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PENALTY FARE APPEAL SUPPORT

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Report into:
First Capital Connect's - Targeted Enforcement Team

RESTRICTED PERSONAL

Report No: 2009/1

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First Capital Connect's - Targeted Enforcement Team.

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Preface.

Penalty Fare Appeal Support was set up to protect passengers from TOCs issuing unfair Penalty Fare notices in violation of the rules or procedures which exist to protect such people. We inform passengers of the correct procedures and rules. PFAS also exists to help support passengers which think they have had an incorrectly issued notice and we advise them on what rules have been broken.

PFAS has over 70 years of collective experience in the Revenue Protection area of the railways both during the British Railways era and the current privatised era.

Introduction.

PFAS have launched this investigation due to the increase of appeals and complaints which we have had to assist with ever since FCC launched its Targeted Enforcement Team.

The Investigation.

Methods used.

We have used many means at our disposal to investigate this fully, however we have been hindered all of the way by FCC, and their less than helpful press officer Gareth Beazant.

We asked, via our contacts, FCC members of staff about their views of the TET, however all of them without exception refused to comment stating "I cant comment please contact customer services" and then handed us a customer comments leaflet, which funnily enough has a picture of a member of staff of the TET on the front of it.

We have also asked FCC to release the figures of how many PF's that have been issued by the TET have been successfully appealed. FCC declined to provide this information.

We selected people who have used our services and who travel on FCC to act as 'eyes and ears' for us.

We also used our high level sources in government departments to release information to us, which they have done under the strict instruction that the information is not attributed to them or their government department.

We have also had various anonymous correspondence from a 'Manager within the Revenue Department' of FCC. This manager has also confirmed the names we have given are in fact members of the TET.

Correspondence between Elaine Holt (the previous MD of FCC), Jim Morgan (the current MD) and Julie Allen (customer relations executive). This correspondence is listed in the appendices, certain parts have been redacted due to Data Protection Laws.

We asked our site users to carry out some sample journeys from unmanned stations with PERTIS machines, at varying times of the day.

Actions of TET members.

Our sources have noticed and observed on several occasions the following:

- A member of the TET team wearing scruffy tracksuit bottoms and top who was sitting in First Class. This male member of staff was inviting people into First Class. When several other members of plain clothes staff came to assist he then proceeded to take their names and addresses and then got them to sign a notebook, the member of staff was aggressive and threatened on several occasions the police. He refused to give his name when asked so that a complaint could be made about him.
This member of staff was observed being called Matty by his colleagues.
- The TET team always go around in groups of 3 upwards, harass members of the public and have never been spotted on their own. One of our sources has been at the receiving end of this abuse because they didn't get out their photo-card quick enough, and subsequently was accused of "having something to hide"
- Certain members of the TET always demand a full penalty fare payment, even though it is stated in the PF rules (Rule 8.2) and PF Policy (Rule 4.31) that a passenger is only obligated to pay the single fare for the journey being taken and to pay the rest within 21 days.
When told of this rule, the TET member of staff then is quoted as stating "I don't care what the rules state, you will pay me what I ask now or I will get the police".
- Two members of the TET issued several incorrect PF's at Peterborough. These PF's were issued from March and Spalding. These stations are not in the PF scheme.
- A passenger who had travelled from Waterbeach was issued with a PF, by a group of 5 TET inspectors for not buying a ticket from a station which is known for being notoriously bad in not having working ticket machines. Waterbeach also does not have a booking office. This member of the public was also partially sighted.
- We have also been informed through people using our site for advice, that TET inspectors are charging passengers incorrect PF amounts. A PF from Peterborough to Finsbury Park is £39.80. This passenger was charged £52.00.
- It has been reported that on the Moorgate branch line TET inspectors by the names of Tyrone, and Eddie are telling people that they must pay £20 or get off at the next stop. This is again in breach of rule 8.2.
- One of our users purchased a permit to travel from Ashwell & Morden and tried to exchange it for a ticket on the train. The inspector who was wearing a name badge stating Jack said he "couldn't issue a ticket because he had no machine, and to buy your ticket at the other end". The inspector then proceeded to check the rest of the train without a ticket machine.
- Another of our users, in a situation similar to above, purchased a permit from Baldock and was stopped by an inspector with a name badge of Stuart. Stuart said "I've got no machine, buy your ticket at the other end".
- We have reports, via our sources, that passengers which look visibly young and

have no ticket are being bullied to the point that one of them started crying. The inspector in this case was not wearing a name badge and threatened to get the police if the young girl did not pay the PF.

