) require validation before use) and across different TOCs;
- (c) railcards have their own T&Cs and can affect the restrictions on tickets; and
- (d) some payment methods have their own T&Cs.

- 3.49 Passengers on multi-leg journeys may face different T&Cs at different stages of their journey, with rules changing between TOCs and ticket types. As an example, passengers travelling with a railcard on both the National Rail and TfL network (e.g. outer London and the London Underground) could be bound by up to four separate sets of T&Cs. Using contactless or Oyster for this type of journey adds another layer of complexity, as separate T&Cs apply to these: Oyster conditions of use and contactless cards and devices conditions of use. In addition, TfL has separate Conditions of Carriage for all journeys on the TfL network.
- 3.50 The T&Cs applicable to a passenger's journey can also be lengthy as well as spread across several documents. For example, the NRCOT comprising of 34 pages, the [TfL Contactless Cards and Devices Conditions of Use](#) at six pages, plus scrollable webpages setting out the specific ticket T&Cs and, separately, the railcard T&Cs.

Specific ticket types causing confusion

- 3.51 In addition to a lack of understanding of the broader T&Cs, Illuminas' research found that passengers also struggle to understand restrictions linked to some specific ticket types. This is the case for ticket types that have time, route or TOC restrictions.
- 3.52 While focus group participants were often able to match the ticket types to the definitions, it was not intuitive for passengers, and they were often surprised by the ticket types and the restrictions these had.

“It can be a bit confusing for me because I’m not 100% on what all the types of tickets are. But I know that [...] if I’m going to need a return or a single, it’s pretty simple for me. But if I were to need something else, I don’t think I’d understand unless someone actually went through it with me.”

Passenger with a cognitive disability, digitally excluded, Leeds, frequent and shorter journeys, 43 years

- 3.53 Even when passengers were able to match the ticket types to the definition, they were not able to provide any further detail on ticket validity, such as specifics on the times at which Off-Peak and Super Off-Peak tickets were valid or the exact rules around child ticket age restrictions.
- 3.54 Through this work and engagement with industry, we have identified that the following ticket types cause particular confusion for passengers.
- (a) **Off-peak** – Illuminas identified that, while passengers understood off-peak as a concept, they could not identify when an off-peak ticket would be valid or whether this was applicable to evening and well as morning peak times. Industry stakeholders also identified off-peak as problematic given that time restrictions for off-peak tickets vary across the network.
 - (b) **Advance** – Focus group participants were generally aware of Advance tickets and that they could be bought more cheaply, further away from the date of travel. However, some participants did not understand that these tickets were restricted to the booked train service only. From a passenger perspective, the term 'Advance' could relate to any ticket type bought ahead of travel, all of which might have different restrictions.
 - (c) **Return** – Engagement with industry highlighted passenger confusion regarding the range of return products for sale, some of which are valid for one day and others that are valid for one month. This was reinforced by case studies from our Call for Evidence, as included in the Illuminas report.
 - (d) **Child tickets** – Different child ticket ages apply across different transport networks, for example bus and TfL networks. This contributes to confusion over what the child age is on the mainline railway.
 - (i) Illuminas' focus groups showed that participants were not always confident on the child ticket age threshold. In addition, our engagement with the Rail Industry Fraud Forum also highlighted that passengers between the ages of 16 and 18 travelling with a child ticket was one of the biggest reasons for ticket irregularities across the network. Some TOCs who responded to our information request reinforced this concern, ranking invalid use of a child ticket as their second most common issue regarding ticket T&Cs.
 - (ii) The rail industry introduced a 16-17 Saver Railcard that gives 16-17 year olds holding the railcard a 50% discount. This is equivalent to the child discount but requires the passenger to purchase a railcard to have

access to the discounted fare. While this has the benefit of discounted fares for this age group (who are predominantly still in education), it creates another opportunity for passengers of any age to apply a higher discount to their ticket, whether accidentally or knowingly.

- (iii) Given the costs of administering the 16-17 Saver Railcard as well as the costs of its incorrect usage, there may be a case for reviewing whether there would be overall net benefits from aligning the adult rail ticket age with the legal adult age (18), thereby removing the need for this railcard product.

Railcards

- 3.55 Railcards have their own T&Cs, in addition to the T&Cs for individual ticket types and the broader NRCOT. As set out earlier in this chapter, these T&Cs impact when and where the railcard can be used and the amount of discount passengers receive.
- 3.56 A key example is that Anytime tickets under £12 bought with some railcards are not valid before 10:00. This means that railcard T&Cs have a fundamental impact on the validity restrictions of tickets. As set out in chapter 1, there have been high profile cases where this has caused confusion and led to passengers who have mistakenly travelled on these tickets being subject to revenue protection action.
- 3.57 Another T&C of railcards is that they must be valid both when buying a ticket and when travelling. However, there is currently no way of checking whether a railcard is valid when a passenger purchases a ticket with a railcard discount online, or even whether a passenger holds that railcard at all.
- 3.58 This allows passengers to apply a railcard mistakenly (including the wrong type of railcard) or apply an out-of-date railcard to their ticket. It also creates an opportunity for a passenger who does not have a valid railcard to deliberately apply a railcard discount that they are not entitled to. When shadowing revenue protection staff, we observed cases where passengers appeared to have done this.
- 3.59 Some retailers have introduced systems reminder emails to alert passengers when their railcard is close to expiry or has expired. However, this is not common across every retailer.
- 3.60 Additionally, some railcard T&Cs (such as the 16-25 and 26-30 railcards) contain the following term:

“At the time of printing, the minimum fare is £12. The minimum fare is subject to change during the validity of your Railcard – check website for the most up to date information.”

- 3.61 This puts the onus on the passenger to check whether the restrictions for their railcard have changed each time they use it.

PAYG travel

- 3.62 PAYG travel is growing in popularity due to its flexibility, and its use is expected to rise with its upcoming expansion in various parts of England. However, our review of T&Cs and operational rules for contactless and smartcard payments found inconsistencies in how these are communicated to passengers.
- 3.63 Information provided on the availability of PAYG on applicable journeys is inconsistently communicated on websites. The option to pay with PAYG can appear in either journey planners, on station information pages, during the ticket purchase stage, or not at all.
- 3.64 We also found that key T&Cs for passengers travelling on the National Rail network in TfL travel zones do not appear in a timely way and is not easy to find when planning a journey or at the ticket purchase stage. We found just one example of a retailer who displayed key payment terms for contactless and Oyster during ticket purchase.
- 3.65 Information about boundary stations where Oyster is invalid but contactless is accepted is shown in maps such as TfL's [rail and tube services map](#), and it is also included in the detailed T&Cs. However, TfL's [single fare finder](#) was the only example we found displaying clear contactless information with Oyster restrictions.
- 3.66 Passengers are also required to use the same card or device (bank card, mobile pay, smartwatch etc) to tap in and tap out. This is because tapping in with, say, a physical card but then tapping out with a device linked to the very same card will register on the system as different journeys. However, our engagement with industry indicated that some passengers are not aware of this. This may lead to them being charged for an incomplete journey, even though they have tapped in and out. Of the five retailer websites we reviewed for contactless and Oyster journeys, only one displayed their payment terms during ticket purchase.
- 3.67 Our engagement with industry as well as our experience shadowing revenue protection teams indicates that there is confusion among some passengers regarding Oyster and Contactless payment rules around boundary stations. This confusion could result in some passengers being penalised. It is therefore clear

that passengers would benefit from better and timely information about the options for different payment methods, when they are available and the key T&Cs which apply to their journey.

Use of industry jargon

- 3.68 The complexities inherent in the range of ticket validity restrictions and T&Cs is further exacerbated by the use of jargon by industry when describing ticket types or validity restrictions. Illuminas tested a number of different railway terms to gauge passengers' understanding of them.
- 3.69 While passengers find some terms, such as 'valid only via [station name]', intuitive, informative and easy to understand, others are not clear and cause confusion for passengers, as follows.
- (a) **London Terminals** – Participants in the focus groups could not identify the stations that would be classed as London terminals. Respondents did not understand whether this was major stations only, or whether the station could have any through trains.

“Is it any London station or does ‘terminal’ refer to the likes of Euston, Liverpool Street? Like I don’t know – what about like Charing Cross? Because you can get trains from there.”

Passenger from Birmingham, frequent and shorter journeys, 35-50

- (b) **Valid on any permitted route** – Illuminas found that this has significant potential to confuse as passengers did not understand this term or know how to identify a permitted train or route.

“Out of context, it’s like what is the permitted train? You know, what’s the permitted line? I think it’s very abstract and sort of feels like you’re trying to trip people up.”

London & Southeast, frequent and shorter journeys, 19-35

- (c) **Valid on [TOC name] only** – While many respondents found this term somewhat intuitive, others found it surprising and worried about how the restriction might impact them during disruption.

- (d) Engagement with industry and our visits shadowing revenue protection staff across the network highlighted other situations where industry terms are unclear and cause confusion, such as the use of '**Manchester Stations**' which covers Manchester Deansgate, Piccadilly, Oxford Road and Victoria. Revenue protection officers noted that passengers do not understand that other Manchester stations are not included within this grouping, such as Manchester Airport.

3.70 TVM mystery shoppers who participated in the ESA report research found some of these terms confusing too (see paragraph 4.1.6 of that [report](#)).

Conclusion on complexity of ticket T&Cs

- 3.71 In line with our analysis of the findings regarding information provision, the findings above also pose challenges for the rail industry regarding consumer law compliance. They raise similar issues for industry revenue generation and the potential for intentional fare evaders to exploit the complexities of the system.
- 3.72 As a result, there is a need to address this complexity to remove the potential for harm to passengers and to the rail industry (and by implication to tax- and fare-payers).
- 3.73 Separately, this chapter has covered the fact that there is a complex landscape of T&Cs that are not always understood by passengers. While improvements to information provision can help to ensure that passengers are aware of the key T&Cs that apply to their journey, streamlining the T&Cs would help to make them clearer and more accessible for passengers. It would also provide the industry with a stronger foundation for enforcement action against those who deliberately evade paying the correct fare.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 1 ('Make buying the right ticket simpler and easier')** covers the need to address problems caused by complexity.
- **Recommendation 4 ('Make information on revenue protection easy to access and understand')** discusses the need to make information on revenue protection easy to access and understand. This (among other things) covers ticket T&Cs. As part of this, we consider there should be a review of the NRCoT (and its underlying policies) to take account of the issues we have identified. As we note in chapter 6, RDG is looking at a comprehensive overhaul of aspects of the NRCoT, which could provide an opportunity to do this.

Additional areas for consideration

- 3.74 Beyond our recommendations, there are three other areas relating to retailing that we think would merit further consideration for action. The first two are areas that we did not have sufficient time to fully consider within the constraints of our review. The third is an issue that interacts with DfT's consultation on rail reform.

Ticket validity during disruption

- 3.75 Engagement with passenger bodies and feedback from Illuminas' research highlighted that passengers can be confused about their ticket validity if their planned journey is affected by disruption. For example, most passengers thought they could use the next train going to their destination, but this is not always the case depending on the ticket they hold.
- 3.76 We suggest that further work be undertaken to better understand how disruption contributes to passengers travelling with an invalid ticket, and what aspects of ticket validity during disruption passengers find most confusing.
- 3.77 This would support the development of better information and communication for passengers as to what their onward travel options are during disruption, while also reducing the likelihood that they innocently end up travelling with an invalid ticket.

Ticket fulfilment

- 3.78 Engagement with rail staff and feedback from the Illuminas research suggested that passengers can be confused by the fulfilment rules for their ticket. By fulfilment, we mean the process by which a purchased ticket is delivered to the

customer. Sometimes there are restrictions on how retailers can fulfil tickets, often related to gateline technology in operation at the stations along their journey.

- 3.79 For example, for those passengers whose ticket provides for travel across London, the London Underground gatelines do not accept barcode tickets. As such, the retailer will usually need to fulfil the ticket purchase as a paper ticket. This can lead passengers who are used to a digital ticket to not realise that they needed to collect their ticket at the station.
- 3.80 We also found during our research and engagement that some passengers buying their tickets online (from a website or app) assume that their ticket would be fulfilled as a digital ticket. But some tickets must be collected from a TVM before travel. This was seen as counter-intuitive when the purchase was made online.
- 3.81 We suggest that further work is undertaken to understand how fulfilment requirements contribute to passengers travelling with an invalid ticket, what the key areas of confusion are, and what actions can be taken to address these.

Changes to the licensing and accreditation of retailers

- 3.82 As set out earlier in this chapter, rail ticket retailers are licensed and accredited by RDG. This process is focused on tracking and allocating ticket revenue and ensuring that retailers can use, connect and share data with industry systems. This process does not currently focus on the impact of systems on the end user.
- 3.83 Given this, there is a case for considering changes to this licensing and accreditation structure to include a focus on ensuring accurate and complete information provision. This could support compliance with consumer law as well as improved clarity of information for passengers, as well as supporting revenue protection more broadly.
- 3.84 However, this may require legislative change. Also, and as noted above, the licensing and accreditation of rail retailers is currently under review in DfT's consultation on the future structure of the railways under GBR.

4. Revenue protection policies and practices

Introduction

4.1 This chapter focuses on our analysis of industry policies and practices around revenue protection. The review's terms of reference covered this area as follows:

- (a) **Revenue protection enforcement practices** – the appropriateness of the enforcement approach, and the options available for TOCs to enforce revenue protection.
- (b) **Non-compliance with ticketing rules** – the classification of ticket non-compliance, and how different types of ticket non-compliance should be addressed, considering proportionality and severity.
- (c) **Operator assurance and accountability** – assessing current assurance and accountability processes that operators have in place, and systems for revenue protection enforcement.
- (d) **Communication of enforcement approach** – the appropriateness and proportionality of communication with passengers, including at the point of sale, and through enforcement practices e.g. letters.

4.2 This chapter reviews these points, exploring:

- (a) the tools available to TOCs to protect revenue and tackle fare evasion and how TOCs use these depending on their revenue protection policies and operational and commercial constraints;
- (b) the classification and treatment of ticket non-compliance, including the need for an escalated approach to enforcement based on the likely intent of the passenger (i.e. unintentional mistake or intentional fare evasion);
- (c) the information available to passengers regarding the implications of travelling without a valid ticket and whether this is easy to access, clear and accurate; and
- (d) how TOCs, both individually and collectively, assure themselves that revenue protection activity is being carried out consistently, is generating the right

outcomes, and is continuously improving to adapt to changing trends in fare evasion.

Revenue protection enforcement practices

Overview of issue

- 4.3 TOCs have access to a range of options to tackle fare evasion. This includes tools set out in legislation, such as the penalty fares regime, and alternative solutions developed by industry, such as unpaid fare notices (UFNs). Each TOC's approach (including what tools it chooses to use) will be reflected in its revenue protection policy.
- 4.4 While a 'one-size fits all' approach to revenue protection is unlikely to be appropriate due to differences between TOCs, our analysis shows that the breadth and variety of revenue protection tools employed by TOCs can create significantly inconsistent outcomes for passengers in similar circumstances.
- 4.5 This inconsistency impacts both the remedial action passengers are asked to take, but also their ability to appeal any action taken against them. Where appeal regimes do exist, the process for appeals and transparency around them varies, further impacting passengers' experience and their perception of fairness regarding revenue protection.

Findings

The toolkit available for TOCs to implement revenue protection measures

- 4.6 Over 2023-24, TOCs recorded 876,000 revenue protection actions. This is in the context of 1,612 million passenger journeys across the network in the same period.
- 4.7 TOCs have a number of different tools at their disposal to implement revenue protection measures.
 - (a) **Excess fares:** if a passenger has a ticket that is partially valid for their journey, they may be required to pay an excess fare. This covers the difference between the original fare paid and the correct fare for a fully valid ticket (e.g. their complete journey).
 - (b) **Penalty fares:** a penalty fare is an exceptional fare that may be charged if a passenger does not comply with the normal ticketing purchase rules without good reason. The passenger must pay a set penalty amount either immediately or within a specific period. In England, the penalty fare is £100

plus the price of the applicable full single fare, reduced to £50 plus the price of the applicable full single fare if paid within 21 days. In Wales, the penalty fare is £20 or double the full single fare (whichever is greater). As discussed in chapter 1, penalty fares are set out in legislation.

- (c) **Unpaid fare notices (UFN) or failure to purchase (FTP) notices:** some TOCs issue UFN or FTP notices when passengers fail to produce a valid ticket upon inspection. These notices are a formal record that the passenger owes the fare. They require the individual to pay the outstanding amount within a specified time frame, often with an additional administrative fee for late payments. There is no common framework for UFN or FTP notices and TOCs take their own approach to them.
- (d) **Irregularity reports ('IRs') and notices:** a ticket or travel irregularity or incident report (TIR) can be used where a passenger's ticket is in question, whether due to a technical error, a misunderstanding, a failure to produce the correct ticket, or a more complex fare dispute. Where these have been issued, passengers often receive a copy (a ticket or travel irregularity notice). TIRs provide TOCs with a way to record and resolve the incident, either by allowing the passenger time to rectify the situation or by investigating further if necessary (which can potentially lead to prosecution).
- (e) **Yellow cards:** a 'yellow card' is a formal warning to passengers. If the passenger is found without a valid ticket again within a specified period, they may face harsher penalties or prosecution.
- (f) **MG11s:** Revenue protection staff may also produce a witness statement (known as an 'MG11') to record details of incidents, such as fare evasion, which may be used in legal proceedings. This is discussed in more detail in chapter 5.
- (g) **No further action:** instead of using one of the above tools, staff may exercise their discretion and decide to take no further action.

Table 4.1 TOC revenue protection enforcement tools grouped by sector

Approach used	Long Distance (Excl. Open Access) (5)	Long Distance (Open Access) (3)	Regional (6)	London & South East (8)	Number of TOCs (22) per option
Excess fares	4	0	4	4	12
Failure to purchase notices	0	0	1	1	2
MG11s produced by frontline staff	4	0	2	8	14
Penalty fares	2	0	5	8	15
Travel irregularity notice / travel irregularity reports / irregularity reports	5	0	4	4	13
Unpaid fare notices	4	3	6	3	16
Yellow Cards	1	0	1	1	3

Note: 'Long Distance (excluding Open Access)' covers those TOCs that are either in public ownership or are contracted by government. The table excludes Heathrow Express and Caledonian Sleeper as they do not use any of these tools.

4.8 These tools are a mixture of:

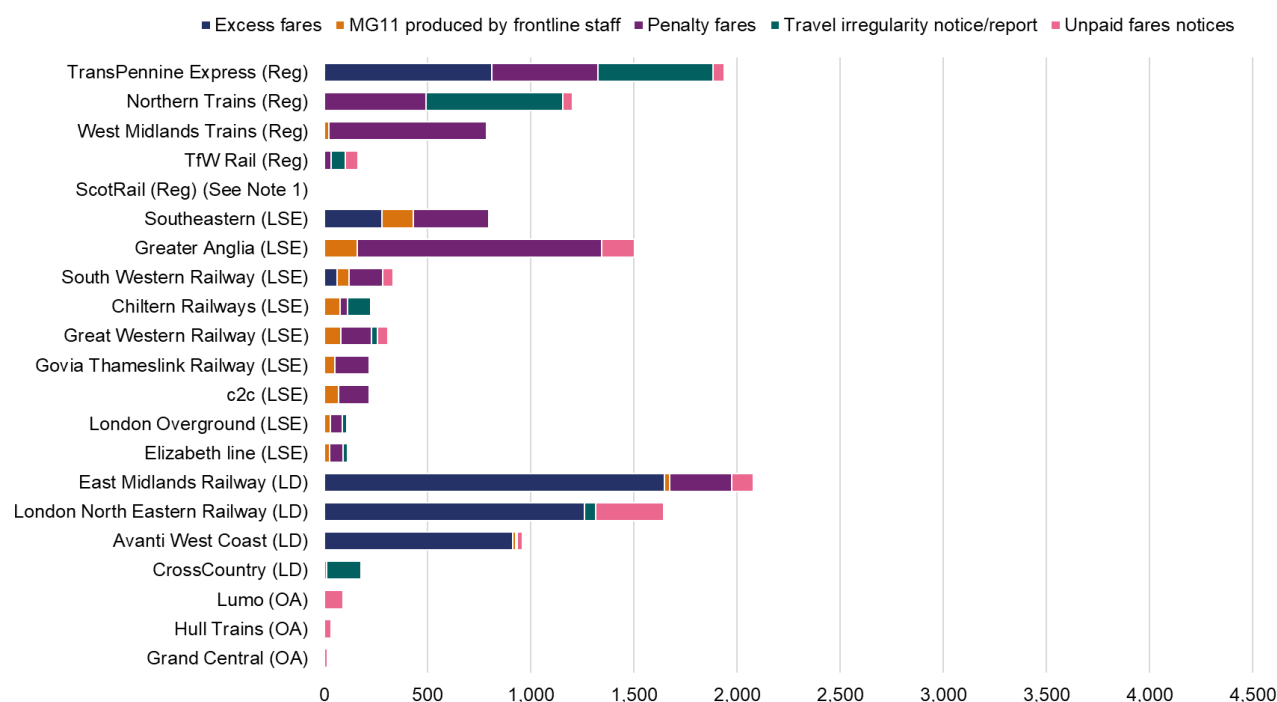
- (a) tools set out in legislation with clear and defined rules regarding application and clearly defined appeal processes (i.e. penalty fares); and
- (b) practices developed by the rail industry to tackle fare evasion.

4.9 The variety of tools, each with different levels of oversight and transparency, means that passengers in similar circumstances can experience a materially different outcome depending on the tool chosen. Some, such as UFNs or FTP notices do not have common rules or guidance around their use and approaches can vary between TOCs (as noted above). For example, there may be no process for passengers to appeal or dispute the notice.

Factors influencing TOCs' enforcement approach

4.10 These tools are used differently by different TOCs, who can choose what action they take. Using TOC data, Figure 4.1 shows the frequency with which various tools are used by TOCs. Penalty fares were the most used option with around 380,000 penalty fares issued in this period. In contrast, more recent innovations such as yellow cards and FTP notices are used much less frequently.

Figure 4.1 Volumes of enforcement actions taken per million passengers, by TOC, 2023-24



Key: Regional (Reg), London and South East (LSE), Long Distance (LD) and Open Access (OA)

Source: ORR Analysis of TOC data.

Note 1: ScotRail's actions are not visible on the graph's scale. ScotRail recorded three TIRs per million passengers and two UFNs per million passengers in 2023-24.

Note 2: Merseyrail has been omitted from the chart because the data for some of its enforcement actions is not meaningfully comparable to other TOCs. However, in relation to penalty fares, Merseyrail recorded 705 penalty fares per million passengers in 2023-24.

Note 3: Some TOCs run services in more than one sector. The TOCs above have been allocated to sectors based on the sector where trains planned was greatest in 2024-25.

4.11 Figure 4.1 should not be read as indicating that greater (or lesser) use of a particular tool is a better or worse approach in itself; we have included the chart merely to demonstrate the scale of different approaches in use and variety of approaches across the industry. The appropriateness of the use of a particular tool

will depend on the specific circumstances in which it was deployed and cannot be implied from the chart. In addition, TOCs may take different approaches to how they issue MG11s, so it is important to note that Figure 4.1 does not cover the total number of MG11s issued by TOCs; it only includes MG11s issued by frontline staff (and not those issued later by office-based staff). (Table 5.1 in chapter 5 sets out the total charges brought by TOCs in 2023-24.)

- 4.12 The use of these different tools by each TOC is determined by its enforcement policy. These policies are tailored to a TOC's particular operating environment and our analysis has found that a range of factors influence both the content of these policies and how they are operationalised:
- (a) **Legislative framework:** Chapter 1 set out the legislative framework for revenue protection, including penalty fares. The legislation in place varies by country, with Scotland's legal system different to that in England and Wales, affecting the options available.
 - (b) **Commercial context:** TOCs have different commercial models and objectives. This drives TOCs to prefer certain revenue protection tools, or to set different thresholds before revenue protection action is taken.
 - (c) **Ticket gates⁸:** The availability of ticket gates at stations across a TOC's network will also influence its choice of revenue protection tools. Networks with an open station environment (fewer ticket gates and fewer staff) often face a greater incidence, or a different type, of fare evasion relative to more closed networks (more ticket gates and more staff) which are more able to routinely enforce ticket compliance.
 - (d) **On-train staff:** Some train services are operated as "Driver Only Operation" – while others are operated with on-train staff, checking tickets.
 - (e) **Use of technology:** Staff equipped with more sophisticated electronic devices can use these to assess whether a passenger has a history of fare evasion, whether they have electronically validated their ticket, etc. This gives the revenue protection and back-office staff more evidence on which to base their decisions.

⁸ ORR has conducted a [market study](#) into ticket gate technology and has provided updates on industry progress in this area. Some of the recommendations from that review were aimed at increasing the potential for innovation and the introduction of new approaches to retail and revenue protection.

4.13 In addition to the broader policies in place within TOCs, our analysis found that passengers' experience of revenue protection also varies depending on the individual member of staff they interact with within each TOC. A number of factors affect how different staff members approach revenue protection:

- (a) **The role / grade of the member of staff:** Not all staff have the power to issue penalty fares and they may sell a passenger a ticket or give 'words of advice' instead.

Some revenue protection staff informed us that despite their TOC's policy requiring passengers to buy a ticket before boarding where facilities to do so are available, they were aware that some conductors or guards will sell tickets to passengers who had the means to buy a ticket before boarding. Arguably the conductor or guard should not have done this, as the passenger should have been subject to a revenue protection response instead. Selling tickets in this circumstance is inconsistent with TOC policy and can cause confusion for passengers. It can lead to a misunderstanding by a passenger that it is always acceptable to purchase a ticket on board, and is likely to be perceived as unfair if the passenger is sanctioned for something that previously seemed to be permitted.

- (b) **Individual staff discretion:** Every TOC policy we have reviewed includes some degree of discretion for revenue protection staff on what action to take when they encounter a passenger without a valid ticket. This means that staff must decide on a case-by-case basis whether discretion is suitable to apply. While these decisions will be guided by TOCs' individual policies, this approach will always be inherently subjective and will lead to different outcomes for different passengers.
- (c) **Use of agency staff:** TOCs use third party agencies for a range of activities – e.g. providing additional capacity during high passenger volume events. Agency staff will be required to follow established TOC policies but may lack the experience of equivalent TOC staff. The interviews conducted with staff (to inform the Savanta report) highlighted a perception among TOC staff that using externally sourced staff can affect consistency of approach.

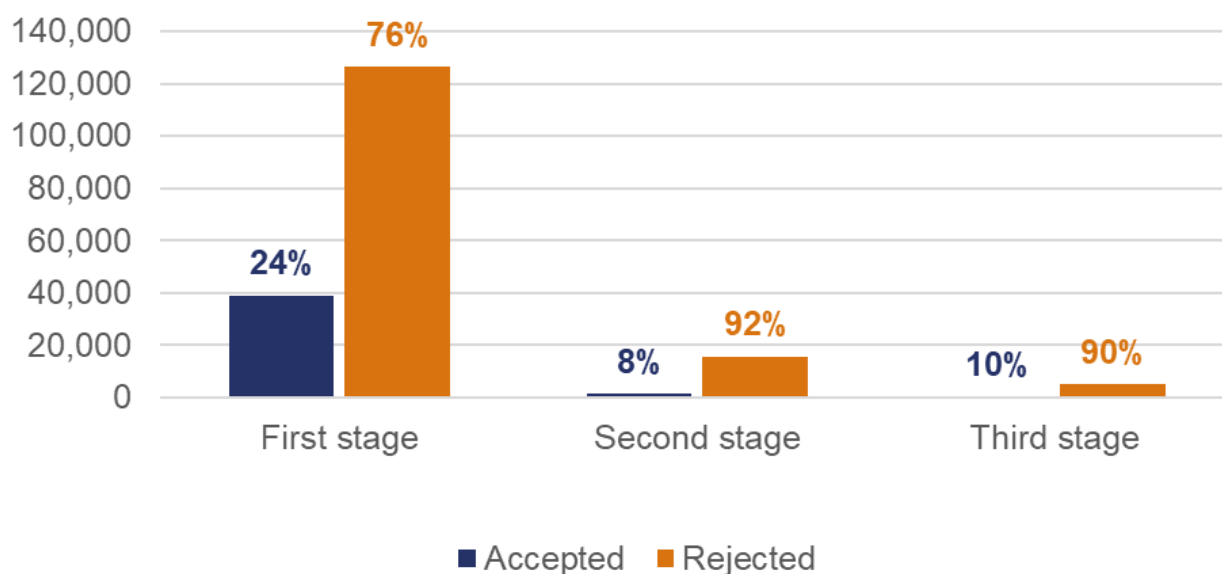
4.14 The wide range of policies, tools, and systems in use – combined with the human element of staff interpreting and applying them – will inevitably result in inconsistent outcomes for passengers in similar circumstances. As a result, a passenger's experience of revenue protection may vary significantly.

Appeals against revenue protection action

- 4.15 The different tools available also have different processes for appeals. Our review has identified a range of concerns with the approach to appeals.

The penalty fares appeal process

- 4.16 Penalty fares are provided for through both the Railways Act 1993 and the underlying penalty fare regulations. The current appeal process, which was introduced in 2018, was intended (as the then Rail Minister [said](#) at the time) to ensure that those making genuine mistakes would be treated fairly.
- 4.17 TOCs that issue penalty fares are required to provide an independent appeal service for passengers to use. TOCs currently use one of two companies to deliver the required three-stage appeals process, 'Appeals Service' (a trading name of ITAL Group Limited) or Penalty Services Limited. Some TOCs contract with the penalty fares appeals bodies to provide a form of appeals process for other unregulated notices that they issue (i.e. UFNs).
- 4.18 We saw evidence of appeal bodies focusing on the strict liability aspect of the ticket irregularity, regardless of whether a passenger had made an innocent mistake and the proportionality of the financial impact to the TOC in relation to this.
- 4.19 From the data provided to us by penalty fare appeals companies, the majority of appeals are rejected (as per Figure 4.2 below), and this is consistent across all stages of appeals. This would suggest that the majority of penalty fares are issued in accordance with current rules and processes. However, as we discuss below there are some issues with the process.
- 4.20 While we note the value of having a wholly [independent panel](#) to consider appeals at the third stage, the penalty fares appeals process is relatively long and may deter some passengers from using it. The three-stage process can take up to three months to navigate in full. While other rail bodies also operate a three-stage process (e.g. TfL and Nexus), examples from other sectors, such as council car parking bodies, use a two-stage process.

Figure 4.2 Number of accept / reject decisions at each appeals stage (1 April 2023 to early February 2025)

Source: ORR analysis of data provided by penalty fare appeals bodies.

- 4.21 If rejected at all three stages and a passenger remains aggrieved, it is open to them to raise the matter with Transport Focus or London TravelWatch, who (subject to their view of the case) may decide to raise it with the TOC in question. Passengers unhappy with the process may also seek to refer a complaint to the Rail Ombudsman. However, they are only permitted to do so after they have exhausted the relevant TOC's complaints process, which could take up to eight weeks. Furthermore, the Rail Ombudsman's remit is limited in relation to revenue protection and so (depending on the nature of the issue) the complaint may not be considered within scope (as highlighted in the [Rail Ombudsman report](#)).
- 4.22 Work by Transport Focus has also highlighted issues with the penalty fares appeals process. Its 2020 [report](#) made recommendations to improve this. While some recommendations appear to have been actioned (e.g. improved information in letters), others (e.g. public reporting) do not. Like Transport Focus, we found several issues with the appeals process which are common to other aspects of revenue protection such as a lack of oversight, data and reporting, and overall transparency. The lack of data sharing and reporting also seems to limit TOCs' ability to learn from the appeals process.
- 4.23 In particular, the industry may wish to note the following when considering potential improvements to the current appeals process.

- (a) As noted earlier, the policy intent of the current appeal process was to ensure robust protections for innocent passengers. Yet there are cases of potentially meritorious appeals being denied and those seeking to appeal can also find the system hard to navigate.
- (b) Submitting a good quality appeal is made more difficult due to frequently asked questions and other upfront material lacking information on the criteria for appeal.
- (c) One of the statutory criteria for appeal is “compelling reasons...in the particular circumstances of the case” that the appeal should be upheld. However, there is no elaboration anywhere of what this means in practice, and in the context of strict liability, it can be interpreted very narrowly. This lack of clarity risks different and inconsistent application by the two penalty fare companies and unfair outcomes for passengers.
- (d) Transport Focus’s 2020 [report](#) found cases of appeals where clearly compelling reasons were not accepted and where it had to intervene. We did not find sufficient evidence to assure ourselves that the system has improved since then. The fact that Transport Focus and London TravelWatch continue to intervene on behalf of passengers after an appeal has been denied a third time is indicative of this.
- (e) There is no effective oversight of the penalty fare bodies, nor is there any auditing of their decisions (DfT and Transport Focus were involved in establishing the current processes but do not have an ongoing oversight role in this area). The penalty fare bodies’ accountability is purely to the TOCs who contract with them. Furthermore, only one of the appeal companies publishes any data on outcomes of appeals and there is no reporting on this, meaning transparency is very limited. More oversight and transparency would provide greater assurance on whether the process is working effectively and provide broader accountability.
- (f) There is scope for appeals bodies and TOCs to do more to utilise insights from appeals to support continuous improvement (both in determining appeals and in addressing causal factors).

Appeal processes relevant to other revenue protection tools

- 4.24 While the penalty fares appeals process is defined in legislation, appeals for other revenue protection tools do not have the same passenger safeguards and so the arrangements can vary on a TOC-by-TOC basis. For example, some TOCs

provide an appeals process for UFNs, whether through an appeals body or in-house, whereas others do not.

- 4.25 In some cases, there is no evidence of an appeals process for other revenue protection tools. For example, we could not find an appeals process for FTP notices. As such, a passenger may face difficulties if they feel they have grounds to challenge the notice.
- 4.26 This inconsistency and lottery in both the availability of appeals processes for different revenue protection actions and in the application of and approach to the appeals processes that do exist further highlights the inconsistent approach to revenue protection across the network.

Conclusions on issue

- 4.27 The breadth and range of the revenue protection toolkit available to TOCs affords them some flexibility to take what they consider to be the best course of revenue protection action for their operational circumstances. Staff also play an important role in interpreting and implementing these policies. However, the diverse range of enforcement actions used across the network, coupled with the human element of applying these policies to real-world scenarios, creates an inconsistent revenue protection landscape for passengers and increases the risk of unfair or disproportionate treatment of some passengers, who may appear to be in similar circumstances.
- 4.28 Passengers should be able to expect fairness in the treatment and outcome from travelling without a valid ticket, whether this is intentional or not. However, as shown in Figure 4.1, passengers without a valid ticket are likely to receive a different outcome depending on TOC they use. This has a material outcome on:
- (a) the penalties passengers receive; and
 - (b) their ability to appeal against any action taken.

Relevant recommendations (our full recommendations are in chapter 6)

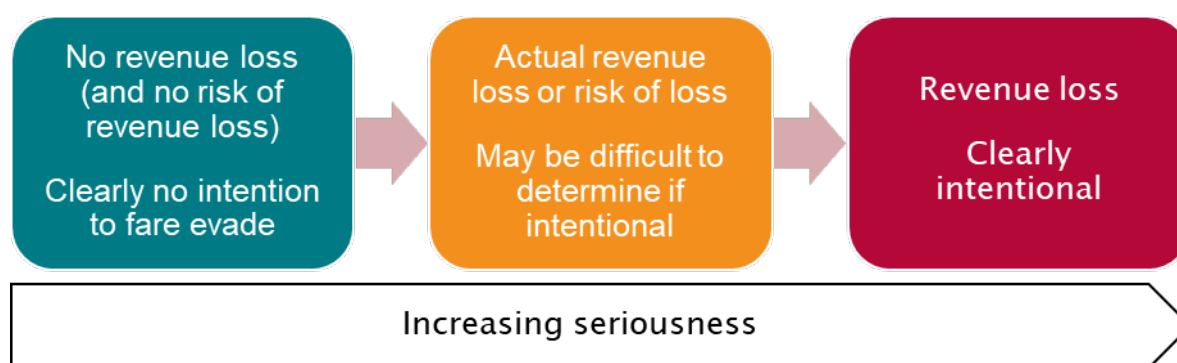
- **Recommendation 2** ('Strengthen consistency in how passengers are treated when ticket issues arise') addresses this issue in the main, proposing consistent principles and a governance framework for revenue protection for all TOCs.
- **Recommendation 4** ('Make information on revenue protection easy to access and understand') covers the need to clarify the 'compelling reasons' criterion for penalty fare appeals, as well as providing better and easier access to information on the process for appeals.

Classification and treatment of ticket non-compliance

Overview of issue

- 4.29 A primary concern of this review is to consider how ticketing non-compliance is classified and how it should be dealt with. As we noted earlier, there is currently an inconsistent approach to this – largely because of variation in legislation, TOC policy and differences in how staff deal with individual cases.
- 4.30 In this section, we consider different types of ticket irregularity and how these should be addressed. We have not sought to comprehensively identify each particular invalidity. However, we have identified three broad categories of ticket irregularity based on the intent of the passenger and whether there is any revenue loss, as set out in Figure 4.3.

Figure 4.3 Broad categories of ticket irregularity



Findings

Ticket irregularities involving no revenue loss and no risk of revenue loss

- 4.31 Where there is a ticket irregularity that involves no revenue loss (and there is no risk of revenue loss) then there is unlikely to be any material harm, commercial or

otherwise, to a TOC. An example might be travelling with a ticket with the wrong railcard discount applied, but one with the same or a lower level of discount to the railcard held by the passenger.

- 4.32 Our Call for Evidence received a submission from a passenger with this type of irregularity who was threatened with prosecution but given the opportunity to settle out of court for £150. They also provided supporting evidence to substantiate their account.

“I had accidentally clicked 16-25 railcard instead of 26-30 railcard on the Trainline app. Same fare. Extremely stressful, did not think I would be prosecuted when paying the same fare/such a simple mistake.”

Call for Evidence respondent pursued in a ‘no revenue loss’ case.

- 4.33 In the case mentioned above, which was clearly a genuine error, the primary intent of TOC action appeared to be either enforcing strict liability to the letter or increasing revenue collection, even when it was seemingly unfair and disproportionate relative to the circumstances. This raises questions about the intent and implementation of the TOC’s overall high-level strategy and its operational objectives for its revenue protection activities, as well as its staff’s understanding of this and the TOC’s oversight of what its staff were doing in its name.
- 4.34 We can see no reasonable justification for penalising passengers where no revenue has been lost and where there is no risk of loss. In our view, TOCs should urgently clarify their policies to ensure no penalisation can occur in such cases. To underpin this, the NRCOT could then be amended to formalise this in the T&Cs.

Ticket irregularities where there is revenue loss (or a risk of revenue loss) but where it may be difficult to determine the true intention of the passenger

- 4.35 The more complicated scenario is a ticket irregularity that involves revenue loss to a TOC (or a risk of revenue loss) but where it is difficult to determine whether the passenger acted intentionally. For example, a passenger who bought their ticket online says that they were unable to (or did not realise they needed to) collect their ticket from a TVM before departure.
- 4.36 Here, the passenger may have acted honestly and be able to (later) prove that they purchased a ticket (for example, with a credit card or ticket receipt or with an email showing the purchase). However, this irregularity involves the potential for

revenue loss, and we understand that this is a common scenario that revenue protection staff must deal with. We do not describe the specifics of this revenue loss risk for TOCs here for reasons of commercial sensitivity. Nevertheless, the broad point is that technicalities exist that some passengers may seek to exploit and the challenge for rail staff is to ascertain the passenger's intent and to respond appropriately.

- 4.37 For this reason, an honest passenger being able to prove later that they did purchase a ticket may not be sufficient to avoid a sanction. A similar risk applies with an e-ticket that a passenger says they are unable to present because of a flat battery on their phone or device. The result is that an honest passenger may find themselves being penalised in this situation.

Case study (Call for Evidence): A passenger was normally given e-tickets by his work for business travel. However, on this occasion they were booked a ticket that needed collecting from a TVM. The passenger did not realise and, thinking they had an e-ticket as usual, travelled without the printed ticket. The passenger appealed the penalty fare at all three stages, but this was rejected.

Although it was an innocent mistake and the ticket was purchased (meaning no loss to the industry), the passenger was in breach of the T&Cs and had received an email which clearly stated they must collect the ticket.

- 4.38 Another scenario is where a passenger claims a railcard discount to which they are not entitled but where it is possible for honest passengers to make a genuine mistake. A simple example is selecting the wrong railcard. A passenger might have a plausible case for how they made a mistake, but they are still in breach of the rules. As such, TOCs are within their rights to penalise them.

“My ticket was for the correct train, however I accidentally selected 16-17 railcard when purchasing the ticket. I was then unfairly prosecuted and had to pay £500 as a pre-court settlement.”

Call for Evidence respondent who agreed to out of court settlement

- 4.39 We also gave real-life examples in chapter 1 where mistakes had been made regarding railcard T&Cs. In one case, the discrepancy (revenue loss) was as low as £1.60 and the passenger was prosecuted. This highlights the issue of proportionality. That is, is it fair to penalise a passenger many times the level of

the discrepancy in price that they should have paid, or to prosecute them for a minor violation, particularly where the passenger may have made an honest mistake.

- 4.40 We know from our conversations with industry stakeholders that some intentional fare evaders persistently use the same technique to save relatively small amounts of money each time they travel. In such cases where there is evidence of repeat behaviour, a penalty that reflects the overall revenue loss from multiple journeys seems reasonable.
- 4.41 The challenge is being able to distinguish the deliberate from the unintentional.

Ticket irregularities which are clearly intentional and involve revenue loss

- 4.42 Where it is clear that a passenger has intentionally travelled without a valid ticket in order to avoid paying the correct fare, there would be fair grounds for penalising them. We return to this later on.

Determining intent

- 4.43 In addition to the skill and experience of revenue protection staff in assessing whether a passenger with a ticket irregularity has acted intentionally, technology can help to indicate intent and is becoming increasingly important. For example, electronic devices can enable staff to see a person's recent contactless activity and whether they have a track record of validating their ticket. This can help staff recognise genuine mistakes (such as a failed or forgotten 'tap-in') and respond more proportionately (for example, letting the passenger pay the correct fare and taking no further action). We observed this for ourselves when shadowing rail staff.
- 4.44 Evidence of prior behaviour can also play an important role in determining intent. Some TOCs log a passenger's details and the nature of their ticket irregularity (along with any action taken). Knowing whether a passenger has made a similar 'mistake' before can help inform a response to a further irregularity. If a passenger has previously been shown discretion for a ticket irregularity but has subsequently been found to have committed the same error soon after, then it could point to intent and warrant formal action. The same is true for a passenger with no prior record, where a clean slate may suggest that a ticket irregularity is a genuine error and lend itself to a more lenient course of action.
- 4.45 But even if a passenger has been judged not to have acted deliberately, under the strict liability regime they may still be penalised.

“I’m nearly 80 and the inspector acknowledged that it was a mistake as he could see that I regularly bought a day return to London. He told me to appeal which I did but I just got an instant response denying it.”

Call for Evidence respondent passenger whose app defaulted to purchasing a single ticket instead of a return and was given a penalty fare.

- 4.46 In the above case, if the staff member recognised there was no intent, they could have allowed the passenger to pay the excess fare rather than penalising them (and potentially recorded the incident, so if there are repeat cases the passenger might not be given the benefit of the doubt). That would have addressed the revenue loss to the TOC from the mistake. It is hard to see any objective benefit in penalising the passenger beyond this, unless the staff member remained unconvinced that it was a mistake, or the staff member felt they simply were enforcing the TOC’s policy.
- 4.47 We revisit the issue of how ticket irregularities involving actual or potential revenue loss could be better dealt with later in this chapter.

Alternative responses to ticket irregularities – education and behaviour change

- 4.48 Our analysis suggested that 12 TOCs focused on ‘educating passengers’ in their revenue protection policy. During our review, in conversations with TOCs about improving revenue protection processes, we noted an increasing focus on the need to use education to drive behaviour change – both for passengers making mistakes and those deliberately travelling without a valid ticket.
- 4.49 While ‘education’ can include things such as posters and announcements, it can be much more proactive. For example, we understand some TOCs use targeted social media campaigns and arrangements with schools to educate young people on the consequences of fare evasion to reduce the likelihood of them doing it. Education to drive behaviour change can also be used as a response to a passenger being found with an invalid ticket.
- 4.50 It was clear from the revenue protection staff we spoke to that they view educating passengers and supporting behavioural change as an important part of their role. This applies to passengers who have made an innocent mistake and those who have acted intentionally. In both cases, we saw staff use education along with discretion – for example, allowing a passenger to pay the excess fare (rather than issuing any penalty or other notice).

Case study (ORR site visit shadowing revenue protection staff): A 17-year-old was found travelling with a child ticket. The revenue protection officer explained the child ticket age limit was 15. He let the person pay the excess fare but explained why it was important to travel with a valid ticket (including the potential consequences if they were caught again). He also advised that a 16-17 Railcard would allow them to obtain a 50% discount (and effectively pay the child ticket rate).

- 4.51 Some TOCs also view the use of penalty fares and other notices as part of an educational process when issued alongside advice. For passengers who have made a genuine mistake, there is also value in using the interaction as a learning opportunity in making them more aware of ticket types and restrictions and thus help them make more informed decisions when making future purchases. Though, as we note later, for genuine mistakes, they are likely to be frustrated if they are penalised.
- 4.52 Professor Christopher Hodges, chair of our Expert Advisory Group, provided advice to us on the use of behavioural techniques. He advised that differentiating between those making unintentional mistakes and those acting deliberately was a fundamental element in operating a fair and just revenue protection policy. It can also gain the support and trust from those who make genuine mistakes if they feel they have been treated reasonably. Some principles and considerations around positive behaviour change he outlined included:
- (a) empowering passengers by more routinely or actively informing them about how to comply with ticket regulations and facilitating this. Industry should be seen to be attempting to help passengers comply by giving them the right information at the right time, and providing quick, easy access to the tickets they need for their journey. It can counter a feeling by some passengers that the system is working against them; and
 - (b) promoting a culture of compliance by emphasising the benefits and risks of getting it right or wrong. In a context where some passengers may not consider travelling with an invalid ticket to be a serious matter, they can be motivated to ensure they take adequate time and care if they are more fully aware of the potential risks of getting it wrong (e.g. having to pay more than original due fare, penalties, prosecution). It can serve to create a system where people value doing the right thing.

The strict liability framework

Passengers' perspectives on fairness and strict liability

- 4.53 Section 6 of the [Illuminas report](#) looks at passengers' views on liability and penalties. This notes there is a widespread expectation that, provided the passenger has behaved 'reasonably' and without any intent to evade the fare, they will be treated 'fairly' by the railway. This passenger expectation runs counter to how the strict liability framework currently operates.
- 4.54 The Illuminas work found that while, initially, most honest passengers accept the railway's definition of liability in the binary sense that a ticket is valid or invalid, when the implications of this are unpacked, the position is less clear cut. For example, while penalising (deliberate) fare evasion is seen as reasonable, the consensus from passengers is that it is not appropriate that an invalid ticket bought in good faith can be punished through prosecution.
- 4.55 It also found widespread frustration from passengers regarding being penalised for 'minor mistakes' and the disproportionality of the penalties. There was also dissatisfaction with the inconsistency in the system and its scope for causing confusion (e.g. where something is permitted on one occasion or by a particular TOC, but not on another occasion, particularly when it relates to a genuine mistake). This all links back to the risk noted above that the current arrangements may create a situation where passengers feel like the system is working against them.