- Members of the TET are refusing to accept the dates of birth of young passengers and have been observed at various stations stating “I don't care how old you claim you are, without ID you are getting Penalty Fared”.
- Inspectors have been observed pinning a passenger against a wall at Finsbury Park and sitting on a passenger at Elephant and Castle stations.
- Another of our sources has witnessed a group of inspectors out of uniform standing in the door way preventing a passenger trying to get off the train at Finsbury Park.
- A user of our site stated that they wanted to know how to appeal a PF, but was having problems because an inspector by the name of Matthew had refused to give a receipt.
- A pregnant passenger was sitting in First Class on a busy morning train and had a 'mum to be' letter from FCC, along with a monthly season ticket. This passenger was told to “get out of First Class” by a plain clothes inspector. She refused and was told to pay a PF, she again refused and several other passengers stuck up for her. The inspector gave up and left the train at Huntingdon. This is a breach of Rule 4.29 PF Policy.

Conclusions.

PFAS have come to the following conclusions in regards to this investigation.

It is clear from various sources and by their actions that the TET have been told to get results regardless of the reaction from customers. This is reinforced by responses like “the people won't appeal anyway” from the Team Leaders and lack of Management intervention.

Several individuals that are part of the TET are breaking the rules and regulations which have been set up to protect the public, in order to get the results.

It is also clear that FCC are taking a blind eye approach to these individuals as some of their actions would result in severe disciplinary or even dismissal in a normal sane workplace. Some actions are even illegal such as entrapment, assault and false imprisonment.

FCC have hindered us at every point during our investigation, they have failed to return our E-mails and refused to provide us with the information we have requested. This also backs up our conclusions that FCC have something to hide and by ignoring us they are hoping that we go away. For the record we will not go away!

The so-called 'investigation' by FCC in response to the anonymous E-mail was a white-wash which can be judged by the way the report was written. FCC requested that this report not be published. Is this another attempt at them to hide the information?

The staff are also being gagged and not allowed to talk, publicly, to anyone outside of FCC. Again is this another attempt at FCC to hide the truth?

The TET are a bunch of feral inspectors, that go around in groups of 3 upwards, aggressively bullying any and all passengers, including young teenagers and pregnant woman. We feel that if the inspectors went around on their own, their behaviour would alter rapidly as they would not be able to continue their current aggressive behaviour, as some passengers would unfortunately take action and assaults would increase.

The TET are not able to exercise appropriate discretion because they never have ticket machines and as such can only issue Penalty Fares.

FCC claimed in their 'investigation' that inspectors should have 2 machines per 8 carriage train. Based on our own investigation using permits to travel this has not and is continuing to not be carried out.

We have also established that TET like to be in plain clothes. Their behaviour alters from poor to very bad when they are in plain clothes.

When the TET are challenged by passengers, the inspector automatically goes on the defensive and then the rest of the inspectors stand up against the passenger.

The FCC passenger charter clearly states “Our staff all wear full uniform, including name badges, so you can easily identify them when required.” It seems however that this has not yet got to the TET and most of them rarely wear name badges or uniform.

Recommendations.

1. All TET staff should wear full uniform and name badges with immediate effect.
2. TET members should not be going around in groups of 3 upwards. There should only be a maximum of 2 people per group.
3. All inspectors should carry ticket machines, and actually use them, and be audited as to their use.
4. All TET members should be re-trained in the rules and regulations of the Penalty Fare scheme.
5. TET members should be reminded that they are wholly responsible for their actions and their actions will no longer be covered up.
6. A competent management team should be set up and put into place, based on merit.
7. Individuals identified in this report, should be investigated fully and suspended from front line duty while this investigation is carried out.
8. All individuals should be continuously monitored and if needs be dismissed from the TET to another position, or from the company.
9. TET individuals need to be reminded that they are not the Police and are not allowed to restrain or even sit on people.

Appendices.

Appendix A – Glossary of abbreviations and acronyms

- DfT – Department for Transport, the.
- FCC – First Capital Connect.
- GN – Great Northern.
- IRCAS – Independent Revenue Collection and Support.
- IPFAS – Independent Penalty Fare Appeals Service.
- MD – Managing Director.
- PERTIS – Permit to Travel machine.
- PF – Penalty Fare.
- PFAS – Penalty Fare Appeal Support.
- SRA – Strategic Rail Authority, the.
- TET – Targeted Enforcement Team.
- TL – Thameslink.
- TOC – Train Operating Company.

Appendix B – Quoted Penalty Fare rules.

- Rule 8.2 Penalty Fare Regulations 2002
 - **8. Arrangements for charging and paying penalty fares**

2. The authorised collector may require that person to make a minimum payment that is equal to the full single fare which they would have had to pay for their journey if penalty fares had not applied. The person must be given 21 days to pay the rest of the penalty fare, starting on the day that penalty fare is charged. If the penalty fare is not paid in full immediately, it must be paid in any way that is set out in the notice referred to in rule 8.3.

- Rule 4.29 Penalty Fare Policy
 - **4.29 When a penalty fare cannot be charged.**

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

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

- Rule 4.31 Penalty Fare Policy
 - **4.31 Minimum payment.**

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

Appendix C – Correspondence.