The strict liability regime in context

- 4.56 We have looked into the history of the strict liability regime in relation to ticket validity (i.e. byelaw 18). While strict liability in railway byelaws has likely existed in some form for well over 50 years, the wording of byelaw 18 appears to date from the late 1990s when a new generation of byelaws were introduced (for each TOC), superseding pre-privatisation era byelaws.
- 4.57 This means the current form of strict liability dates from a time when people bought tickets directly from a member of staff (e.g. at a booking office) and when the ticketing system was simpler than it is today. Back then, it would have been harder to make a mistake and travel without a valid ticket. If you were travelling without a valid ticket, it was much more likely that you would be doing so deliberately.

- 4.58 Now, [around 60%](#) of tickets are bought online or via a TVM, without a member of staff to provide assistance⁹. The complexity in ticketing (T&Cs and validity restrictions), as well as weaknesses in retailers' provision of key information to consumers, mean the scope for passenger error is much greater than it was when the wording of byelaw 18 was first introduced.
- 4.59 Given this, and the evidence that passengers do make innocent mistakes, there is a strong case to say that byelaw 18 was not designed for the context in which it is now being used. And furthermore, that its use can lead to unfair outcomes.
- 4.60 On the other hand, we know that TOCs find byelaw 18 of value in dealing with fare evasion – particularly for cases involving a persistent fare evader but where a successful prosecution under RoRA is not practical because of limitations in that legislation.
- 4.61 Taking both the passenger and industry positions into account, we consider that byelaw 18 should be reviewed to incorporate some sort of reasonableness test to provide appropriate safeguards for passengers making a mistake. Alternatively, or until this can happen, there need to be safeguards built into revenue protection policies and processes to ensure that byelaw 18 and strict liability is used proportionately and appropriately.

Case study: Use of byelaw prosecutions for repeat incidents only

- 4.62 We are aware of one TOC operating a policy of only pursuing byelaw prosecutions if there is a track record of a passenger travelling without a valid ticket. Its approach is to issue penalty fares for the first two incidents (i.e. where discretion is not appropriate). Where there is a third incident within a year, the TOC will undertake a byelaw prosecution.
- 4.63 This approach makes it very unlikely that a passenger will be faced with prosecution for a one-off honest mistake, while still providing for persistent evasion to be addressed.

Case study: Strict liability on the Swiss railway (SBB)

- 4.64 Like in Great Britain, the Swiss railway operates a strict liability regime in relation to ticketing, both in relation to its T&Cs and with the potential for criminal prosecution. It also has a mostly 'open' network without ticket gates (and so faces

⁹ Source: Table 10, [Ticket purchasing behaviour and preferences among rail passengers](#), Department for Transport. Research carried out in February and March 2023.

similar challenges regarding fare evasion), with multiple train operators. One difference, however, is that Switzerland has a simpler ticketing system.

- 4.65 All passengers are required to buy a valid ticket before boarding. If rail staff encounter someone without a valid ticket, they are given a 'travel without a valid ticket' document. The same applies to partially valid tickets. They are then later required to pay a surcharge in addition to the fare (similar to a penalty fare). A passenger can appeal later. For example, cases involving no loss of revenue are not penalised. And, if a passenger was unable to present their ticket at the time of being checked but can produce it later, their appeal is upheld and they are not penalised (though they may need to pay a small admin fee).
- 4.66 There is an escalating system of surcharges, depending on whether it is a repeat incident and whether the passenger had no ticket or a partially valid ticket.

Table 4.2 SBB surcharges for not carrying a valid ticket (excludes cost of ticket)¹⁰

Circumstance Swiss Francs F (£ equivalent)	First incident	Second incident	Third and subsequent incidents
Travel without valid ticket	F90 (£81)	F130 (£117)	F160 (£143)
Travel with a partially valid ticket	F70 (£63)	F110 (£99)	F140 (£125)

Source: [SBB website](#). (Conversion carried out on 14 May 2025 when F1 = £0.90).

- 4.67 Underpinning this escalatory system is a centralised database to record incidents where a passenger does not have a valid ticket. This is available to all Swiss TOCs. This enables repeat cases to be identified. Data is retained for at least two years. However, a record is deleted if there is a successful appeal or for irregularities where there was no risk of revenue loss. The database has no wider role and cannot be viewed by third parties.
- 4.68 Criminal prosecution remains a possibility depending on the circumstances. For example, SBB says it prosecutes forgery cases in addition to levying a F200 surcharge. But it is not used to leverage settlements or pursue unpaid fares. Civil debt collection is used instead.
- 4.69 Overall, this is an interesting example of a system that seeks to balance the need to guard against fare evasion, while equally ensuring fairness to the passenger.

¹⁰ Incidentally, there are also other charges transparently set out on SBB's website, including for payment reminders, legal proceedings, debt collection and research to find a person's address. Further detail is available on [SBB's website](#).

For example, as well as escalating surcharges, the law allows for surcharges to be waived if passengers proactively approach staff on the train to declare that they do not have a valid (or validated) ticket. It also focuses the use of criminal law on the more serious cases (e.g. persistent evasion).

- 4.70 However, it is important to note that, with a simpler ticketing system, the likelihood of passengers making honest mistakes as a result of confusion will be much lower than in Great Britain.

Key principles for moderating the use of strict liability

- 4.71 There will never be a perfect system that ensures fare evaders and innocent passengers are always accurately identified. There will therefore be an element of risk that the revenue protection response to a passenger is not always appropriate to the circumstance (being either too lenient if it was intentional evasion or too harsh if it was a mistake).
- 4.72 The question is – how should this risk be managed and who should bear the risk. At the moment, the risk lies squarely with the passenger – the framework allows for them to be treated as though they acted intentionally even if they did not. The challenge is to calibrate the system so that it balances fairness while providing for persistent evasion to be addressed robustly.
- 4.73 If a simplified ticketing system could be established, then a system like that in Switzerland might be adopted. For example, clear upfront rules and escalating penalty fares for any infringements, with the right to appeal. However, it is unlikely that comprehensive fares and ticketing reform will be delivered for some years and, as such, discretion by frontline staff will remain important.
- 4.74 Reflecting this, a fairer system could be adopted in Great Britain which could provide for discretion (as now, but applied more consistently) along with a more structured way for passengers to be given the benefit of the doubt where an apparent mistake has been made.
- 4.75 Based on the points made earlier in this section, we think there are some key principles relevant to this.

(a) Benefit of the doubt:

- (i) The problem with applying discretion and giving the benefit of the doubt (or not giving it) is that it risks inconsistency of treatment for a passenger. For the TOC, it also risks a persistent evader being let off.

- (ii) The question of whether the passenger has made a similar mistake before is therefore crucial. In order to know this, there would need to be a way of checking and so a structured approach to logging ticket irregularities and a system for recording these seems essential.
- (b) **Escalation:** An escalatory approach where initial cases of ticket irregularities can be treated more leniently, while subsequent incidents meet a stronger response, would help to balance risk more fairly between honest passengers making mistakes and TOCs losing out through deliberate evasion. It is also consistent with supporting behavioural change through educating passengers both on how the system works and the risks of not carrying a valid ticket.
- (c) **Proportionality:** Proportionality is key to fairness, both in terms of the circumstances of a ticket irregularity and in terms of how it should be addressed.
 - (i) Passengers who have clearly attempted to 'do the right thing' should be given credit for this – e.g. where they have bought a plausible ticket or can evidence that they have purchased one. Logging the irregularity should provide assurance to the TOC that persistent fare evaders cannot 'game' the system. It also gives well-meaning passengers the opportunity to learn from the experience and potentially avoid a repeat scenario in future. Where there are repeat cases of irregularities, there would be justification for the TOC to take a tougher approach.
 - (ii) Furthermore, where the revenue at stake is very low, penalising the passenger disproportionately for a technical error is likely to be unfair (and inefficient) unless they have a history of similar offences.
 - (iii) If it is clear there is no intent, there is no purpose in penalising the passenger. However, it is fair that the passenger should make good their mistake in terms of paying an excess fare. Though, noting that some 'on the day' fares can be very expensive in relation to the price of an invalid ticket, how this works in certain circumstances might need further thought.
 - (iv) Some ticket irregularities will still warrant a sanction for a first offence depending on the circumstances (e.g. a mature adult with child ticket, unless there are exceptionally good reasons to explain this).
 - (v) For initial cases of a passenger having a ticket irregularity, prosecuting (or notifying of impending prosecution) under the byelaws is likely to be

wholly disproportionate unless there are aggravating circumstances (e.g. refusal to pay an outstanding fare or penalty fare, evidence that they tailgated or altered their ticket etc.).

Potential escalatory approach to dealing with ticket irregularities

- 4.76 Based on the above, we have done some initial work to look at how a potential escalatory approach could work. It is important to be clear that this is indicative; it would be for industry and government to consider and develop how such an approach might work in practice, though they could build on this initial model. The indicative approach is explained below and is shown in Figure E1 in Annex E.
- 4.77 It is based on having a system for recording ticket irregularities where they arise (as some TOCs do already). This would allow a TOC to give a passenger the benefit of the doubt for 'one-off' mistakes, such as those who commit a ticket irregularity but have no prior record of infringements, giving staff more assurance that they are not being 'played' by a persistent fare evader. Equally, a record of prior infringement would indicate likely intent. Such a system would therefore benefit both honest passengers and TOCs.
- 4.78 While such an approach could initially be operated by TOCs themselves, there would be benefits in a nationwide system (as in Switzerland). A national system has the potential to strengthen revenue protection activity and support a whole industry approach to tackling persistent fare evasion.
- 4.79 The system would need to comply with data protection legislation. However, we are aware that the legislation permits data to be collected and shared appropriately in connection with the prevention or detection of crime. While the details of how this might work would need to be considered further, a decision would need to be made on how long data should be retained for – e.g. a set number of years since the previous ticket irregularity.
- 4.80 The period would need to be long enough to prevent persistent evaders from gaming the system, but not so unduly long that, for example, a reformed former teenage fare evader is prosecuted in later life for an honest mistake. Proportionality is therefore also important in how this operates.
- 4.81 We are also aware from discussions with industry that the job roles of staff can play a role in who can record information and the types of processes and systems they are required to use. We therefore also acknowledge this is another aspect of implementation that would need to be considered.

- 4.82 Under our indicative approach, a TOC's response would correspond to a passenger's likely intent, with greater scope for giving the benefit of the doubt for 'one-off' incidents.
- (a) Where revenue protection staff are satisfied that an irregularity is clearly a mistake, this would not need to be logged. Instead, they could show discretion and explain to the passenger their error. There would only need to be a financial remedy if there would be revenue loss – in which case, an excess fare may be appropriate. Examples might include: clicking a 16-25 Railcard instead of a 26-30 Railcard (no excess fare needed); or inadvertently travelling beyond the Oyster card boundary with an Oyster card and approaching staff after not being able to tap out at the gateline (here an excess fare is likely to be appropriate).
 - (b) Where intent is uncertain, but the irregularity is quite plausibly a mistake, the revenue protection response could give the passenger the benefit of the doubt. However, any revenue loss would need to be remedied through an excess fare and the incident would be recorded, as a protection against intentional evaders.
 - (c) For incidents where it is more likely that the irregularity was deliberate (but where this may not be entirely certain), the appropriate course of action may be a penalty fare (or another appropriate alternative). The incident would be recorded. The passenger would have the right of appeal.
 - (d) Passengers would not be subject to a byelaw 18 prosecution unless they have at least three ticket irregularities on record and it was in the public interest to prosecute. Alternatively, if the TOC was able to show that the passenger clearly intended to fare evade, this 'three strikes' rule would not apply, and they could be prosecuted under RoRA.
 - (e) Potentially, this arrangement could also be combined with an escalating set of penalty fares, so that repeat cases are treated more severely, like in Switzerland. This may give TOCs more scope to resort to prosecution only in particularly persistent cases.
- 4.83 The existence of a database of ticket irregularities may also provide for the penalty fare appeal process to be made fairer too. Currently, the strict liability approach tends to be reflected in appeal decisions, where appeals made on the basis of a genuine mistake tend to be rejected. In considering whether there are 'compelling reasons' why a passenger should not pay a penalty fare, the panel could take

account of whether a person has a previous record of ticket irregularities when deciding whether to give them the benefit of the doubt.

Overall objectives of revenue protection and measuring 'success'

- 4.84 As part of rebalancing fairness of the revenue protection approach, it would be helpful for there to be a clear overall high-level statement of objectives for revenue protection that apply to the industry overall, approved by or set by government. This could provide top-level clarity for TOCs and their staff so that expectations for how the system should work are clear.
- 4.85 Alongside this, it would be important that the industry has a way to measure the success of revenue protection in a way that does not focus solely on revenue generation and recovery. It would be for the industry to consider these, but other potential success measures might include (among other things):
- (a) reduction in aggregate fare evasion rates;
 - (b) reduction in the number of cases of ticket irregularities that are made through 'genuine' mistakes and the number of repeat cases; and
 - (c) increasing rates of ticket scanning and validation as a way to help address a significant portion of fraudulent activity. This would also contribute to behaviour change by reinforcing a culture of compliance.
- 4.86 This would require better data collection and consistent metrics (linked to our findings elsewhere in this chapter) but would underpin a more balanced overall approach and a focus on continuous improvement. It should also support better outcomes for both TOCs and for passengers.

Conclusion on classification and treatment of ticket non-compliance

- 4.87 While the way that the industry deals with ticketing non-compliance currently provides for a robust approach to fare evasion where genuine fare evaders are caught, it also leads, in some cases, to unfair and disproportionate outcomes for passengers who have made innocent mistakes. The industry should look to rebalance how this works by adopting a more escalatory approach with adequate safeguards that provides greater scope to give the benefit of the doubt to passengers without yielding any ground to persistent fare evaders. This would moderate the strict liability framework to support greater fairness.

- 4.88 However, as an immediate step, TOCs should urgently clarify their policies to ensure that ticket irregularities involving no revenue loss and no risk of revenue loss are not penalised.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 2 ('Strengthen consistency in how passengers are treated when ticket issues arise')** covers this issue, including the need to develop and adopt an escalatory approach for dealing with ticket irregularities.

Communication with passengers

Overview of issue

- 4.89 In addition to ensuring that passengers understand the T&Cs of the tickets that they are purchasing, it is important that passengers also understand the implications of travelling without a ticket and are fully informed of the action being taken against them if they are subject to revenue protection action.
- 4.90 Our review has highlighted that information about revenue protection is not always clear or provided in a timely manner. This means that passengers do not fully understand the implications of travelling without a ticket and are not informed of the actions they can take to appeal or resolve issues when they are subject to revenue protection action.

Findings

Availability of information regarding revenue protection – TOCs and TPRs

- 4.91 All TOCs owned or contracted by government (with the exception of Caledonian Sleeper, where passengers can only buy a ticket with a seat reservation for specific services before travel meaning revenue protection is not necessary) have a revenue protection policy, or web page setting out their processes. In contrast, just one open access TOC has a webpage on revenue protection, with others only having generic references within broader T&Cs.
- 4.92 The overall content, tone and intent of policies differ. Many of those that operate a penalty fare process take a relatively formal approach, delivered through policy documents. However, some take a more customer-centric approach in order to help passengers minimise the risk of getting a penalty fare, delivered through a 'frequently asked questions' (FAQ) style format.

- 4.93 Nearly all TOCs make it clear in their policy that travelling without a valid ticket can result in a criminal sanction. However, not all TOCs set out the circumstances in which the TOC is likely to prosecute (more information about this is set out in chapter 5).
- 4.94 Our review of information on websites also found that TPRs had little to no information about revenue protection or the consequences of travelling with an invalid ticket on their websites or apps. Where this information is provided, it is often found in small sections of the T&Cs and does not generally have its own web page. While TPRs do not operate train services and, as such do not enforce revenue protection, they account for a large proportion of online ticket sales. This means that if passengers are purchasing tickets through a TPR, they may not be aware of the importance or consequences of travelling with an invalid ticket before they travel.
- 4.95 Overall, our review suggests that the provision of information could be improved in two ways. Firstly, making relevant information available at a single-source on the TOC's or TPR's website or app with a focus on clear and concise drafting that can be understood easily by passengers. Secondly, there is also an opportunity for the industry to develop more high-quality generic information, drafted clearly and concisely, that can be broadly adopted.

Availability of information regarding revenue protection – wider industry

- 4.96 In addition to information published on TOC websites, the consequences of travelling without a ticket are also set out in wider industry documents. For example, the NRCOT and National Rail [Penalty Fare Guidelines](#).
- 4.97 These documents should serve as the single source of the truth for passengers and industry regarding revenue protection. However, we found several issues with these documents in terms of lack of cross-referencing, duplication, and important omissions. Omissions include:
- (a) the NRCOT only refers to penalty fares notices and does not refer to other types of notice in use by the industry (e.g. UFNs); and
 - (b) neither the NRCOT nor the Penalty Fare Guidelines refer to the penalty fare grounds for appeal.

Information regarding revenue protection action taken

- 4.98 The information that passengers should receive when revenue protection action is taken varies depending on the type of action taken. A penalty fare notice must

include a certain set of information and a copy is given to the passenger. However, the rules around other types of notice can vary by TOC.

- 4.99 In respect of penalty fares and prosecutions, there are a number of required touchpoints for passengers set out in the 2018 Regulations:
- (a) where passengers appeal a penalty fare, the appeals communication is managed by the appeals body. For example, the appeals body will send a letter to the passenger detailing the outcome of the appeal;
 - (b) if a passenger has not paid a penalty fare (or other notice) and not appealed, the TOC will write to them to chase the payment; and
 - (c) the TOC will write to a passenger to notify them where a prosecution is being pursued – more detail on this is set out in chapter 5.
- 4.100 Our analysis indicates TOCs provide what is likely to be the necessary minimum information in these communications. Letters are generally direct and reflect the legal context and requirements – for example, citing the relevant legislation and noting that intending to travel without a valid ticket may constitute a criminal offence and warn of potential outcomes such as prosecution. A small number of respondents to our Call for Evidence considered the letters they received as legalistic and aggressive, especially where they had simply made a mistake with their ticket.

“Made me feel anxious while the matter was being processed as the letters [redacted] sent me were extremely threatening, aggressive, and intimidating.”

Call for Evidence respondent

- 4.101 A small number of responses to our Call for Evidence cited more exceptional experiences including: missing communications (caused by post or emails not arriving, passengers moving house, etc.); identity (fare evaders giving another person's name and address – also recognised by the Savanta and Ombudsman reports) and privacy (concerns about being interviewed under caution and handing over their confidential contact details on a busy train). One passenger suffered very serious consequences from having their details taken down and subsequently used by a nearby member of public while giving them to a member of staff.

- 4.102 Transport Focus raised concerns about both the quality and quantity level of information provided in appeals letters in its February 2020 report: [Penalty Fares: the appeals process](#). Case studies from our Call for Evidence indicated that decision letters do include information on why an appeal has been rejected, and what factors were relevant (although other recommendations from that report have not been followed up).

Conclusions on passenger communication

- 4.103 There are clear areas for improvement for TOCs and ticket retailers in both what information is provided to passengers, and in how accessible and useful it is. Where information is available, it is often provided across different webpages and apps, and can be legalistic in nature, affecting passengers' ability to understand the implications of travelling without a ticket, or how to appeal revenue protection action. There is also an opportunity for the industry to develop more high-quality single source information, drafted clearly and concisely, that can be broadly adopted (including, for example, passenger correspondence templates).

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 4 ('Make information on revenue protection easy to access and understand')** covers this issue.

Operator assurance and accountability

Overview of issue

- 4.104 In line with the terms of reference, we have assessed the ways in which TOCs assure themselves that the revenue protection policies they have adopted are being implemented as intended. We looked at how staff are held accountable for delivery and examined how these policies, including any underlying processes and systems they rely on, are reviewed and improved over time.
- 4.105 We found that the industry is largely self-assessing and self-assuring revenue protection performance in this respect. TOCs set their own policies and are not required to report externally on their activities. Passenger service contracts require reporting on financial losses and recovery only. Each TOC trains their own staff to deliver the company policy. As far as we can establish, there are limited means for any external body to hold TOCs, individually or collectively, to account for their revenue protection activities. Ticketless travel surveys appear to be one of the primary mechanisms used by DfT to hold its TOCs to account for meeting revenue

protection requirements, but our understanding is that it has a relatively narrow focus.

- 4.106 The absence of an overarching body with scope to hold TOCs to account means there is a lack of oversight of how the whole revenue protection system collectively works. Furthermore, there is no requirement for TOCs to report on the use of their powers and be accountable for the balance of outcomes under revenue protection policy and practice.

Findings

Internal monitoring and incentives

- 4.107 Practices for internal reporting and monitoring differ. Twelve TOCs said they use passenger complaints data to provide feedback on staff interventions, or to provide additional training. Some TOCs also advised that they used audits into staff performance, ticketless travel surveys and revenue recovered to inform approaches to policy on revenue protection.
- 4.108 No TOC provided information on internal assurance processes beyond a measure of revenue recovered and ticketless travel reduction to appraise the effectiveness of the approaches in use. No TOC provided information of external assurance of revenue protection policies e.g. conducting third party reviews of the effectiveness and impact of their policies on passenger behaviour and passenger experiences.
- 4.109 Where TOCs use third party contractors, some TOCs demonstrated assurance and monitoring of the third-party contractors through their contracts. Our analysis of the contracts revealed significant variety in service level agreements and outcomes that TOCs specified. Contract management typically included regular reviews and meetings between the TOC and the third-party, and access to dashboards to allow for real time monitoring of performance and trends.
- 4.110 We did not find evidence that TOCs required revenue protection staff to meet targets or quotas for issuing penalty fares or UFNs. Savanta's research confirmed that although some departmental targets do exist, TOCs did not offer or set individual targets for operational staff. Staff and managers both felt that such targets would be undesirable and would negatively impact on good working practices.

Data, external reporting and information sharing

- 4.111 There is no common industry dataset for recording and analysing revenue protection activity. TOCs can take different approaches to recording data, making it harder to meaningfully compare their activity.

- 4.112 Added to this, TOCs do not publish data on their revenue protection actions, and there is no overall public reporting on this either, which prevents public scrutiny. Nor do TOCs routinely share data between themselves, which constrains their ability to share best practice and to identify and resolve areas of inconsistency in how revenue protection tools are applied in practice.
- 4.113 There is also no overarching industry group focused on revenue protection. This is in contrast to the industry approach to tackling fraud, which is coordinated through the Rail Industry Fraud Forum. This allows TOCs and retailers to share information and best practice and to adapt approaches to the changing fraud landscape, thereby supporting a more joined up approach.

Staff training and performance

Training

- 4.114 All TOCs provided clear evidence of staff training requirements. Despite TOCs each having their own staff training programmes and resources, materials usually covered common themes, such as the relevant legislative and policy framework, ticketing types and passenger safeguarding (including guidance for checking tickets of passengers with disabilities, under 16s and vulnerable passengers). Some TOCs also included training on use of passenger-facing customer service skills, applying discretion in assessing potential fare evasion and how to manage conflict.
- 4.115 The quality and content of the training courses supplied to us by TOCs varied. There was both duplication and variation in alignment on some core activities. It was clear that TOCs mostly approached training of staff with rigour, particularly in respect of legal duties, personal safety and requirements on staff for monitoring passenger safety, including for example terrorism and safeguarding. However, it was also apparent that TOCs are missing opportunities to coordinate these activities and benefit from some standardisation and economies of scale, in addition to raising overall standards by agreeing and adopting industry-leading best practice.
- 4.116 Aligning training practices and materials increases the likelihood of a more consistent approach to implementing revenue protection activity and, therefore, the likelihood of passengers experiencing a consistent approach. This is particularly important given the role of staff discretion in deciding the revenue protection action taken against passengers.
- 4.117 A way to achieve this is for training to be accredited and a core syllabus agreed as part of establishing a common revenue protection framework. This also provides

benefits of recognised qualifications for members of staff, reduces duplication in training and assessing staff and demonstrates professionalism in the revenue protection role.

Staff performance

- 4.118 Revenue protection staff face many challenges in their role interacting with passengers. There are a number of factors which may increase the likelihood of a difficult encounter on both sides – a closed and potentially busy environment, potential lack of passenger (and, very occasionally, staff) understanding of T&Cs and perceptions of fairness, challenges for staff in accurately gauging intent. We saw for ourselves (via site visits) that staff can face aggressive or hostile behaviour, including passengers pushing through ticket gates or refusing to stop when asked to show a ticket.
- 4.119 Where passengers do comply with requests by revenue protection staff, a conflict can still emerge. Most passengers we observed cooperated with staff. However, each passenger interaction is different, and we saw the value of skilled staff who can control situations and demonstrate strong influencing behaviours and people management skills when tackling challenging situations.
- 4.120 All TOCs provided information to show that staff performance is evaluated through line management chains. Two TOCs provided evidence of wider reviews of staff performance examining qualitative data. One included continuous assessment for competence and fitness for revenue protection officers, including reviewing the impact of human factors and behaviours when carrying out revenue protection duties.
- 4.121 We saw some evidence showing how TOCs evaluate the effectiveness and impact of staff when dealing with passengers for revenue protection purposes. This is mainly done through observation of interactions in performance assessments and staff reviews. We observed some TOCs who had more comprehensive and detailed arrangements for evaluating staff performance and outcomes than others. This indicates there are opportunities to share best practice and learning in this area.
- 4.122 During our site visits shadowing revenue protection staff, we heard staff express frustration at the lack of feedback loops and joined up decision-making in some aspects of their job roles. Some wanted more assurance that the decisions they were making on the ground were delivering the right outcomes for passengers and the business. For example, if a decision they had made to issue a penalty fare was

subsequently overturned through an appeal, they said they would like to know about this so they could take this into account in future.

- 4.123 Similarly (and further to paragraphs 3.35-3.38), they felt that there could be better feedback loops between revenue protection and retail to address issues that cause passengers to make genuine mistakes or which create loopholes for fare evaders. As such, it would be beneficial to have channels through which they could give feedback on issues with existing products.
- 4.124 It was also suggested that there would be value in revenue protection staff being more involved in the process around the development of new ticketing products, processes and T&Cs. They felt that their experience in understanding how fare evaders might exploit new systems or how passengers can make honest mistakes was not being fully utilised and could help reduce the risk of revenue loss.

Conclusions on assurance and accountability

- 4.125 We found that TOCs are largely self-assessing and self-assuring revenue protection performance. There is no common approach to data collection, and any data or analysis that is held is not shared externally with the industry or published for passengers' (or other interested parties') scrutiny. This creates a lack of transparency which limits accountability and limits opportunities for continuous improvement in policy and process. There is also scope to optimise arrangements for training and performance of staff to support better outcomes.
- 4.126 Unlike other issues across the network, there is also no central industry coordination regarding revenue protection. This limits the sharing of data and best practice and inhibits the development of a more consistent approach to revenue protection. Better information and data sharing would also allow for continuous improvement of the industry approach to react to changing trends and issues in revenue protection.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 2 ('Strengthen consistency in how passengers are treated when ticket issues arise')** covers matters relating to staffing.
- **Recommendation 5 ('Greater coordination, oversight and transparency of revenue protection activity')** addresses the other issues raised, including the need for better feedback loops to support continuous improvement and more joined up decision making.

5. Prosecutions

Introduction

- 5.1 As set out in chapter 4, each TOC has its own revenue protection policy and practices and there are a range of enforcement approaches. This also extends to approaches to prosecuting passengers for fare evasion and ticketing offences.
- 5.2 A passenger may be prosecuted after a member of revenue protection staff finds them without a valid ticket and reports them for a suspected fare evasion offence. Alternatively, a TOC may decide to prosecute a passenger who was issued a penalty fare or UFN if they do not pay within a certain amount of time. The flowcharts in Annex E set out the various routes to prosecution following the issuing of different notices such as penalty fares, UFNs, FTP notices and TIRs.
- 5.3 As illustrated in the flowcharts, there are a number of routes and decision points that may lead to prosecution and outcomes such as settlement, conviction or acquittal.
- 5.4 This chapter is focused on the following item from the terms of reference:
- (a) **The prosecution process** – the circumstances in which prosecution is appropriate to the offence. This includes the requirements on prosecutors, for example the Full Code Test.
- 5.5 It covers:
- (a) options and approaches to prosecution;
 - (b) TOCs' approach to the charging decision; and
 - (c) assessing the scale and impact of prosecutions.
- 5.6 Where relevant, it also considers other aspects from our terms of reference as they apply to prosecutions, including '**operator assurance and accountability**', the '**communication of the enforcement approach**' and '**operator and taxpayer need to protect revenue**'.

Options and approaches to prosecution

Overview of issue

- 5.7 Each TOC has its own policy for how and when it uses prosecution as part of its revenue protection approach. Processes for reporting suspected fare evaders for prosecution or consideration for prosecution vary between TOCs. The options available also vary according to the training or role of the member of staff who has identified the situation. In all cases, bringing criminal proceedings requires evidence of the suspected offence in a format which can be put before a court.
- 5.8 This section provides an overview of TOCs' approaches, the toolkit available, investigative and prosecution processes, including the SJP, and the interaction between penalty fare appeals and prosecutions.

Findings

Overview of approaches to prosecution

- 5.9 There is no national or agreed industry policy or guidance to guide TOCs' approach to prosecution, either at Great Britain-level or within any of its constituent nations. In their response to our request for information, some TOCs referred us to historic documents.
- 5.10 These include the Association of Train Operating Companies' (ATOC's) 'Approved Code of Practice Arrangements for travel ticket irregularities 2013' and the ATOC 'Guidance Note – Prosecution Policy'. ATOC was not a regulatory body and compliance with these documents was not mandated. Both documents have subsequently been withdrawn, although they continue to influence some TOCs' approaches.
- 5.11 Broadly speaking, criminal prosecutions are used to address societal harm, whereas civil legal action provides for resolving disputes between individuals or companies. TOCs give different prominence to the use of criminal prosecution in their approach to revenue protection, including how routinely it is used, as demonstrated by Figure 5.1 further below (see paragraph 5.107 onwards). We found that 18 TOCs currently use prosecution as part of their revenue protection approach in some way, as demonstrated below.
- 5.12 By contrast, only a handful of TOCs provided evidence of recovery of unpaid fares via the civil courts, usually in addition to prosecution. This includes using the civil courts to recover unpaid penalty fares or to pursue cases which have exceeded the six-month statutory time limit for prosecution of summary offences.

- 5.13 In general, TOCs who prosecute typically use either an in-house prosecutions team or a third-party company to prosecute on their behalf. However, London Overground and Elizabeth line (as TOCs contracted by TfL) pass any cases of suspected fare evasion which require further action to TfL for it to deal with (TfL is a public prosecutor).
- 5.14 High-value rail fraud, including persistent fare evasion, may be referred to the BTP for investigation and further action via the CPS, or TOCs may investigate and prosecute privately.
- 5.15 Some TOCs do not prosecute criminal offences themselves, including the two publicly owned TOCs in Scotland. Scotland has a different legal system to England and Wales and under Scots Law private prosecutions are exceptional. In practice, this means reporting the suspected fare evader and offence to the BTP for prosecution via the Crown Office and Procurator Fiscal Service.
- 5.16 A number of open access TOCs have made commercial and operational decisions also not to use criminal prosecutions. Reasons include operating a “buy on board” policy and having high ticket compliance rates due to the nature of the service and other ticketing controls.

Comparator – environmental and local authority parking enforcement

In the UK, the enforcement of both environmental and parking offences is guided by a combination of statutory guidance and codes of practice. These documents provide a policy framework for how councils should handle offences such as littering, fly-tipping, and parking in non-permitted places. The frameworks promote consistency and inform how councils should explain, in their own policies, how they approach, carry out and review enforcement activity.

Use of third-party revenue protection contractors

- 5.17 Around half of TOCs engage a third-party revenue protection company to support their wider revenue protection activities. Eight TOCs use one of two companies to support all or part of their prosecution activity. Each company has different responsibilities, accountabilities and decision-making processes, and these vary by TOC. The range of activities outsourced includes administrative support, correspondence, assessing which cases to progress and preparing and presenting cases at court.

The Prosecution Toolkit

- 5.18 As outlined in chapter 1, TOCs generally prosecute suspected fare evaders under the applicable railway byelaws or RoRA. Some offences such as sections 5(3)(a) and 5(3)(b) of RoRA require intent to avoid paying the fare. Whereas, to prove an offence under section 5(1) RoRA or byelaw 18, the prosecutor does not need to prove intentional fare evasion. This simply means that a passenger may commit an offence by not holding or being able to show a valid ticket. The intention of the passenger is irrelevant as this is a strict liability offence.
- 5.19 However, under byelaw 18 there are some specific limited defences available to a passenger who is unable to produce a valid ticket. These are:
- (a) there were no ticket selling facilities available at the journey's start;
 - (b) a notice was displayed permitting journeys to be started without a valid ticket; or
 - (c) an authorised person gave permission to travel without a valid ticket.
- 5.20 If intentional fare evasion is suspected and a TOC decides to pursue prosecution, there is no requirement to pursue a RoRA section 5(3)(a) offence. It may choose to pursue a byelaw prosecution instead. Similarly, revenue protection staff may initially investigate a RoRA section 5(3)(a) offence but the TOC may subsequently decide to prosecute a byelaw offence, for example if there is insufficient evidence of intent.
- 5.21 Strict time limits apply to most fare evasion offences, with a requirement to bring charges within six months of the date of the offence. The prosecutor must prove beyond reasonable doubt that the passenger has committed the criminal offence. The prosecutor may seek compensation and prosecution costs and, in contrast to claims in the civil court, the TOC does not have to pay a fee to the court for bringing the case.
- 5.22 In a civil claim, time limits are relatively long, and the TOC must prove (on the balance of probabilities) that the passenger owes it money and justify the remedy it is seeking, i.e. how much compensation it is due. This can include legal costs incurred in bringing the claim, which in many cases are fixed. In a civil claim, the amount awarded by the court is to be paid to the TOC, whereas a person convicted of a criminal offence may be ordered to pay various different sums to different parties (as discussed in paragraph 5.138 below).

Interaction with penalty fares

- 5.23 As stated above, TOCs may decide to prosecute a passenger after they were issued a penalty fare but failed to pay it. However, the 2018 Regulations and the accompanying [explanatory memorandum](#) contain ambiguities which have affected how TOCs (and third-party contractors acting on their behalf) have approached the prosecution of passengers who were issued a penalty fare, particularly where those passengers appealed the penalty fare and their appeal was rejected.
- 5.24 In February 2025, the Chief Magistrate ruled on whether an unsuccessful penalty fare appeal provided protection from prosecution for certain fare evasion offences. He ruled that criminal prosecutions can be brought following a penalty fare appeal being rejected.
- 5.25 Although not binding, this ruling provides persuasive clarity that, where a passenger's penalty fare appeal has been dismissed, a TOC may prosecute. (Where an appeal is upheld, the passenger is immune from prosecution.) Nevertheless, ambiguity and uncertainty relating to the 2018 Regulations have impacted TOCs' approaches to prosecution, with some TOCs opting not to prosecute when a passenger has appealed a penalty fare, while others have chosen to prosecute in the same circumstances.

Prosecution procedure and process

The Single Justice Procedure (SJP)

- 5.26 The SJP is a streamlined process used in Magistrates' Courts in England and Wales to handle less serious non-imprisonable offences committed by adults. It allows cases to be dealt with by a single magistrate without the need for a court hearing, except if the defendant pleads "not guilty" or chooses to attend court instead. Other safeguards within the SJP to protect defendants' right to a fair trial include the ability to opt for a full hearing, provide mitigation and re-open proceedings if they were not aware of the SJP proceedings against them.
- 5.27 It has been [suggested](#) that the SJP's high non-response rate and short timeframes for action contribute to defendants being convicted in their absence without their knowledge. As highlighted in chapter 4, cases reported via the press and our Call for Evidence indicate this has occurred in some TOC prosecutions.
- 5.28 Since April 2016 TOCs have been permitted to use the SJP to prosecute offences under railway byelaws (including the Railway Byelaws 2005 and Merseyrail Railway Byelaws 2014). TfL, as a public prosecutor, has been authorised to use the SJP since 2015 for any offence that meets the criteria for its use. This includes Transport for London Railway Byelaw 2011 offences.

- 5.29 As noted in chapter 1, between 2018 and 2023 eight TOCs prosecuted just over 59,000 cases under RoRA, primarily section 5(1) but also section 5(3). The Chief Magistrate [ruled in August 2024](#) that, because TOCs do not have authority to prosecute RoRA offences via SJP, these prosecutions were null and void.
- 5.30 Among the 18 TOCs that prosecute, all use the SJP to some extent. Five use the SJP exclusively, while the rest prosecute using a combination of SJP and full Magistrates' Court procedure. Of the 13 TOCs who use a combination of SJP and full Magistrates' Court procedure prosecutions, all but two use the SJP for most of their prosecutions. Some reserve SJP for certain cases, for example for bringing byelaw prosecutions against passengers who have failed to pay a penalty fare.

Common Platform

- 5.31 In 2020, HMCTS began rolling out a new digital case management system called 'Common Platform'. The system allows prosecutors to: send cases to the court when they are ready; access and manage cases in real time; and receive case results instantly, while defendants can enter pleas and mitigation online.
- 5.32 Two TOCs currently use Common Platform and two TOCs use it indirectly, via TfL. These prosecutors only use Common Platform for byelaw offences prosecuted under the SJP. Other TOCs are in the process of transitioning to the new platform and more may follow as the system is rolled out more widely.
- 5.33 Common Platform allows for integration between TOC systems for recording, reporting and processing suspected fare evasion offences and court systems. This means that a suspected offence reported by a frontline member of staff can be allowed to automatically progress to charge without a manual review of the case.
- 5.34 In practice, TOCs using the system may configure their processes to provide safeguards and opportunities to review whether to progress the case. For instance, we found that one TOC using Common Platform will issue an SJP notice automatically 21 days after a suspected offence is reported if there is no response by the passenger to the TOC's correspondence requesting a financial settlement. If a passenger settles, contacts the TOC with mitigation at any time, or enters a "not guilty" plea, the TOC will review the case to decide whether to continue or withdraw.
- 5.35 TOCs using Common Platform consider that it has reduced their administrative burden and meant fewer cases were becoming time-barred by reaching the six-month statutory limit for prosecuting summary offences. TOCs have adapted their processes around the system, for example sending extra letters to suspected

fare evaders to request settlement or introducing manual reviews to prevent cases going straight to trial after a plea is entered.

- 5.36 The transition to integrated digital case management via Common Platform allows prosecutors to reduce administrative burden and cost. This, in effect, may make it easier for TOCs to prosecute suspected fare evaders. There is some evidence that the move to Common Platform may correlate with higher prosecution rates. For one TOC prosecutor, the number of charges brought against passengers increased by eight times in the year they began using the new system.

Approach to investigation and training

Approaches to investigating and gathering evidence

- 5.37 At least 12 out of the 18 TOCs who prosecute fare evasion offences employ or contract frontline and back-office staff who are trained and authorised to gather evidence of suspected offences in accordance with the Police and Criminal Evidence Act 1984 (PACE) and associated codes of practice. This includes investigating whether there was intent to avoid the fare.
- 5.38 Rail staff and third parties working on their behalf do not have police powers of arrest. However, where deliberate fare evasion is suspected, appropriately trained revenue protection staff may obtain evidence by questioning, i.e. conducting voluntary interviews under criminal caution, both on-train and at scheduled interviews. Alternatively, depending on circumstances, TOC policies and processes, role and level of training, rail staff may record details of suspected fare evasion or other irregularity without conducting an interview under caution.
- 5.39 Both frontline and back-office staff may gather other evidence to inform an investigation into suspected fare evasion, including CCTV, body worn camera footage, tickets and railcards, and reviewing systems data and journey history.
- 5.40 Processes for reporting suspected fare evaders for prosecution or consideration for prosecution vary between TOCs. The options available also vary according to the training or role of the member of staff who has identified the irregularity. In all cases, bringing criminal proceedings requires evidence of the offence in a format which can be put before a court. In practical terms, as a minimum, this includes a witness statement from rail staff detailing the offence, known as an “MG11”¹¹.

¹¹ MG stands for “Manual of Guidance” and designates a series of criminal case file forms which are used in England and Wales as part of the [National File Standard](#) used in preparing and progressing criminal cases.

- 5.41 Exactly how and when any MG11s are produced varies between TOCs and depends on the circumstances of the case. This can include MG11s produced automatically following frontline staff inputting data into a digital device or producing an MG11 from an existing TIR for more straightforward byelaw offences. Where additional details of the offence or investigative steps are required, frontline staff may manually produce MG11s. Back-office staff may also produce MG11s, for instance to prosecute a passenger who was originally reported via another mechanism (e.g. a penalty fare notice which remains unpaid).
- 5.42 Regardless of how an MG11 is generated, its production does not necessitate a prosecution or constitute a charging decision. The charging decision is discussed in more detail later in this chapter.

Information for passengers on prosecutions and opportunities to provide mitigation

- 5.43 There has been public concern regarding the SJP beyond the rail sector, including examples of people prosecuted under the SJP where the mitigation they provided indicated a prosecution was not in the public interest.
- 5.44 There is no agreed industry policy or process on what information should be provided to passengers reported for a suspected fare evasion offence, or for how a passenger may provide mitigation. This contrasts with penalty fares, which have clearly defined [information requirements](#) contained within the relevant regulations, as well as an independent appeals process. It also contrasts with other sectors. For example, statutory guidance governing environmental enforcement prosecutions by local authorities advises those authorities to operate processes to consider mitigation and lines of defence.

Good practice: communicating next steps to passengers

Some TOCs provide passengers who are reported for consideration of a fare evasion offence with a slip providing details of the interaction and how to get in touch to provide mitigation or to dispute the allegation.

- 5.45 Nevertheless, among almost all TOCs who prosecute, we found evidence indicating they will make one or more attempts to contact the passenger prior to bringing charges, including to invite any mitigation or other representations. Although TOCs' approaches to corresponding with passengers regarding prosecution varies, including how many attempts at contact they make and how much time they allow for mitigation, we consider attempts to contact individuals to

invite mitigation to be good practice which addresses some of the broader concerns regarding the SJP.

- 5.46 Despite this finding, via our Call for Evidence, several passengers expressed surprise or dismay at the first communication after an incident being a court summons or finding out about a prosecution after they were convicted in their absence. However, it is not clear whether these reflect TOC processes or other issues, including correspondence which was lost in transit or left unread.
- 5.47 Some respondents facing fare evasion prosecutions also stated they found it difficult to contact the TOC or the third-party company handling the prosecution:

“I found it impossible to contact anyone involved with this situation and discuss it – this added extra stress, worry and loss of time to resolve this issue. It appears that the only way to talk to someone is to agree to go to court !!”

“We had 14 days to appeal but when calling the appeals number an automated voice said it can take 28 days for a reply, we had absolutely no way of fighting this and had to pay £216 to settle out-of-court.”

Quotes from two Call for Evidence respondents

Varying levels of training and qualifications amongst TOC prosecutors

- 5.48 As private prosecutors, TOCs are not regulated in the same way as crown prosecutors, or subject to the same professional qualification and training requirements. Industry stakeholders such as the Rail Industry Fraud Forum have developed some formal qualifications for rail staff involved in investigating revenue protection offences. However, there is currently no formal revenue protection qualifications pathway.
- 5.49 TOCs employ prosecutions staff from different professional backgrounds and with various levels of legal or investigative training. This includes backgrounds in revenue protection, BTP, legal services and the judiciary.
- 5.50 Some TOCs have formal training requirements for their internal prosecutors, including requirements to hold a Bachelor of Law Degree (LLB) or specific advanced qualifications in investigations. Other TOCs referred to relevant qualifications either being held or pursued by internal staff.

- 5.51 However, the majority appear not to require any formal qualifications or accreditation for their prosecutions staff, relying instead on various combinations of on-the-job training and in-house or externally delivered training. Where TOCs provided information on the length of internal training, this varied considerably, from five days to three months. Where decisions on prosecutions were made by a third-party contractor, the level of training was in some cases less clear, for example referring to unspecified “relevant legal training”.
- 5.52 Some TOCs may instruct external barristers to present cases in court, particularly in contested or complex cases. However, we understand use of lay prosecutors by TOCs and third-party contractors is common practice across the industry.
- 5.53 Prosecutions carry a degree of risk for both passengers and industry, and errors and mistakes can be costly to fix. It is therefore important that staff have the necessary training and knowledge to carry out their role. This includes knowledge of relevant legislation and procedure, to identify: (i) whether to prosecute; (ii) for what offence; and (iii) via which procedure (e.g. full Magistrates’ Court procedure or via SJP). Prosecution staff with less experience, training and qualifications may be at greater risk of procedural errors. We therefore welcome the work of the Rail Industry Fraud Forum towards developing recognised qualifications for rail staff.
- 5.54 However, we cannot conclude that the variable level of training and qualifications amongst TOC prosecution staff has led to adverse outcomes. In the case of the unlawful SJP prosecutions, it should be noted that these cases were considered (and the legal issue not identified) over a number of years by magistrates supported by legally qualified advisors.
- 5.55 TOC prosecutors are bound by the same legal requirements on the police and CPS in respect of criminal evidence, disclosure, retention, confidentiality and court procedure. The industry must ensure that these essential requirements and safeguards are understood and complied with by its staff and those acting on its behalf.

Conclusions on options and approaches to prosecution

- 5.56 While we have identified areas of good practice, there is a proliferation of different processes and approaches among TOCs and a lack of clear, consistent principles (in contrast to comparable sectors like local authority parking and environmental enforcement). This has been compounded by ambiguity in the 2018 Regulations on penalty fares, leading to further inconsistency as TOCs have interpreted the legal framework differently. This is likely to contribute to inconsistent outcomes for

passengers depending on which TOC they have travelled with, and a perception of arbitrariness or unfairness among passengers.

- 5.57 Revenue protection, including TOCs' prosecution toolkit, has evolved incrementally over a long period of time. While there have been consultations on some elements (such as the penalty fares regime), we are not aware of any overarching or holistic policy review or consultation by any UK government. Some policy interventions, such as legislative reforms to penalty fares, appear to have intended greater protection for passengers who have made an 'honest mistake'.
- 5.58 However, strict liability offences such as byelaw 18 allow TOCs to prosecute passengers where there is no evidence of intent or financial loss and provide passengers with very limited defences. This may empower TOCs to take action against deliberate fare evaders without the challenge of proving intent. But, as noted in chapter 4, it also puts passengers who have made an honest mistake at risk of prosecution. Following the introduction of the SJP, it has arguably become easier for TOCs to prosecute. The transition to digital case management via Common Platform has the potential to make prosecution easier still.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 2 ('Strengthen consistency in how passengers are treated when ticket issues arise')**. This includes establishing consistent principles as part of a new governance framework for revenue protection.
- **Recommendation 5 ('Greater coordination, oversight and transparency of revenue protection activity')**. Among other things, this proposes that – as a longer-term activity – there should be a review of all the relevant legislation relating to revenue protection, to simplify, clarify and provide greater consistency across the sector.

TOCs' approach to the charging decision

Overview of issue

- 5.59 A crucial step in any prosecution is the decision on whether to bring charges against an individual who is suspected of an offence. This is known as the charging decision. To reach a charging decision and determine how best to progress a case, prosecutors may apply a formal test, asking themselves one or more questions to decide what action to take.

- 5.60 Prosecutors may decide to prosecute, or that the public interest is served best by taking no further action or resolving a case in a different way, without going to court. In the context of revenue protection, this may take the form of an out-of-court settlement, i.e. a financial payment from the passenger suspected of a fare evasion offence to the TOC concerned, on the understanding that charges will not be pursued.
- 5.61 This section considers TOCs' approaches to the tests which TOCs apply to decide what action to take, including the circumstances in which out-of-court settlements may be sought and the approach taken to calculating them.

Findings

The test for prosecution

The Code for Crown Prosecutors and the Code for Private Prosecutors

- 5.62 As with prosecution more generally, there is no industry-wide or national policy on the test TOCs should apply to decide whether to prosecute an individual. Crown prosecutors in England and Wales (the CPS) apply the Full Code Test defined in the [Code for Crown Prosecutors](#). However, TOCs and those acting on their behalf are not bound by it.
- 5.63 In Scotland, the relevant test for prosecution is applied by the Crown Office and Procurator Fiscal Service. This applies its [Prosecution Code](#) which is functionally similar to the Full Code Test. As TOCs in Scotland do not act as prosecutors, this section is focused on TOCs in England and Wales.
- 5.64 The Full Code Test includes two stages, the evidential stage and the public interest stage. To pass the first stage, there must be enough evidence to make it more likely than not that a court will convict the suspect. If the first stage has been passed, the prosecutor must consider if a prosecution is in the public interest. This includes considering the seriousness of the offence, the harm caused, and whether prosecution is proportionate. The CPS's Full Code Test provides a robust and high-quality framework for decision-making, and we consider the application of this test (or a closely equivalent test) a marker of good practice.
- 5.65 The Private Prosecutors' Association's (PPA's) [Code for Private Prosecutors](#) notes that it is good practice for private prosecutors to apply the Full Code Test. This is because CPS's [guidance on private prosecutions](#) provides that if the CPS reviews a private prosecution case and finds either the evidential or the public interest stage of the Full Code Test is not met, then it should take over and stop the prosecution. Membership of the PPA is voluntary, as is adherence to its code.

TOCs' approaches

5.66 We found significant variation in TOCs' approach to the test for prosecution.

- (a) Two thirds of TOCs that prosecute provided evidence of a formal test which was applied to determine whether to bring charges. In most cases, the tests defined by TOCs were similar to the Full Code Test, for example containing both an evidential and public interest test. This included one TOC which stated it applies the CPS Full Code Test, and one TOC which referred to the Code for Private Prosecutors.
- (b) In the case of four TOCs, we did not find evidence of a formal test for prosecution. For two others, it was unclear whether a formal test was in use or exactly what test was being applied in practice.

5.67 Several TOCs defined a test which had clear, sequential evidential and public interest stages as well as relevant guidance on key concepts and considerations. Among others, we identified several areas for improvement, including clarity on whether evidence and public interest are considered sequentially and what factors to consider when assessing public interest.

5.68 In some cases, it was unclear who makes a charging decision and at what stage. This was particularly the case for those TOCs that have outsourced some or all charging decisions to a third-party contractor. As discussed above, the training and qualifications of the prosecutors who apply the test also vary.

Good practice: TfL on behalf of Elizabeth line and London Overground

Elizabeth line and London Overground (both contracted to TfL) may refer suspected fare evasion to TfL which then brings any prosecutions on their behalf. TfL's approach to prosecutions, including its test for prosecution, is clearly defined in its publicly available [Revenue Enforcement and Prosecutions Policy](#). The policy provides a consistent framework for decision-making across all of TfL's public transport networks, including a two-stage test for prosecution and clearly articulated public interest considerations.

Evidence of passengers being prosecuted where the public interest is unclear

5.69 While individual case studies provide informative illustrations of passengers' experiences and outcomes, it is important to note that we have not conducted a detailed case review. Therefore, it would not be appropriate for us to definitively conclude on the appropriateness of a TOC's decision-making in any individual case.

- 5.70 Nevertheless, responses received via our Call for Evidence indicate that in some cases TOCs have brought prosecutions where, although the passenger may have technically committed an offence, the public interest in prosecution is questionable. This includes respondents who reported facing prosecution for incidents where there was no apparent loss to industry, such as:
- (a) a passenger who had a 26 to 30 railcard but when booking their ticket accidentally selected a 16 to 25 railcard discount, which entitled the passenger to the same saving. Although the ticket was technically invalid, the amount paid for the ticket was identical; and
 - (b) a passenger whose printed e-ticket was water damaged so could not be scanned by a member of rail staff, despite subsequently providing proof of a valid ticket for the journey.
- 5.71 Recent [press coverage](#) has also highlighted cases of passengers who purchased tickets online but either did not or were unable to collect them from a station and were subsequently subject to fare evasion prosecutions.
- 5.72 Other Call for Evidence responses provide examples of passengers who appear to have made a genuine mistake which has caused minimal loss to industry and where it is unclear that prosecution was a proportionate response. Examples include passengers prosecuted for travelling when a railcard or weekly season ticket had very recently expired, for instance the day before travel.

“I thought the settlement offer and threat of court was unfair and heavy handed, considering the nature of the offence and impact it had on myself. I do not think the case would pass the public interest test for [prosecution].”

Call for Evidence respondent

Assessing harm and risk

- 5.73 Without a consistent test for prosecution across industry, passengers are likely to face inconsistent outcomes from revenue protection enforcement by different TOCs. In the absence of a consistent test for prosecution, it appears that some fare evasion prosecutions have been brought against passengers where the public interest case was questionable. While case studies from our Call for Evidence are anecdotal, this appears to apply to more than just one or two isolated cases.

Deficiencies or inconsistencies in TOCs' tests for prosecution increase the risk of such prosecutions and potential harm.

- 5.74 In January 2025, Transport Focus made [a series of recommendations](#) relating to revenue protection to improve the passenger experience. Among these was a recommendation that there should be no penalties in “no net loss to industry situations”. Our view is that any assessment of the public interest in prosecuting suspected fare evaders should consider whether any harm, i.e. loss to the industry, has occurred. If there is no evidence of loss to the industry, it is unlikely that a prosecution will be in the public interest.
- 5.75 A lack of a consistent test across TOCs may contribute to a perception of arbitrariness or unfairness among passengers. It risks adverse outcomes for passengers who have made an honest mistake and reputational harm to industry.
- 5.76 Aligning with the CPS's Full Code Test would provide safeguards against prosecuting passengers when it is not in the public interest. In addition, this consistency would ensure that similar rigour and process is being applied whether a prosecution is being brought by a TOC, or by BTP (if a case is referred). It would also lessen the risk that the CPS, if it decided to review a TOC's prosecution, would step-in to stop the case proceeding.

Out-of-court settlements

- 5.77 There is no national policy or guidance governing how TOCs may or should use out-of-court settlements and they do not fall within the statutory out-of-court disposal schemes created by the Police, Crime, Sentencing and Courts Act 2022. The National Police Chiefs' Council (NPCC) has published [guidance on community resolutions](#), a form of non-statutory out-of-court disposal which may include interventions such as compensation for damage or loss. However, it is neither binding on, nor directly applicable to, TOCs.

TOCs' approach to out-of-court settlements

- 5.78 Almost all TOCs who prosecute fare evasion offences use out-of-court settlements. Half of these provided evidence indicating a clear focus on or presumption in favour of settling out-of-court. Some TOCs' policies appeared neutral, where out-of-court settlement was an option but not an indicated preference.
- 5.79 For a small number of TOCs their stance was unclear. In some cases, TOCs have policies to guide the circumstances in which they may or may not consider a settlement. Examples include considering settlements only where there is no

evidence of deliberate intent to avoid paying the fare or it is the passenger's first offence.

Seeking settlements where the evidential test was failed

- 5.80 Based on the evidence submitted by TOCs, five have a written policy indicating they may pursue a settlement or financial payment in cases which have failed their evidential test for prosecution. For instance, one such policy stated, under the heading "settlements":

"Cases may be disposed with by way of a financial payment and are a private matter between prosecutions and the passenger if [...] the case failed the Evidential Stage of the Full Test Code [sic] (Stage 1)."

- 5.81 Another TOC's policy listed the criteria to meet the standard for prosecution as including the question:

"Is there sufficient evidence to prosecute? If the answer is no, then a settlement will be offered."

- 5.82 We do not know how such requests for settlement or financial payments are communicated to passengers in practice and have not requested this information due to the time constraints of our review. However, if a TOC has assessed that it does not have sufficient evidence to prosecute, we consider that it would be unreasonable and without basis to request a financial settlement from a passenger who is under the impression that they may be prosecuted if they do not settle.
- 5.83 There is no suggestion that it would be unreasonable for a TOC to request payment from a passenger if the circumstances and potential consequences are clearly laid out. In such a case this would not include prosecution but could include civil legal action.
- 5.84 We have not seen evidence of how frequently such policies are put into practice and cannot state whether any unreasonable treatment of passengers has occurred. Nevertheless, such policies present a risk of unfairness to passengers if not communicated appropriately. They are also out-of-step with policing practice: NPCC Community Resolutions guidance clearly states that a requirement of an out-of-court disposal is that a crime has occurred and there is evidence to prove it.

How the settlement is calculated

- 5.85 Seven TOCs provided a clear methodology for calculating the out-of-court settlement amount, specifying that this would consist of an administrative fee plus the total of any outstanding fares. Of these, two provided more detailed evidence

of which specific costs are factored into the administrative elements of their out-of-court settlements, with one of these providing an itemised and costed breakdown. We consider this to be indicative of good practice.

- 5.86 From the submitted documents it was unclear exactly how 9 out of the 16 TOC prosecutors who use out-of-court settlements calculate the amount they request. However, most provided evidence indicating that their standard out-of-court settlement amount was the same or similar to the costs and compensation they would claim at court (i.e. costs of £125 to £185, plus the value of any unpaid fare).
- 5.87 We understand that TOCs may seek a higher out-of-court settlement if a passenger seeks to pay a settlement later in the process, which reflects higher costs incurred in handling the case up to that point.
- 5.88 Via our Call for Evidence, respondents reported a very small number of out-of-court settlements where the settlement amount was many times higher than the outstanding fare and significantly higher than the administrative portion of other settlements of which we have seen evidence.
- 5.89 After instructing solicitors to negotiate with the TOC, one passenger reported making a settlement of £750 for a single instance of an invalid railcard. Another provided evidence of a £580 settlement offer following a fare discrepancy of approximately £10.
- 5.90 While it may be that these settlement amounts are reflective of costs incurred in handling these cases and liaising with solicitors, both respondents perceived the outcome as unfair. We note that adding significant administrative fees where passengers plead their case may risk creating disincentives to doing so.

Key principles

- 5.91 We recognise TOC prosecutors may consider that, in some circumstances, payment of compensation and costs by a passenger suspected of fare evasion may serve the public interest better than a prosecution.
- 5.92 It is up to TOCs to decide whether to restrict their ability to prosecute suspected fare evaders by entering into a settlement agreement. In principle, it is for the passenger and TOC to mutually agree a settlement amount. However, TOCs should not use the prospect of prosecution to leverage a higher settlement. While we have not found evidence of such conduct, it is important to recognise that using the prospect of prosecution in this way could present legal risks, and TOCs could face challenges in enforcing disproportionate sums.

- 5.93 If TOCs wish to pursue a financial settlement as an alternative to prosecution, we are supportive of the approach taken by most TOCs. This is to define the settlement amount to reflect the cost of administration plus the outstanding fare and/or requesting a settlement of similar value (or less) than the costs and compensation for which they would apply at court.

Conclusions on TOCs' approach to the charging decision

- 5.94 TOCs are not bound by the Code for Crown Prosecutors or required to apply the Full Code Test. Nevertheless, there are good reasons for TOCs to apply or align with it, and it is positive that a number of TOCs already apply a formal test for prosecution which involves considering both evidence and public interest.
- 5.95 However, there is some evidence that the industry may have brought some prosecutions where the public interest is unclear. This is perhaps unsurprising given the lack of a consistent, robust and transparent decision-making framework.
- 5.96 Any framework for making decisions on whether to prosecute should encompass alternatives to prosecution, such as out-of-court settlements. Although TOCs' use of these alternatives to prosecution appears largely reasonable and consistent in practice, TOCs should provide greater assurance to passengers and the public by articulating the principles which underpin their approach, as well as by ensuring that it aligns with best practice and mitigates any risk of unfair treatment.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 3 ('Introduce greater consistency and fairness in the use of prosecutions')** addresses this issue, including the urgent need for the industry to adopt a consistent test for prosecution and best practice principles for out-of-court settlements, with a view to achieving more consistent outcomes for passengers.

- 5.97 This would be railway-specific and additional to any mandatory code of practice for private prosecutors which may result from the Ministry of Justice consultation on oversight and regulation of private prosecutors (as discussed in the executive summary).
- 5.98 The public interest factors as part of a test for prosecution would sit alongside the introduction of an escalatory approach for dealing with ticket irregularities (discussed in chapter 4 and Recommendation 2) to better protect passengers and ensure consistency and fairness in treatment.

Assessing the scale and impact of TOC prosecutions

Overview of issue

- 5.99 Currently, there is no requirement for public or cross-industry reporting on revenue protection prosecutions. The only publicly available data on fare evasion offences prosecuted under railway legislation is MoJ published Official Statistics. The level of aggregation in this data between different offences makes meaningful analysis difficult.
- 5.100 While we asked TOCs to provide prosecution data to us as part of our information request, the quality of this data was mixed and we are aware TOCs take different approaches to the collection and recording of this data.
- 5.101 This section analyses the available data, considers the data challenges and the impact of an increased number of prosecutions on passengers, industry and taxpayers.

Findings

Assessing prosecutions with quantitative data

The data and our approach

- 5.102 The information request we issued to TOCs asked for detail on the type and volume of prosecutions brought by TOCs, the level of third-party contractors' involvement in these and the financial recovery from these proceedings. We requested all available data between the rail year 2016-17 up to December 2024 (nine months of rail year 2024-25).
- 5.103 There were limitations in the data received from TOCs (such as the unavailability of data from prior to a change in franchise and inconsistencies in data collection methods). Given this, we also analysed MoJ published Official Statistics on Magistrates' Courts prosecutions. As these are Official Statistics, they merit greater confidence and weight in terms of their validity and robustness.
- 5.104 When comparing these two datasets, we identified that, at a high level, the information for charges brought is broadly consistent in recent years but that there is significant variation between the MoJ published Official Statistics and TOCs' convictions data. As such, we have only used the data provided by TOCs to analyse the charges brought against passengers for the rail year 2023-24

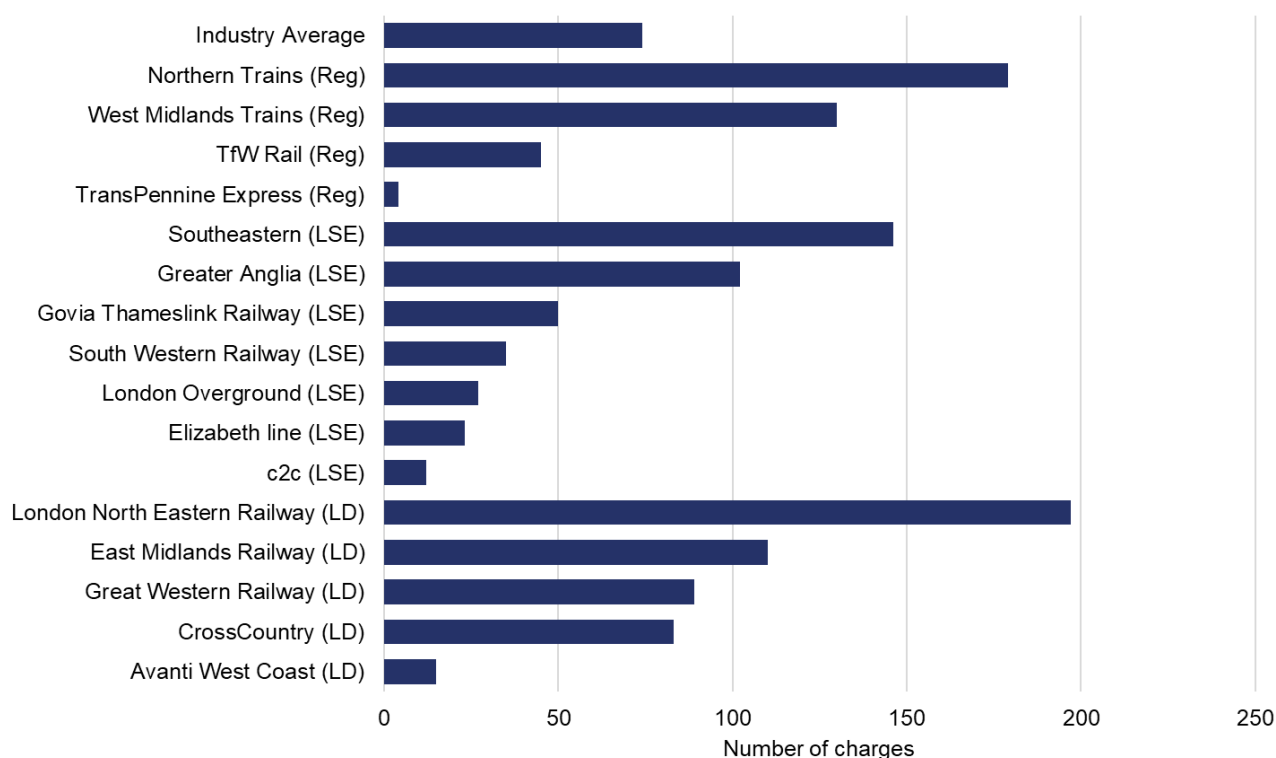
(1 April 2023 to 31 March 2024)¹². We have used the MoJ published Official Statistics for all other analysis on prosecutions.

- 5.105 While MoJ published Official Statistics on Magistrates' Court charges and convictions is more reliable, it has other limitations. The data also includes prosecutions for non-ticketing and other offences which are outside of the scope of this review. Nonetheless, it is useful in showing the number of prosecutions brought by TOCs and in identifying trends.
- 5.106 The use of third-party companies to prosecute suspected fare evaders on TOCs' behalf appears to exacerbate the data and analytical challenges. We identified differences in the frequency and format of data and analysis shared by third-party companies, the assurance activities undertaken by TOCs in relation to these companies, and how this subsequently fed into any changes to processes.

TOCs take different approaches to prosecution

- 5.107 As shown in Figure 5.1, the volume of prosecutions brought by TOCs varies significantly. The graph normalises the number of charges brought per million passengers travelling, using ORR published data available on our [data portal](#). The variation in prosecutions brought by TOCs is high even after the data is normalised, so the variance cannot be explained by some TOCs carrying more passengers, and therefore there being more journeys that might involve fare evasion.
- 5.108 The industry average for 2023-24 is for 74 charges brought per million passengers. This ranges from 4 charges per million passengers to 197 charges per million passengers, which highlights the significant variation in TOCs' approaches to prosecutions. However, it is important to be clear that a higher or lower number of prosecutions does not imply better or worse practice – this would depend on the merits of each prosecution.

¹² We have excluded Merseyrail from this analysis as the way it records and reports charges is different from other TOCs and the total charges figure it provided in its response to our information request was not meaningfully comparable.

Figure 5.1 Total charges brought per million passengers, by TOC, 2023-24

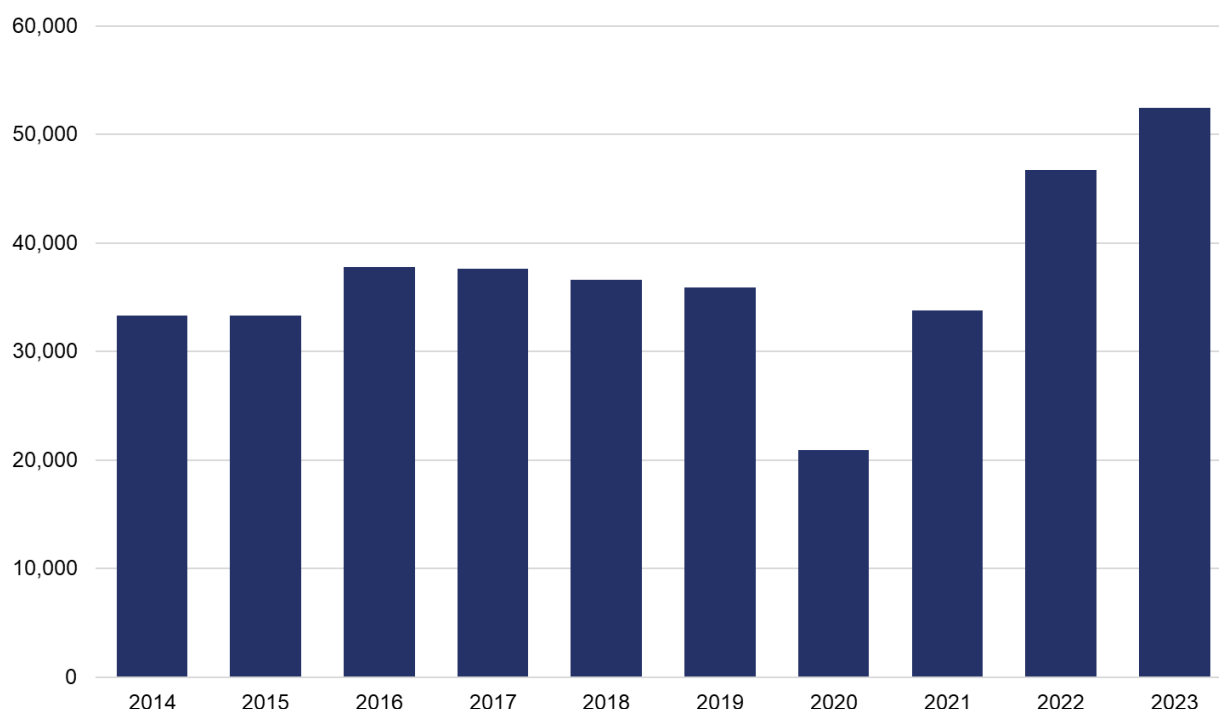
Key: Regional (Reg), London and South East (LSE), Long Distance (LD) and Open Access (OA)

Source: ORR analysis of TOC data. Note: The chart excludes Merseyrail because the way Merseyrail reports charges was not meaningfully comparable to other TOCs. Data was unavailable for Chiltern for 2023-24. Some TOCs run services in more than one sector. The TOCs above have been allocated to sectors based on the sector where trains planned was greatest in 2024-25.

The number of charges and convictions has increased over time

- 5.109 MoJ published Official Statistics show there has been an increase in the number of charges under Railway Byelaws 2005 in recent years. A further analysis of these byelaw charges shows that the vast majority are for ticketing offences.
- 5.110 While in part this is reversing a fall in 2020 when both passenger numbers and prosecutions dropped sharply owing to the Covid-19 pandemic, the numbers of charges under Railways Byelaws 2005 in 2023 (the most recent year for which we have data) is 52% higher than in 2019 (the last year before the pandemic). In the same period passenger numbers fell by 7%.
- 5.111 This suggests an increasing willingness by TOCs to prosecute passengers who do not have the correct ticket for their journey(s), including using the strict liability provisions set out in the railway byelaws (though it may also be influenced by the ability to use the SJP).

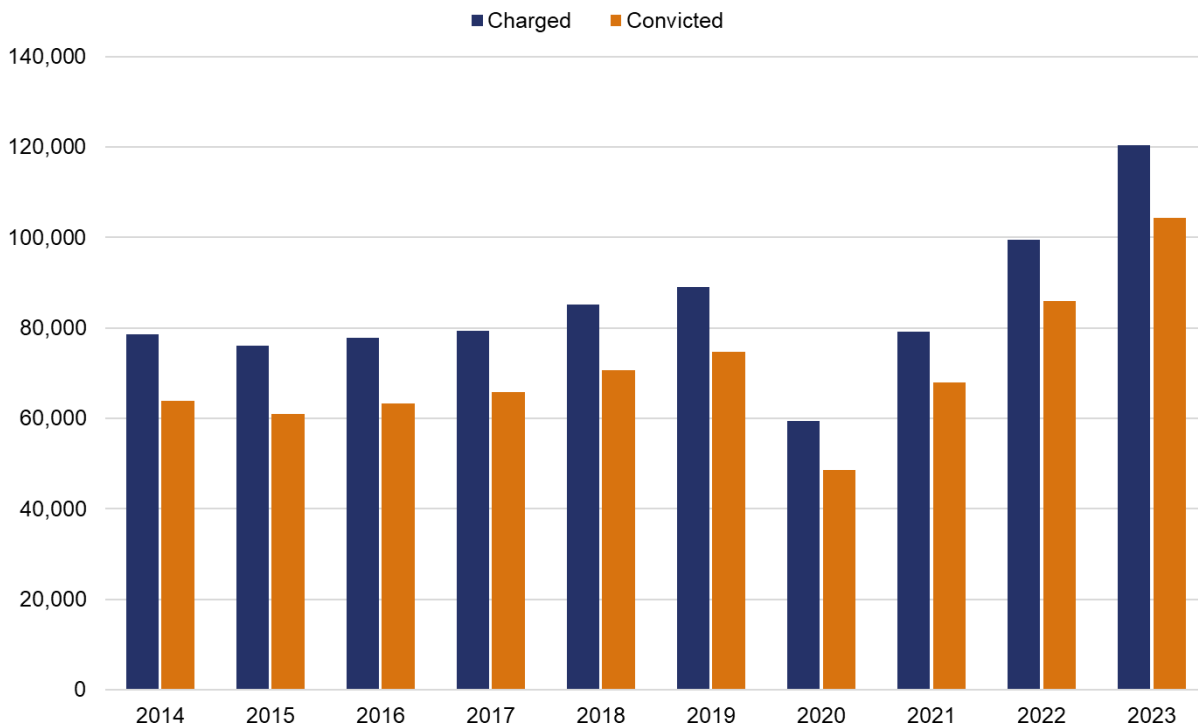
Figure 5.2 Charges for ticketing offences under Railway Byelaws 2005



Source: ORR analysis of MoJ published Official Statistics on Railway Byelaws 2005. We have not included charges under RoRA, TfL Byelaws or Merseyrail Byelaws as we cannot disaggregate which of these relate to ticketing offences.

- 5.112 The data available does not differentiate between those prosecutions carried out under the SJP or using the full Magistrates' Court procedure, meaning it cannot tell us whether the increase is due to the change in 2016 legislation that allowed TOCs to use the SJP to prosecute passengers.
- 5.113 The MoJ published Official Statistics also suggest that a large proportion of those who had charges brought against them under either RoRA or applicable byelaws were subsequently convicted¹³. This includes those charged for any offence, not just ticketing offences.
- 5.114 Over time the number of prosecutions and convictions has steadily increased. Since 2014, there has been a 53% increase in the number of charges brought and a 63% increase in the number of convictions, under these legislative provisions.

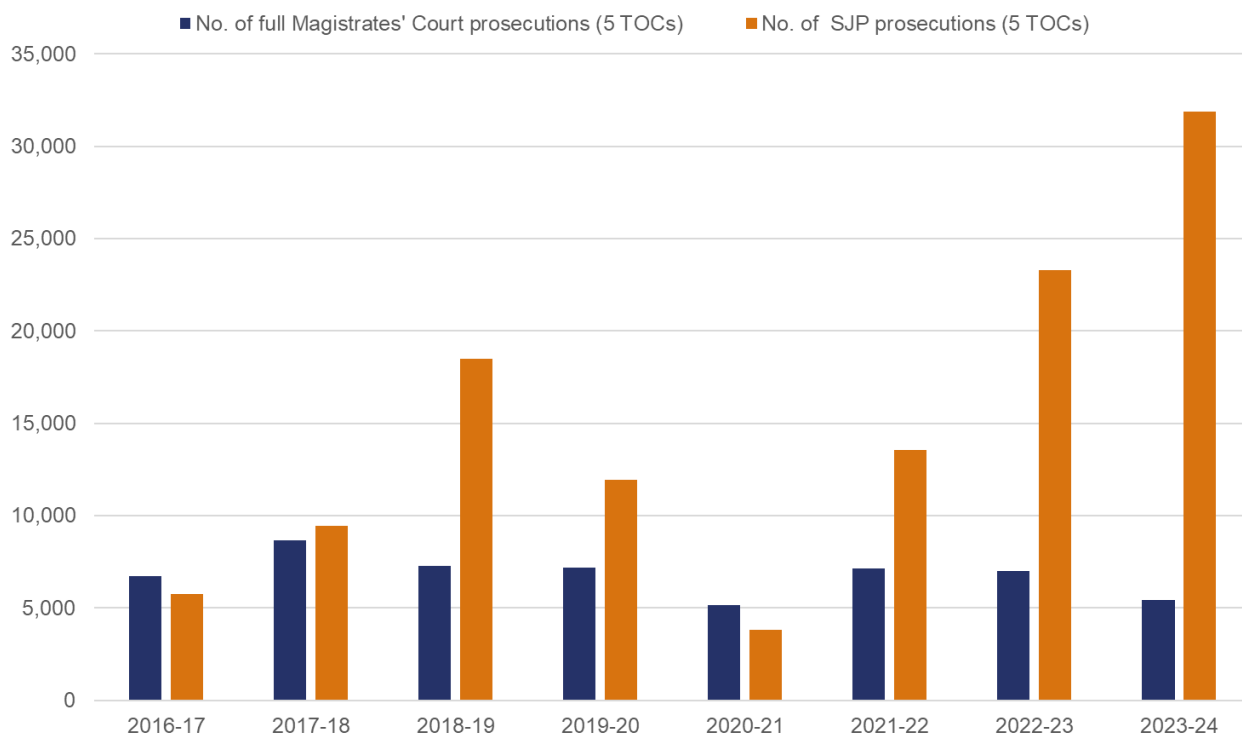
¹³ Due to the annualised data and the timeframe between a charge and corresponding conviction, MoJ Official Statistics include advice that the data cannot be used to derive a conversion rate between those charged and those convicted in a year.

Figure 5.3 Numbers of people charged and convicted (see note)

Source: ORR analysis of MoJ published Official Statistics. Note: Includes charges and convictions under RoRA, Tyne and Wear Passenger Transport Act and the applicable byelaws, 2014 to 2023.

5.115 Based on the data we received from five TOCs who were able to provide complete data on prosecutions for the period 2016-17 to 2023-24, we can see that the increase in prosecutions reflects the increase in SJP prosecutions specifically, while the numbers of non-SJP prosecutions have remained broadly stable over this period (Figure 5.4). However, it is important to note that – given this was only 5 out of 18 TOCs (and one of these accounted for half of the increase) – this chart is indicative rather than conclusive.

Figure 5.4 Number of charges brought through the full Magistrates' Court and procedure under the SJP for the five TOCs who provided a complete dataset for the period 2016-17 to 2023-24



Source: ORR analysis of TOC data

5.116 Taking into consideration the increased use of the SJP by TOCs, alongside what we have also learnt through industry engagement and the research we have commissioned, other factors which may have contributed to the increase in TOC prosecutions include:

- (a) passenger behaviour change since the Covid-19 pandemic and an increase in the incidence of fare evasion, including in the context of the cost-of-living crisis and increases in other types of crime;
- (b) growth in online purchasing of tickets creating opportunities for TOCs to more easily detect fare evasion;
- (c) greater focus on revenue protection and enforcement among some TOCs and refinements to revenue protection tactics as well as improved counter measures; and
- (d) improvements in TOC processes and technology, streamlining the enforcement process.

Inconsistent data capture and quality

- 5.117 There is no requirement on TOCs to publish data on their revenue protection enforcement activities. This contrasts with, for example, requirements on local authorities in England and Wales to produce annual reports in relation to environmental or parking enforcement.
- 5.118 We found that TOCs use a range of different systems to report, collate and analyse revenue protection activities. TOCs use different terminology for similar processes and actions, which in some cases meant their data was not directly comparable. TOCs were, in general, unable to provide complete data on many of the actions they took and the outcomes from the prosecution process. This has limited our analysis of the prosecution process, the outcomes produced and their potential impact on passengers.
- 5.119 Further, when comparing TOCs' data on numbers of convictions with MoJ published Official Statistics, we found that MoJ reported 14% more convictions in 2023 under RoRA, Railways Byelaws, TfL Byelaws and Merseyrail Byelaws offences than TOCs included in their responses to us. Possible reasons for this include:
- (a) different reporting periods (MoJ published Official Statistics are by calendar year, TOC data is by rail year running from 1 April to 31 March); and
 - (b) reporting choices, for example we know that some TOCs removed from their response any cases which had subsequently been declared null and void following the August 2024 Chief Magistrate's ruling.
- 5.120 However, the large variance highlights some of the challenges the industry faces in understanding the scale of TOC prosecutions. It raises a concern that TOCs may not have sufficient oversight over their own processes to provide meaningful assurance of their approach or to support continuous improvement.
- 5.121 We are not aware of any mandatory requirement to publish data and we found no evidence of the data we requested being published on a regular basis by TOCs or third-party contractors. This limits transparency and makes it difficult to assess the scale and impact of prosecutions.
- 5.122 Without an agreed dataset or parameters for recording revenue protection prosecutions or their outcomes, it is unsurprising that data is recorded in different ways by different TOCs. The lack of consistent, high-quality data makes it difficult to quantify and assess the impact of revenue protection prosecutions on passengers and industry.

Impact on passengers and industry

How convictions are recorded

- 5.123 Different offences may be recorded differently. This means that the approach taken by different TOCs, for example which legislation they use, can lead to different impacts depending on the offence of which a passenger is convicted.
- 5.124 The law defines which offences must be recorded in the Police National Computer (PNC), the primary database used to check and record someone's criminal record. As an offence punishable by imprisonment, [RoRA section 5\(3\)](#) is a 'recordable' offence. If a RoRA section 5(3) offence results in a fine, it is considered 'spent' after one year from the date of conviction, assuming no other convictions in that time.
- 5.125 Most spent convictions do not need to be disclosed to prospective employers. An unspent section 5(3) conviction which resulted in a fine will appear on a Basic, Standard or Enhanced [DBS](#) check. Once spent, it will appear on a Standard or Enhanced DBS check for 11 years from the date of conviction. The same applies for fraud convictions resulting in a fine.
- 5.126 Most fare evasion prosecutions are for non-imprisonable offences such as RoRA section 5(1) and byelaw offences. These are normally considered immediately spent and are not recorded on the PNC. Therefore, a conviction for these offences would not usually appear on any level of DBS check. A RoRA section 5(1) or byelaw conviction may be recorded on the PNC and be disclosed via a DBS check if, during the same proceedings, the offender is convicted of a recordable offence, such as assault.
- 5.127 All convictions, regardless of whether they are spent, must be disclosed for UK immigration applications. Therefore, any byelaw or RoRA conviction should be disclosed for consideration as part of an application. Such convictions may also need to be disclosed when applying for visas to visit other countries or in the context of certain security clearance or safeguarding assessments.

Passenger perspectives

- 5.128 Responses to our Call for Evidence highlighted a range of impacts resulting from their prosecution by a TOC. These include:
- (a) stress, mental and physical health impacts: respondents cited stress and anxiety relating to the potential and actual consequences of prosecution and guilt, shame and difficulty sleeping;

- (b) financial impacts: some individuals cited the fines and costs required on conviction, or out-of-court settlement, as placing a strain on their finances. This included those who considered themselves financially vulnerable; and
- (c) loss of confidence in, or reluctance to travel by, rail.

“I’m never going to book an open ticket again. I don’t want to end up stuck in the same situation. [...] For a little while it stopped me travelling at all. I don’t want to be paying court fines for the rest of my life.”

Call for Evidence respondent

- 5.129 Over a third of Call for Evidence respondents who were prosecuted or settled to avoid prosecution mentioned fear of the impact of a criminal record. Several respondents also highlighted their perception that a fare evasion conviction had or would affect their job prospects and there is clearly a perception that fare evasion convictions can have a significant impact on passengers’ lives.
- 5.130 Some respondents cited the nature of their employment as a factor in agreeing to pay an out-of-court settlement, to avoid the potential impacts of a conviction on security clearance or on their ability to practise their profession. One respondent cited impacts on immigration or visa applications.
- 5.131 Some responses indicated that impacts can be long-lasting. One respondent expressed their “utter horror” at discovering via an DBS check that they had been convicted of a fare evasion offence four years previously, despite believing that they had resolved the matter via a successful penalty fare appeal. Another respondent expressed surprise when a case which she had settled out-of-court two years previously was disclosed as an ‘open investigation’ when checks were carried out on her in the context of an application via the Family Court, and that it remained on her record for over a decade.
- 5.132 Compared with passengers subject to other outcomes, respondents who were prosecuted (or settled to avoid prosecution) were more likely to say they were treated “very unfairly”, with 73% responding they had been treated so.
- 5.133 Several Call for Evidence respondents accepted their ticket was not valid but highlighted the large difference between the original fare and what they paid in court fines and costs, or to settle out-of-court. One respondent was ordered to pay £450 following a conviction for being unable to produce her railcard for a £5.10 fare. She subsequently had the conviction overturned after re-opening

proceedings. Another respondent settled out-of-court for £100 when he could not produce a valid railcard for a 60p saving on a fare.

- 5.134 These examples of passengers' experiences of fare evasion prosecutions may be understood in the context of the Illuminas report (discussed in more detail in chapter 4). In particular, the finding that while passengers agree that penalties are required to deter deliberate fare evaders, there is frustration at what passengers see as severe penalties for 'minor mistakes' made in the context of complex rules.

Deterrence, enforceability and industry perspectives

- 5.135 As noted in chapter 4, revenue protection staff we spoke with often emphasised the importance of educating passengers on the need to buy a ticket and ensuring fare evaders are aware of the potentially serious consequences of their actions. This was also reflected in TOC strategies and policies.
- 5.136 As noted above, prosecution is used more widely across industry to enforce unpaid fares than civil legal action. Industry stakeholders have told us that, due to the cost of bringing claims in the civil court and long waits for cases to be heard, pursuing unpaid fares via criminal action provides an efficient and cost-effective way of taking enforceable action against fare evaders compared with civil action.
- 5.137 We understand TOCs use data to target and evaluate the effect of their revenue protection activity and can demonstrate reductions in ticketless travel or increases in ticket sales because of revenue operations. However, it is not clear to what extent these effects are attributable to the impact of actual or prospective prosecution versus other inputs such as visible staff presence, passenger education, increased ticket checking and other actions such as penalty fares.

Financial impact on industry

- 5.138 In most circumstances fare evasion offences are punishable by a fine. However, when a court in England and Wales passes a sentence it must also order the payment of a 'victim surcharge'. This varies from £20 to £2,000 depending on factors including the offender's age and sentence. As well as this and the fine, a person convicted of a fare evasion offence may also be ordered to pay prosecution costs and compensation.
- 5.139 Court fines are paid via HMCTS and ultimately to HM Treasury central funds. Whereas the victim surcharge is used to fund victim services, and the unpaid fare and prosecution costs are allocated to the TOC.

- 5.140 MoJ published Official Statistics show that in 2023 the total fines in railway prosecutions were around £21 million. MoJ does not publish data on the value of victim surcharges awarded.
- 5.141 In terms of revenue and costs awarded to TOCs as a result of prosecutions, MoJ published Official Statistics show the total value of compensation awarded in 2023 was between £2 million to £2.5 million for all offences, of which £1.1 million was for Railway Byelaws 2005 offences.
- 5.142 For Railway Byelaws 2005 convictions, the average compensation awarded was approximately £25, and less than this in 75% of cases. Robust data was not available to assess the value of costs awarded to industry via fare evasion prosecutions or the revenue and costs recovered via out-of-court settlements. This makes it extremely difficult to assess how effective prosecutions are in recovering revenue.

Conclusion on assessing the scale and impact of TOC prosecutions

- 5.143 It is important that industry has enforceable mechanisms to recover unpaid fares, and prosecution provides one such mechanism. Passenger awareness that individuals are being prosecuted for fare evasion may also discourage other potential fare evaders and give confidence and assurance to fare-paying passengers.
- 5.144 However, based on the evidence available it is hard to determine the extent to which prosecution itself reduces fare evasion, and we note the varied and potentially significant impact on passengers who are prosecuted – including those who have made honest mistakes. As well as highlighting the importance of a transparent and fair approach to enforcement, there is more work to do to understand the impact of prosecution on fare evasion relative to other revenue protection activities, and its overall costs and benefits.
- 5.145 This is especially important in the context of the observed increases in TOC prosecutions in recent years. While there are likely to be several reasons for the increase, if recent trends continue then prosecutions will almost certainly be impacting more passengers in the future. This may mean industry is recovering more revenue, to the benefit of the railway.
- 5.146 However, it also means an increased risk of detrimentally impacting a passenger or cost or reputational damage to industry if things go wrong. It also further underscores the importance of ensuring that industry data and reporting on

prosecutions is high quality, consistent and fit for purpose in order to provide a clear picture of the outcomes for both TOCs and passengers.

Relevant recommendations (our full recommendations are in chapter 6)

- **Recommendation 5 ('Greater coordination, oversight and transparency of revenue protection activity')** addresses the need for a shared revenue protection dataset with consistent measures to support long-term oversight and to improve transparency. It also covers promoting best practice across all aspects of revenue protection policy and enforcement, including establishing or improving feedback loops to understand what works best and what drives intended (or unintended) outcomes.

6. Recommendations

- 6.1 This chapter sets out our recommendations on the review overall, further to the findings and conclusions set out in chapters 3, 4 and 5.
- 6.2 Where appropriate we have included further detail to clarify any detailed elements that we consider the recommendations to include.
- 6.3 Separate to the recommendations, we have where relevant set out some potential issues or suggestions that government and industry may wish to take account of when they are considering how to implement the recommendations. These reflect issues we noted during the review and which are discussed in this report.

Recommendation 1: Make buying the right ticket simpler and easier

- 6.4 Passengers need clearer information about ticket types, ticket validity, usage restrictions, and peak/off-peak travel times at the point of sale.
- 6.5 Ticket rules and restrictions can be complex, poorly explained or not widely understood – leading to confusion and unintentional mistakes, and passengers being penalised for genuine errors. This in part is because of outdated retail systems that can make it hard for retailers to access and present clear information to passengers. This lack of transparency can raise concerns in the context of consumer law. However, we have seen examples of good practice that work around some of these issues and which could be adopted more widely in the interim until these systems issues are remedied.
- 6.6 To address this, we propose the following actions:
 - (a) **Short / medium term:** Provide plain English explanations of ticket types, validity and restrictions (e.g. on timing, routes, railcard usage, etc.) at the point of purchase.
 - (b) **Medium / longer term:** Redesign ticketing systems and review policies to eliminate known points of confusion and to ensure that essential T&Cs are presented clearly at the point of sale (e.g. on restrictions relevant to the use of railcards).
- 6.7 As part of delivering on action (a), we think that the good practice referred to above could be adopted relatively quickly by other retailers.

Potential points for government and industry to consider when implementing this

- 6.8 Given the time constraints of our review, our work looking at passenger understanding of terminology was limited to testing a number of the most commonly used terms (as discussed in chapter 3).
- 6.9 To understand the full extent of the issues identified when addressing this recommendation, there may be merit in further research to inform the plain English wording to be used on tickets themselves, on retail channels during the ticket purchase process, and on booking confirmations where applicable, to aid passenger understanding of ticket validity.
- 6.10 In respect of action (b), while it will be for government and industry to consider how best to implement this, they may wish to consider the following:
- (a) introducing railcard validation to confirm that passengers have valid railcards at the point of ticket purchase and their date of travel;
 - (b) whether, in light of the issues noted in chapter 3, there would be an overall net benefit if the adult rail ticket age were to be aligned with the legal adult age (18), removing the need for the 16-17 Saver Railcard and the related scope for confusion and misuse; and
 - (c) whether there is a case to rationalise the number of railcards (taking into account the overall costs and benefits, including the revenue that railcards raise and factors such as the potential to reduce passenger confusion and error).

Recommendation 2: Strengthen consistency in how passengers are treated when ticket issues arise

- 6.11 Passengers should be treated fairly and consistently when they are found without a valid ticket, with a focus on industry targeting intentional fare evasion as opposed to genuine mistakes and responding proportionately.
- 6.12 TOCs use a wide range of policies, approaches and legal powers that can lead to inconsistent treatment of passengers and sometimes unfair or disproportionate outcomes, where the scope for passengers to challenge this may be limited.
- 6.13 To address this, we propose the following actions:
- (a) **Short / medium term:** Adopt consistent principles as part of a new governance framework for revenue protection, including use of an escalated

approach to determining the appropriate response based on likely passenger intent.

- (b) **Short / medium term:** Identify and adopt best practice in encouraging behavioural change, including through better passenger education and awareness of the importance of travelling with the correct ticket and the potential consequences of not doing so.
- (c) **Medium / longer term:** Improve data sharing across the industry to support identification of persistent offenders, while protecting those who have made genuine mistakes. This data could also support identification of and action against other systematic fraudulent activity.

6.14 The consistent principles referred to under action (a) would need to work for all types of TOC, including open access TOCs and those run by or behalf of devolved governments.

Potential points for government and industry to consider when implementing this

6.15 While it will be for industry and government to consider how best to implement this recommendation, we envisage that action (a) would take account of the need:

- (a) to clarify overall strategic policy expectations from government for the purpose and intent of revenue protection activity;
- (b) to establish consistent arrangements for notices and reports other than penalty fares (e.g. UFNs, if considered necessary under the new governance framework), including a common appeals process for these to support improved and consistent outcomes for passengers;
- (c) to develop an escalatory approach to dealing with ticket irregularities;
- (d) for appropriate and proportionate governance to ensure that principles are adhered to, while providing reasonable flexibility to enable TOCs to reflect commercial and operational circumstances; and
- (e) for a more coordinated approach to training and evaluation for frontline revenue protection staff to ensure consistent high standards and application of policy (including potentially requiring accreditation). This could cover, among other things, revenue protection rules and processes, passenger engagement (including vulnerability), intent indicators and use of discretion.

Recommendation 3: Introduce greater consistency and fairness in the use of prosecutions

- 6.16 Prosecution decisions should consider fair, evidence-based criteria and only be taken when clearly justified and in the wider public interest.
- 6.17 Prosecution policies vary considerably across TOCs. This includes decisions on whether to bring charges against an individual (the test for prosecution); the choice of law and legal procedure; use of third-party agents; the approach to out of court settlements; and the use of digital tools that quicken and streamline the prosecution process. This means that passengers can face significantly different outcomes and treatment for similar issues depending on which TOC they travel with.
- 6.18 To address this, we propose the following actions:
- (a) **Short-term:** Introduction of a consistent test for prosecution, including guidance on weighing public interest factors in favour of (or against) prosecution.
 - (b) **Short-term:** Development of best practice principles applying to the use of out of court settlements, including the basis of calculating the settlement fee.
 - (c) **Longer-term:** Undertake a wider review of revenue protection legislation to simplify, clarify and provide greater consistency across the rail sector, including the use of railway byelaws, where currently a passenger can be held legally responsible for travelling with an invalid ticket, even when a genuine mistake has occurred.
- 6.19 Actions (a) and (b) would be railway-specific and additional to any mandatory code of practice for private prosecutors which may result from the Ministry of Justice consultation on oversight and regulation of private prosecutors (as discussed in the executive summary). We think these actions could (and should) be delivered quickly.

Potential points for government and industry to consider when implementing this

- 6.20 Regarding action (c), we envisage that a review of legislation could usefully cover:
- (a) the relative balance between TOCs' powers and the need to protect passengers, and specifically the use of strict liability offences to prosecute suspected fare evaders, and/or the available defences (including in relation to those passengers who have made a genuine mistake);

- (b) a review of penalty fares legislation, including how unpaid penalty fares are to be recovered and how penalty fares are intended to interact with prosecution;
- (c) consideration of whether penalty fares should be mandatory and the proportionality/structure of the three-stage appeal process for penalty fares; and
- (d) whether equivalent legal protections (e.g. around appeals processes) should – in addition to penalty fares – apply to all notices and reports issued as part of the new governance framework proposed in Recommendation 2.

6.21 Any such review would need to take into account rail reform as well as seeking consensus and input from the Scottish and Welsh governments.

Recommendation 4: Make information on revenue protection easy to access and understand

6.22 Passengers should be able to easily find and understand information about T&Cs, their rights, how penalties, prosecutions, out-of-court settlements, and appeals work, including through online information and in any letters or formal notices they may receive.

6.23 We propose the following action to support this:

- (a) **Short-term:** Review and improve passenger-facing revenue protection information to ensure it is accessible, clear, and easy to understand. Where action is taken against a passenger, the process should be clearly set out, with access to further information and any options for resolution where appropriate.

6.24 Further to our findings in chapter 4, we consider this recommendation should include the need to clarify the 'compelling reasons' in the 2018 Regulations for penalty fare appeals, both to improve passenger understanding and also to ensure clarity for the appeals bodies.

6.25 It also covers (further to chapter 3) the need to simplify and streamline the NRCoT and other ticket T&Cs. We are aware that RDG is currently consulting with stakeholders on changes to the NRCoT to (among other things) improve clarity for customers regarding ticket validity. Following this, it is planning a more comprehensive overhaul of certain aspects of the NRCoT. Where issues identified from our review remain to be addressed, the next stage of RDG's review of NRCoT could provide a good opportunity to do this.

Recommendation 5: Greater coordination, oversight and transparency of revenue protection activity

- 6.26 Revenue protection activity should ensure passengers are treated fairly, support the sharing of best practice in tackling revenue loss, and make effective use of data to drive efficiency and improvement in how this is done.
- 6.27 Processes and practices have proliferated over time. The legal framework is complex and poor implementation or inconsistent practices can impact both individual passengers and wider industry. There is no body with a role in oversight of this area and limited data to assure the public on how effectively the system is working.
- 6.28 To address this, we propose the following actions:
- (a) **Short-term:** Establish an appropriate forum or body tasked with identifying and promoting best practice across all aspects of revenue protection policy and enforcement (underpinning recommendations 2, 3 and 4).
 - (b) **Medium-term:** Create a shared revenue protection dataset with consistent measures to support long-term oversight, improve transparency through publication of key metrics (including on appeals), and help the industry make the best use of its resources.
- 6.29 In relation to action (b) on the dataset, it would be for the industry to determine what this should cover. However, we envisage it including among other things:
- (a) numbers and types of notices and reports issued;
 - (b) reported ticketing issues (including sources of confusion and loopholes);
 - (c) data on prosecutions; and
 - (d) success measures (as discussed in chapter 4).
- 6.30 In relation to supporting greater coordination, we consider this recommendation covers the need for better feedback processes to drive continuous improvement across all aspects of revenue protection.
- 6.31 In this regard, a key gap to be addressed is the link between retail and revenue protection, as identified in chapter 3. This will support the industry in continuously improving how tickets are sold to reduce the risk of passengers intentionally or inadvertently travelling with an invalid ticket.

Annex A: Glossary

This annex sets out the acronyms and definitions of the main terms used in this report. Legislation is set out in Table A.2 further below.

Table A.1 Acronyms and glossary

Term	Description
Appeals body or bodies	TOCs that operate penalty fares must ensure that appeals are considered by an independent body in line with the 2018 Regulations. At present, there are two companies which TOCs can contract with to provide this service: Penalty Services Limited; and ITAL Group Limited trading as "Appeal Service"
ATOC	Association of Train Operating Companies (now part of RDG)
BTP	British Transport Police
Applicable byelaws or byelaws	See legislation section below
Code for Crown Prosecutors	This gives guidance to crown prosecutors on the general principles to be applied when making decisions about prosecutions. It is issued primarily for prosecutors in the CPS but other prosecutors may follow the code, either through convention or because they are required to do so by law
Code for Private Prosecutors	This document produced by the Private Prosecutors' Association is intended to provide a benchmark for best practice in the conduct of private prosecutions
Common Platform	HMCTS's digital case management system for prosecutions in England and Wales (further background is available here).
Compulsory Ticket Area (mentioned in Figure E&W1.1 in Annex E)	This is defined in the 2018 Regulations as any area at a station which a person must not enter or be present in without being able to produce either (a) a valid travel ticket authorising travel on a train arriving at or departing from that area; or (b) a platform ticket authorising their entry to or presence in that area
Contactless	A payment method that can be used for certain train journeys, by touching a contactless debit or credit card (or a mobile device) on a card reader at the start and end of a journey.

Term	Description
Contracted TOCs	These are TOCs owned by private companies that hold a contract with government to deliver rail services. This includes TOCs running services on behalf of TfL and Liverpool City Region Combined Authority, as well as those with a contract to run services on behalf of DfT.
CPS	Crown Prosecution Service
Cross-Industry Working Group	The industry group that supported our work on this review, see chapter 2 for further information
Darwin	An industry system providing information on train times and performance.
DBS	Disclosure and Barring Service (the government agency that helps employers make safer recruitment decisions)
DfT	Department for Transport
DfTO	DfT Operator Limited
Digital Ticketing Services or DTS	A retail system supporting the delivery of e-tickets or smart tickets.
'Either way' offences (mentioned in Figures E&W2 and S2 in Annex E)	These are offences that are more serious than 'summary only' offences, and can be heard in either a Magistrates' Court or the Crown Court.
e-tickets	e-tickets are digital train tickets with a barcode containing the travel information. They are emailed directly to passengers as a PDF and can either be stored on a device or printed.
Excess fare	If a passenger has a ticket that is partially valid for their journey, they may be required to pay an excess fare. This covers the difference between the original fare paid and the correct fare
FTP or failure to purchase notice	A form of UFN (see below)
Fine	A fine is a financial sum required to be paid as a punishment issued by a court of law following a conviction for a crime. It is a criminal sanction
Fulfilment	The process by which a purchased ticket is delivered to the customer

Term	Description
Full Code Test	The test applied by crown prosecutors in England and Wales when deciding whether to prosecute an individual, defined in the Code for Crown Prosecutors.
GBR	Great British Railways
HMCTS	His Majesty's Courts and Tribunal Service
Knowledgebase	The information engine powering the National Rail Enquiries website, which holds information about station facilities, service disruption, and engineering work
LENNON	'Latest Earnings Networked Nationally Overnight' – the industry ticket revenue settlement system used to allocate revenue between train operators based on tickets sold
Live Sales Management or LSM	A retail system supporting the delivery of 'ticket on departure' purchases, where tickets are collected from a station TVM
MG11	<p>An MG11 is a witness statement form used by staff to record details of incidents, such as fare evasion, which may be used in legal proceedings.</p> <p>MG stands for "Manual of Guidance" and designates a series of criminal case file forms which are used in England and Wales as part of the National File Standard used in preparing and progressing criminal cases.</p>
NPCC	National Police Chiefs' Council
NRCOT or National Rail Conditions of Travel	These are a key part of the binding contract that comes into effect between passengers and TOCs when a ticket is purchased for travel on the mainline railway
Open access TOCs	Open access passenger TOCs are those that operate services purely on a commercial basis, and which are not funded by or contracted to government.
Oyster	A Transport for London smartcard and payment method for pay as you go travel across the London network.
PAYG	Pay as you go (a form of train fare)

Term	Description
Penalty fare	A penalty fare is an exceptional fare that may be charged if a passenger does not comply with the normal ticketing purchase rules without good reason. This requires passengers to pay a set penalty either immediately or within a specific period. It is entirely a civil matter and is not a criminal punishment. It is not the same as a fine
Penalty Fare Guidelines	The National Rail document published by RDG providing information for passengers on penalty fares
PNC	Police National Computer
Product Management System or PMS	The system in which rail tickets and fares are created, stored, maintained and distributed
Prosecution	The process of charging an individual with an offence and trying the case in court. Where the individual pleads or is found guilty, they are then convicted of the offence
Publicly owned TOCs or TOCs in public ownership	These include DfTO-owned TOCs in England and those TOCs owned by the Scottish and Welsh governments
Rail Availability and Reservation Service or RARS	Rail Availability and Reservation Service. The new industry system providing information on train coaches and seats, allowing passengers to make seat reservations
RDG	Rail Delivery Group
Railcard	A railcard allows tickets to be bought at a discounted fare. There are a number of different types of railcard available for purchase. Each railcard may have its own specific terms and conditions, including restrictions on its use
Railcard database	The retail system setting out the T&Cs when travelling with a railcard
Railway byelaws	See table of legislation further below and “Byelaws”
Retail Control Service or RCS	This system is used to determine which rail products retailers can and cannot sell, and the permitted fulfilment options
Routeing Guide	This guide shows the full range of permitted routes available for use with tickets on the National Rail network

Term	Description
SJP or Single Justice Procedure	A streamlined process used in Magistrates' Courts in England and Wales to handle less serious non-imprisonable offences committed by adults. It allows cases to be dealt with by a single magistrate (with a legal advisor) without the need for a court hearing, unless the defendant pleads "not guilty" or chooses to attend court instead
'Summary only' offences	These are offences that can be heard only in a Magistrates' Court (and include RoRA and applicable byelaw offences).
T&Cs	Terms and conditions
Terms of reference	The terms of reference for this review
TfL	Transport for London
Third party retailer (TPR)	Third party retailer (of railway tickets)
Ticketless travel survey	This is a survey of passengers on a sample of a TOC's trains to see how many passengers are travelling without a valid ticket. These are generally carried out by an organisation independent of the TOC. The results from this can be used to inform a TOC's approach as well as benchmark its performance in reducing ticketless travel
Ticket/travel irregularity/incident report, or TIR or IR	<p>These vary across the industry. It can mean travel incident report, travel irregularity report, ticket irregularity report or ticketing irregularity report. These can be used where a passenger's ticket is in question, whether due to a technical error, a misunderstanding, a failure to produce the correct ticket, or a more complex fare issue.</p> <p>They provide a way to record and address a ticket irregularity, either by allowing the passenger time to rectify the situation or by investigating further if necessary (and can lead to prosecution)</p>
TIS	Ticket Issuing System
TOC	Train operating company
TVM	Ticket vending machine
UFN or Unpaid fare notice	This is a formal record that a passenger owes a fare. It requires the passenger to pay the outstanding amount within a specified time frame, often with an additional administrative fee for late payments. UFNs can vary between TOCs

Term	Description
Yellow card	Some TOCs operate a yellow card scheme. A yellow card is a warning issued to passengers who are found without a valid ticket, with their details being logged. It serves as a first-time warning without imposing any penalty. If the passenger is caught again without a valid ticket, they may face harsher penalties or prosecution.

Table A.2 Terms relating to legislation referred to in this report

Legislation	Description
Byelaws	<p>A byelaw is a form of delegated legislation that does not require parliamentary oversight and which, among other things, can create minor criminal offences.</p> <p>Parliament has granted train operators the right to introduce byelaws, including in connection with ticketing and fare evasion. However, byelaws must be approved by a government minister before taking effect. There are currently three sets of byelaws relevant to the mainline railway in relation to revenue protection:</p> <ul style="list-style-type: none"> • The Railway Byelaws 2005 • Transport for London Railway Byelaws (TfL Byelaws) • Merseyrail Railway Byelaws 2014 (Merseyrail Byelaws) <p>In this report, 'applicable byelaws' means any of the three above sets of byelaws that is relevant in a particular case. Byelaws are discussed further in paragraph 1.60.</p>
Byelaw 18	The byelaw that makes it an offence to travel without a valid ticket or to fail to produce a ticket on request (unless one of the few permitted defences applies)
RoRA	Regulation of Railways Act 1889. As set out in chapter 1, this provides for the prosecution of fare evasion
2016 Order	The Criminal Justice Act 2003 (New Method of Instituting Proceedings) (Specification of Relevant Prosecutors) Order 2016. This enables mainline train operators to use the SJP for prosecuting certain offences
2018 Regulations	The Railways (Penalty Fares) Regulations 2018 set out the legal framework for the use of penalty fares, including the process that passengers can use to appeal a penalty fare

Legislation	Description
2022 Regulations	The Railways (Penalty Fares) (Amendment) Regulations 2022 amended the 2018 Regulations to (among other things) increase the level of the penalty fare (other than for services operated by or on behalf of the Welsh Government)

Annex B: Timeline

Table B.1 Timeline of developments in revenue protection since 1999

Date	Event
January to May 1999	New byelaws for each TOC are gradually issued. This follows an extensive consultation exercise over preceding years to develop a new 'framework' of byelaws by the industry. This framework introduces the current wording for byelaw 18, making it an offence not to hold or present a valid ticket. The byelaws come into effect in December 2000.
7 July 2005	The Railway Byelaws 2005 come into force, replacing various separate byelaws established by individual TOCs and other historical railway byelaws. These provide for a more consistent and joined up approach, establishing a single set of byelaws for the mainline network.
5 October 2011	Transport for London (TfL) introduces its own railway byelaws for services and stations run by or on behalf of TfL (with the Railway Byelaws 2005 ceasing to apply – though the travel and fares provisions are essentially the same).
22 May 2012	Transport Focus (then known as Passenger Focus) publishes ' Ticket to Ride '. Informed by the experiences of passengers accused of travelling without a valid ticket, this sets out various concerns with how revenue protection is operating, including the use of penalty fares and prosecutions, and makes some recommendations for improvements.
May 2013	The ATOC Approved Code of Practice: Arrangements for travel ticket irregularities is published. The intention of this is to provide for ticket irregularities to be managed in a structured and consistent way by TOCs. It follows on from the Ticket to Ride publication the preceding year.
18 January 2014	The Merseyrail Railway Byelaws 2014 come into effect, introduced by Merseyrail to apply to the stations and services it operates (with the Railway Byelaws 2005 ceasing to apply to these – though the travel and fares provisions are essentially the same).
3 Feb 2015	Transport Focus publishes ' Ticket to Ride – an update ', a follow-up to its 2012 report. As well as noting a number of issues that remain to be resolved, it sets out some further recommendations following its research.
14 April 2016	The 2016 Order , empowering TOCs to use the fast-track Single Justice Procedure (SJP) to prosecute offences under railway byelaws, takes effect.

Date	Event
6 April 2018	The Railways (Penalty Fares) Regulations 2018 come into effect, establishing – among other things – a third and final stage appeal option for those issued with a penalty fare. This involves an independent panel and is intended to provide greater protections for innocent passengers who make a mistake. (These do not apply to Scottish only services or those operated by or on behalf of the Scottish Government.)
14 June 2018	The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 comes into effect, devolving further responsibilities from the UK Government to the Welsh Government. These include responsibility for issuing railway byelaws and any regulations relating to penalty fares for Welsh-only services or services provided for or on behalf of the Welsh Government.
3 Feb 2020	Transport Focus publishes a report setting out concerns regarding penalty fare appeals, which includes proposals for improvements to make the system more robust in terms of its fairness, independence and consistency.
23 Jan 2023	The Railways (Penalty Fares) (Amendment) Regulations 2022 come into effect. The principal change is to increase the level of penalty fare. However, this relates only to England, reflecting earlier devolution to the Welsh Government in 2018 (though in any case, penalty fares are not widely rolled out on Transport for Wales services until 2024).
Early 2024	Northern Trains brings the question of the lawfulness of using the SJP to prosecute under RoRA to DfT's attention.
March 2024	DfT began contacting TOCs, asking them to confirm whether they had used the SJP to prosecute RoRA offences. DfT then engaged the Ministry of Justice, which asked HMCTS to explore how the unlawful prosecutions could be remedied. DfT then worked closely with HMCTS to identify the TOCs involved and how many cases they had. This led to several test cases being brought to court, which were first heard in July 2024.
15 Aug 2024	Following the initial hearing in July, the Chief Magistrate quashes six convictions for fare evasion that were prosecuted under the SJP. This leads the way for just over 59,000 such convictions to be quashed over the following months. These attract significant media interest.
Autumn 2024	Various stories of individuals being prosecuted or threatened with prosecution for minor or apparently innocent breaches of the rules gain public attention.
13 Nov 2024	The then Secretary of State for Transport commissions ORR to carry out a review into revenue protection.
15 Jan 2025	Transport Focus proposes a set of initiatives regarding revenue protection practices to improve the experience of passengers.

Date	Event
6 March 2025	The Ministry of Justice consults on proposals to improve oversight and regulation of private prosecutions, including the use of the SJP. This applies to all private prosecutors, including TOCs.

Annex C: Train operators and retailers within the scope of this review

Train operators

C.1 The TOCs listed below (along with their trading names) are those that we have considered to be in scope of this review (TOCs are also ticket retailers).

- Arriva Rail London Limited – London Overground
- Caledonian Sleeper Limited – Caledonian Sleeper
- East Coast Trains Limited – Lumo
- First Greater Western Limited – Great Western Railway
- First MTR South Western Trains Limited – South Western Railway
- First Trenitalia West Coast Rail Limited – Avanti West Coast
- Govia Thameslink Railway Limited – Southern, Thameslink, Great Northern and Gatwick Express
- Grand Central Railway Company Limited – Grand Central
- Heathrow Express Operating Company Limited – Heathrow Express¹⁴
- Hull Trains Company Limited – Hull Trains
- London North Eastern Railway Limited – LNER
- Merseyrail Electrics 2002 Limited – Merseyrail
- MTR Corporation (Crossrail) Limited – MTR Elizabeth Line
- Northern Trains Limited – Northern
- ScotRail Trains Limited – ScotRail
- SE Trains Limited – Southeastern
- The Chiltern Railway Company Limited – Chiltern Railways
- TransPennine Trains Limited – TransPennine Express
- Transport for Wales Rail Limited – Transport for Wales
- Transport UK East Anglia Limited – Greater Anglia
- Transport UK East Midlands Limited – East Midlands Railway
- Trenitalia c2c Limited – c2c
- West Midlands Trains Limited – West Midlands Railway and London Northwestern Railway
- XC Trains Limited – CrossCountry

¹⁴ While Heathrow Express was included for completeness as a mainline TOC running regular scheduled services, the nature of its business means that it effectively does not need to undertake revenue protection. As such, it may not be included in charts or statistics. This is also largely the case for Caledonian Sleeper.

Retailers

C.2 In addition to TOCs, the below TPRs (agents and sub-agents) are licensed to sell tickets for the domestic mainline railway (on a business-to-consumer (B2C) basis)¹⁵ and were therefore in scope of our review:

- Ctrip
- MyTicketyBoo.com
- My Trains
- MyTrainTicket
- Omio
- Railboard
- Raileasy
- Rail Europe
- Railforums.co.uk
- Rail Online
- RailSmartr.co.uk
- Red Spotted Hanky
- RealtimeTrains.co.uk
- Seatfrog
- SilverRail
- Sojo
- Split my fare
- SplitYourTicket.co.uk
- SplitTicketing.com
- Train Hugger
- Trainline
- Trainpal
- Trainsplit
- TicketySplit.co.uk
- TrainTickets.com
- Trip.com
- Uber
- Virgin Trains Ticketing

¹⁵ We are grateful to the Rail Delivery Group for supplying this list. List correct as at 13 May 2025.

Annex D: Organisations we met during the review

We met with the following stakeholders (either virtually or in-person) during the review.

Rail industry

- CrossCountry/ Arriva Group
- Cross-Industry Working Group
- DfT Operator Limited (DfTO)
- Great British Railway Transition Team (GBRTT)
- Rail Delivery Group
- Rail Industry Fraud Forum
- Scottish Rail Holdings
- Third party retailers/white label providers:
 - Asseris
 - Omio
 - On Track Retail
 - Raileasy
 - SilverRail
 - Trainline
 - Virgin Trains Ticketing

Government or public body

- Attorney General's Office
- British Transport Police
- Competition and Markets Authority
- Criminal Cases Review Commission
- Crown Prosecution Service
- Department for Transport
- HM Courts and Tribunals Service
- HM Crown Prosecution Service Inspectorate
- Ministry of Justice
- Transport for London
- Transport Scotland
- Welsh Government

Consumer and other

- Independent Rail Retailers Group
- London TravelWatch
- ORR's Consumer Expert Panel
- ORR's Expert Advisory Group
- RMT (National Union of Rail Maritime and Transport Workers)
- Third party revenue protection support or services:
 - Arepo Solutions
 - Carlisle Support Services
 - ITAL (trading as "Appeals Service" and "IRCAS")
 - Penalty Services Limited
 - Raspberry Software
 - Transport Investigations Limited
- Transport Focus

Shadowing of revenue protection staff or visits to ticket office or back office staff

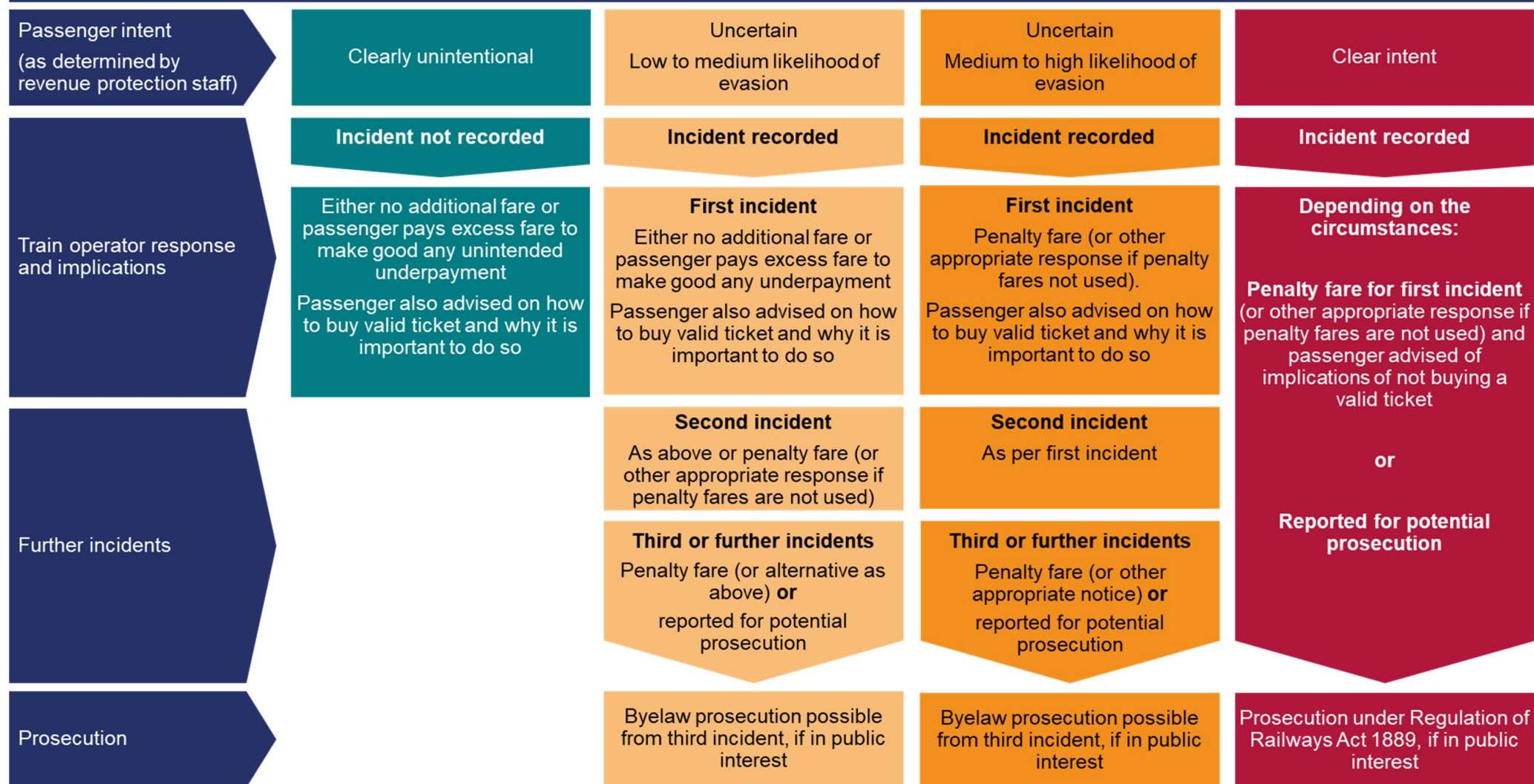
- Arriva Rail London Limited – London Overground
- First Greater Western Limited – Great Western Railway
- First MTR South Western Trains Limited – South Western Railway
- First Trenitalia West Coast Rail Limited – Avanti West Coast
- Govia Thameslink Railway Limited – GTR
- London North Eastern Railway Limited – LNER
- Merseyrail Electrics 2002 Limited – Merseyrail
- Northern Trains Limited – Northern
- TransPennine Trains Limited – TransPennine Express
- Transport for Wales Rail Limited – Transport for Wales
- Transport UK East Anglia Limited – Greater Anglia
- Trenitalia c2c Limited – c2c
- ScotRail Trains Limited – ScotRail
- SE Trains Limited – Southeastern
- West Midlands Trains Limited – West Midlands Railway

Annex E: Flowcharts and indicative escalatory approach

This annex includes the following:

- Figure E1: This diagram sets out an indicative escalatory approach to dealing with ticket irregularities, which is discussed further in paragraphs 4.76-4.83 of the report. It will be for industry and government to develop an escalatory approach, but this is intended to provide an overview what this could look like.
- Figure E&W1.1: This flowchart shows the options for frontline staff in England and Wales where they find a passenger without a valid ticket.
- Figure E&W1.2: Following on from Figure E&W1.1, this flowchart sets out the process following any action taken by a member of frontline staff and the potential outcomes for passengers.
- Figure E&W2: This flowchart sets out the process in England and Wales for the prosecution of a passenger for a fare evasion or ticketing offence.
- Figure S1: This flowchart sets out the options for frontline staff in Scotland where they find a passenger without a valid ticket, along with the different potential outcomes for the passenger.
- Figure S2: This flowchart sets out the prosecution process in Scotland in relation to a fare evasion or ticketing offence.

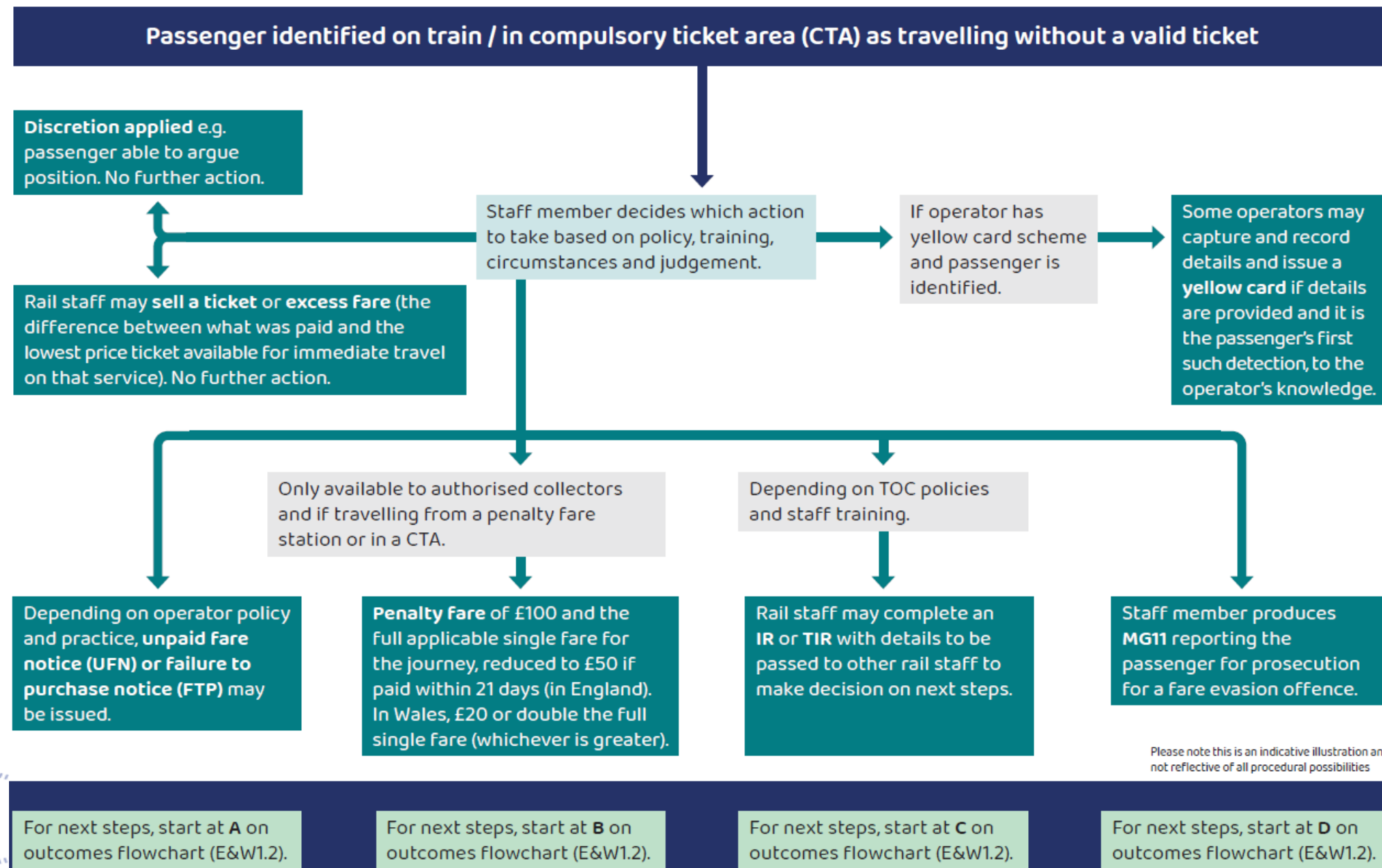
Figure E1: Indicative escalatory approach to dealing with ticketing irregularities



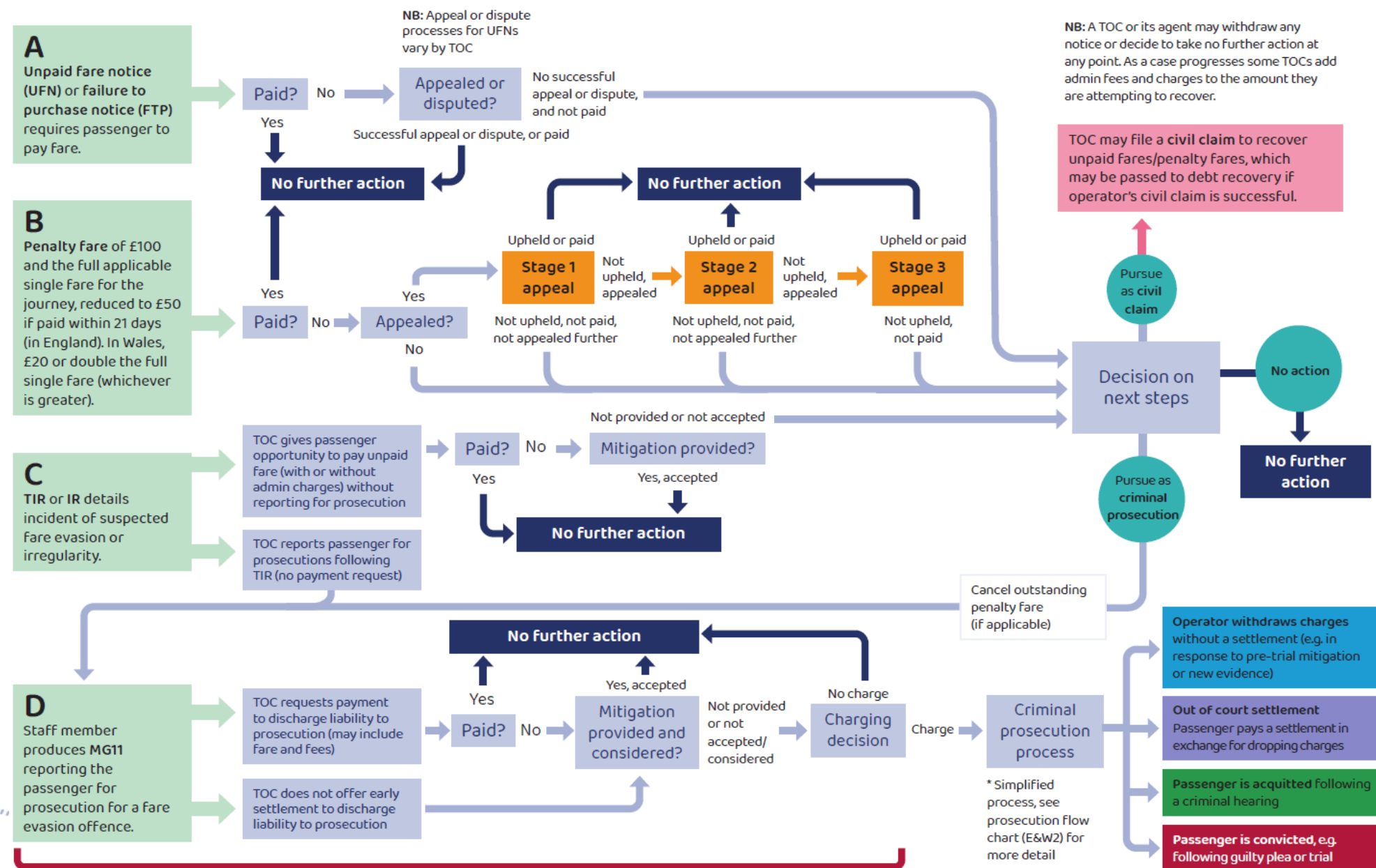
Note:

- Penalty fares (and any corresponding alternatives) to be subject to an **appeal process** as a safeguard for an erroneous revenue protection staff decision.
- Non-payment of penalty fare or alternative could lead to court action, regardless of the stage of escalation.
- This is intended to be indicative. All cases are different, and circumstances (such as vulnerability and disability) would need to be taken into account.

E&W1.1: Invalid or no ticket – frontline options (England & Wales)



E&W1.2: Invalid or no ticket routes and outcomes (England & Wales)

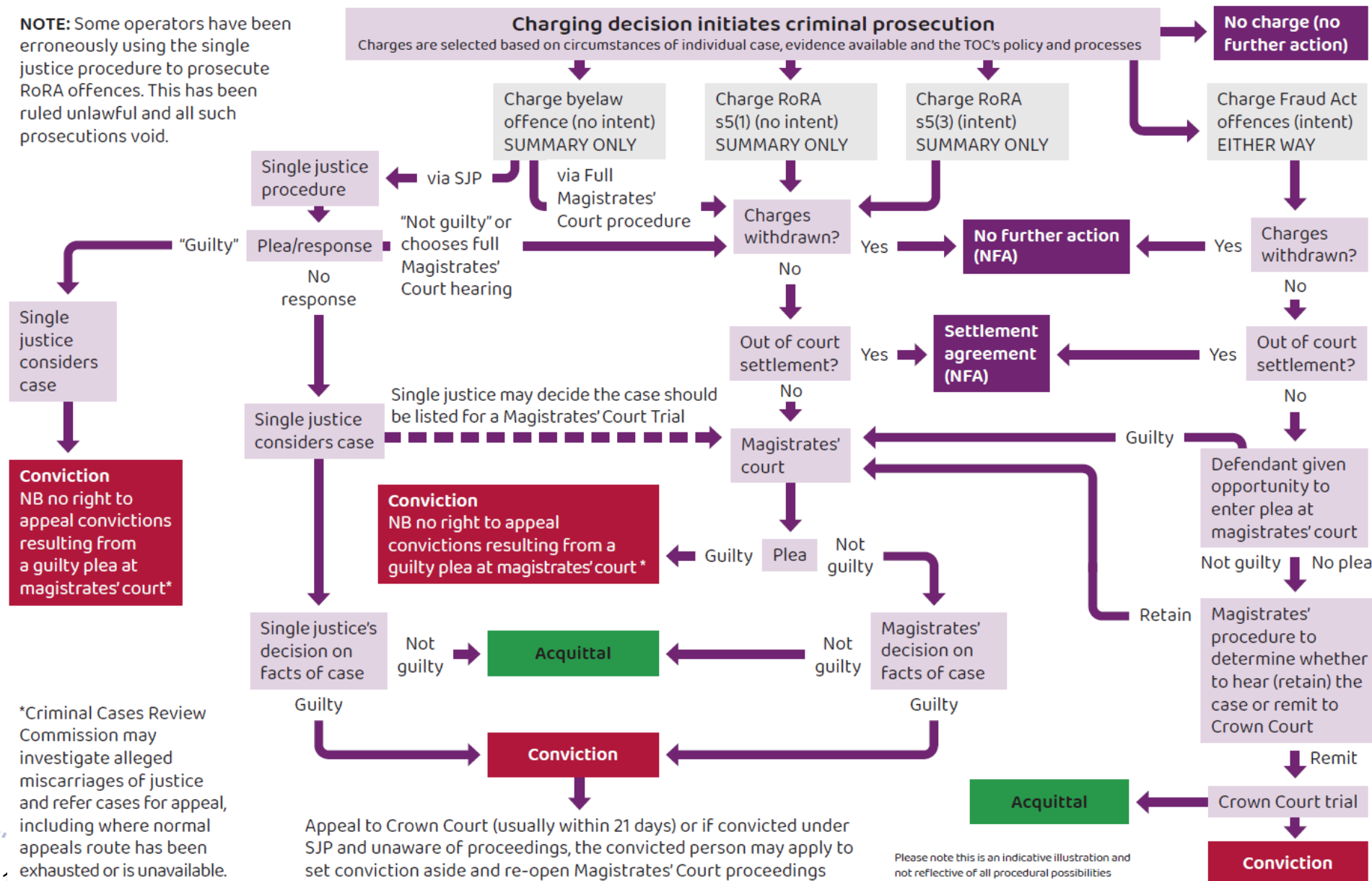


Where a criminal offence is suspected, further investigative actions may take place to gather necessary evidence prior to charging decision

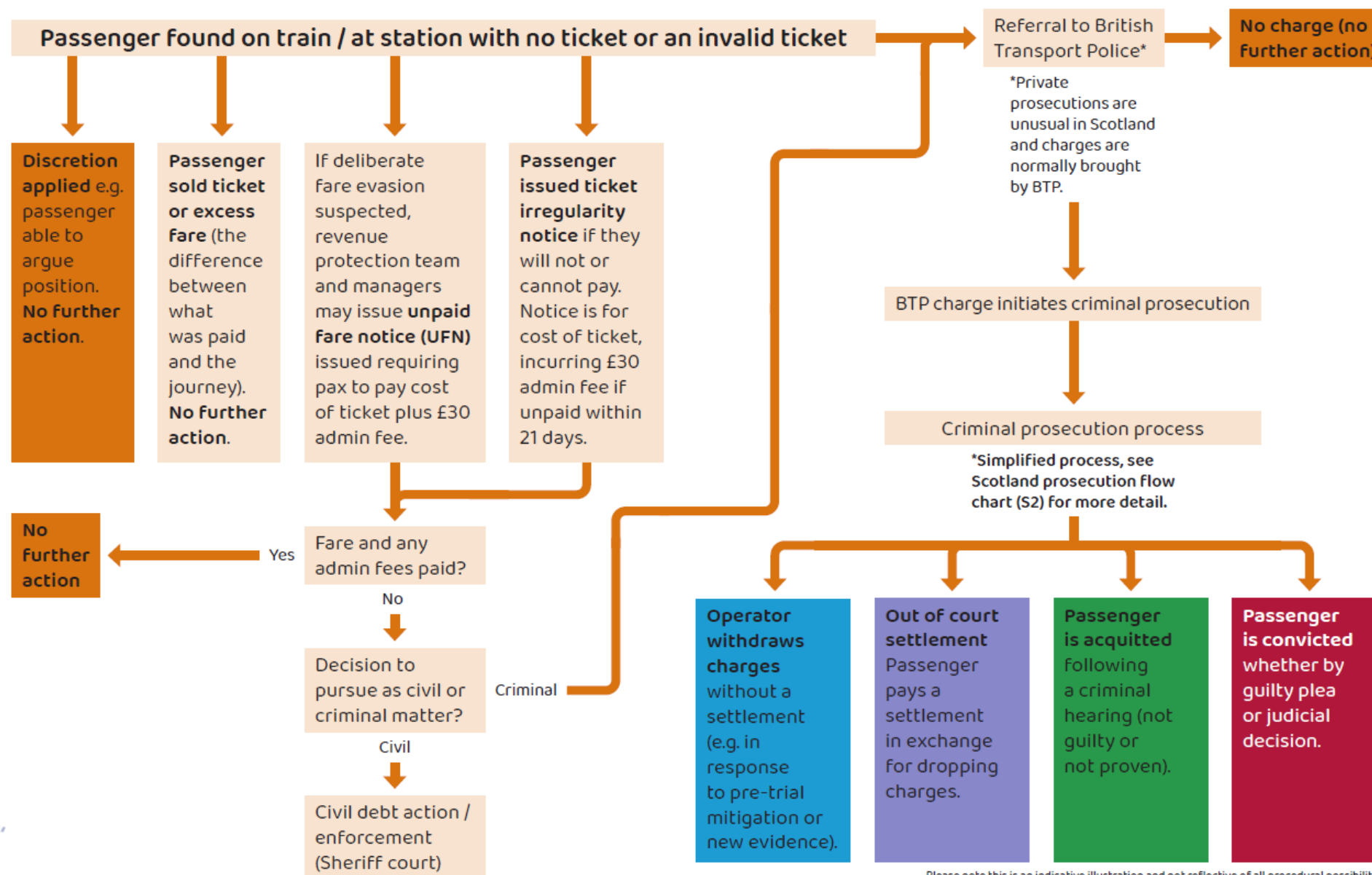
Please note this is an indicative illustration and not reflective of all procedural possibilities

E&W2: Prosecution process (England & Wales)

NOTE: Some operators have been erroneously using the single justice procedure to prosecute RoRA offences. This has been ruled unlawful and all such prosecutions void.



S1: Invalid or no ticket – frontline options, routes and outcomes (ScotRail)

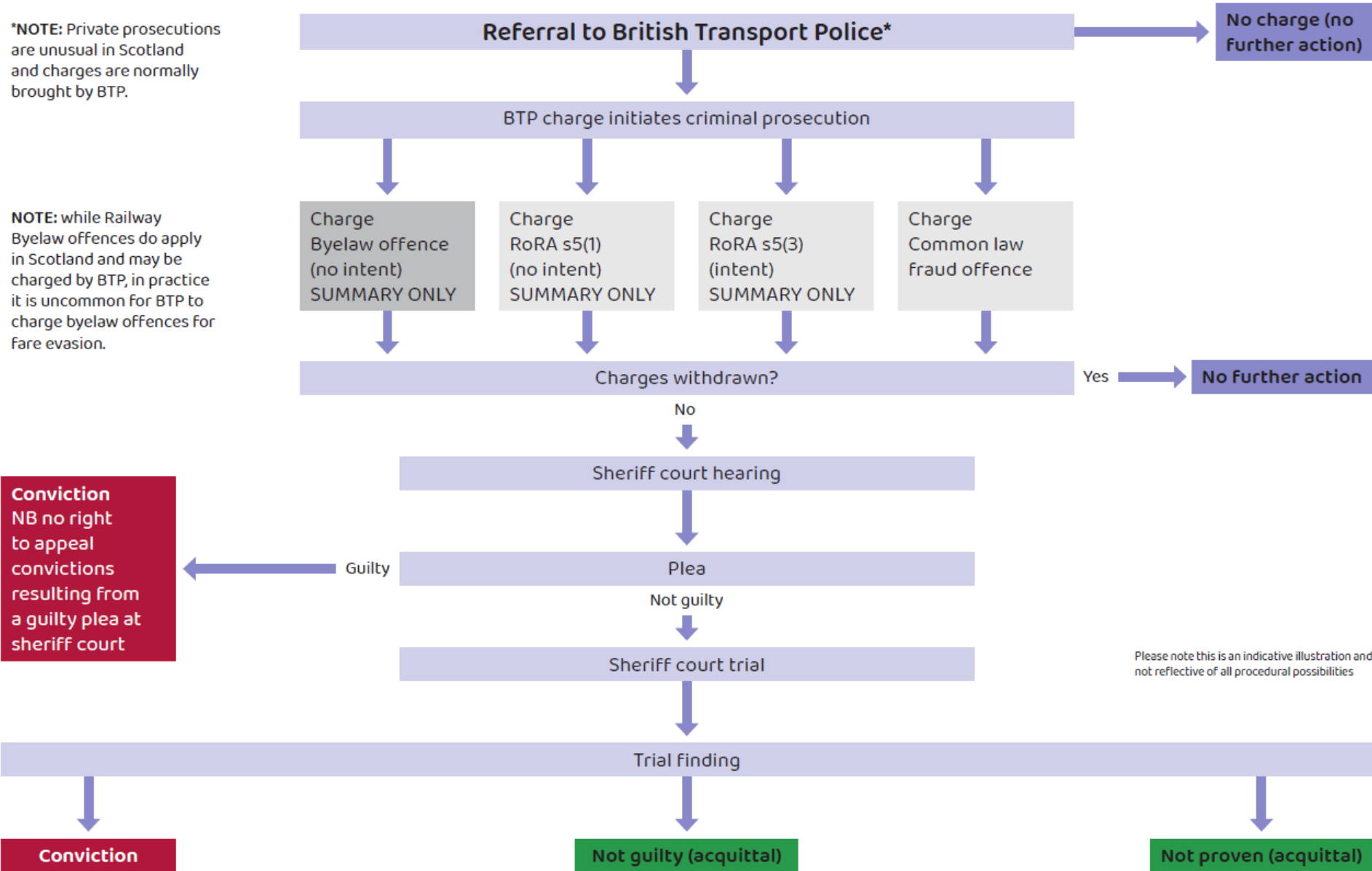


Please note this is an indicative illustration and not reflective of all procedural possibilities

S2: Prosecution process (Scotland)

***NOTE:** Private prosecutions are unusual in Scotland and charges are normally brought by BTP.

NOTE: while Railway Byelaw offences do apply in Scotland and may be charged by BTP, in practice it is uncommon for BTP to charge byelaw offences for fare evasion.





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