E-mail from anonymous 'Manager within the Revenue department' – March 2009.

We received this E-mail to our general E-mail contact address and immediately forwarded it to Elaine Holt, for her comments. She replied with an investigation which is listed in the next section of this report.

Dear Sir.

Firstly let me say that I cannot give you my name as I work for First Capital Connect within the Revenue Protection Team.

I am glad to see that you are championing the cause for persons who have been Penalty Fared incorrectly and unjustly. I have worked for the company since it's starting and before that for WAGN. All of my staff have become increasingly frustrated at the 'Thameslink' effect, a growing number of ex-Thameslink Managers who are introducing their unscrupulous and illegal methods on to the GN Route simply to boost figures. These people have been put in charge of a Team called the Target Enforcement Team (TET Team) who are made up of 20 staff on the GN side who basically operate as Ferrell Inspectors roaming about issuing Penalty Fares to EVERYONE they find without a ticket. Some of the antics are as follows:-

Whilst carrying out a Station Block at Peterborough recently they were issuing Penalty Fares to passengers travelling from Oakham, Stamford, Whittlesey, March and Spalding. All of these stations are outside of Penalty Fare domain and are from other TOC's, Cross Country and East Midlands. When I queried the staff who had issued the PF's as to what they were up to, they said that their Team Leaders, [REDACTED]¹ and [REDACTED]² had told them to do it and that the people won't appeal anyway. At the same Block some Child Travellers were dealt with by way of MG11 for travelling without making any attempt to purchase a ticket and for intent to avoid. All of the above station offices would have been closed and have no Ticket Machines, indeed, Whittlesey has no facilities at all!!

A person in possession of a Valid ticket and Railcard discount Card broke his return journey between London and Doncaster and was Penalty Fared for £52.00. He was PF'd on the basis that it wasn't his ticket. He has since won his appeal. Fact turned out he was the cousin of one of the TET Team.

A partially sighted person has recently been Penalty Fared by the TET Team travelling from Waterbeach to London Kings Cross. No Booking Office at Waterbeach and the person could not see sufficiently to work machine and told Inspector that.

They only ever have 1 Mobile Avantix ticket machine between 4 staff so are never able to show any discretion when dealing with Ticket less travellers

Last Weekend, during the Major Service Disruption (Buses from Welwyn Garden City to Biggleswade) they were instructed to Penalty fare people travelling on the buses despite

1 Redacted – Data Protection Act

2 Redacted – Data Protection Act

the buses departing from areas nowhere near the stations or ticket offices. We have always had a clear company instruction to sell tickets to these passengers as they have already had the inconvenience of an extended journey time. We did point out to them not to do this (in advance, by the way) but they still did it.

During the same disruption, they went to Hatfield Station and re-set the Ticket Barriers there despite direct instruction to leave them open as NX were using the station as their service turnaround point having trains terminating from London and people being bussed from Huntingdon and Peterborough to rejoin southbound services.

They are Penalty faring some passengers BEFORE they travel

Two weeks ago they had a big block at Stevenage Station to cope with a Junior Disco at one of the Big Clubs there. A pager message was sent out saying the Hertford North Station Booking Office was closed and that all machines were out of order. They still caused chaos by still Penalty Faring from there causing real problems and potential conflict for the resident staff on duty, so much so that a complaint was made to the Manager, [REDACTED]³ by one of the Station Resident workers. It was swept under the carpet.

I do believe that persons deliberately trying to avoid their fares should be dealt with in some way. I believe that the Penalty Fare system works when implemented to the Rules and taking into consideration each case on it's own merits. However, when you have these renegades on the system it blackens our name as well as causing potential assault situations for other staff.

Hope this of some help to you.

3 Redacted – Data Protection Act

Internal Investigation by Elaine Holt, MD, First Capital Connect – April 2009.

This E-mail was sent by the then MD of FCC, Elaine Holt. It was in response to the E-mail from a 'Manager within the Revenue Department', which is listed above.

This correspondence has been published as we believe it is in the public interest and the Public Interest Disclosure Act applies.

Dear [REDACTED]⁴

Please find below a response which I would appreciate if you could send to your staff member – you are of course welcome to read it. It is not for publication but I hope you will see how seriously we have taken these allegations and basically, that there is little evidence to support most of them.

Please can you confirm that you consider the matter closed?

Thank you.

Elaine Holt
Managing Director

Thank you for getting in touch, albeit indirectly via a penalty fare appeal web site. Your email is composed of some serious allegations about the behaviour and conduct of individuals in the FCC Revenue Protection team.

As a responsible organisation we investigate thoroughly any allegation of this type. Senior managers within the business have looked into every situation you have highlighted in some considerable detail. It is also equally important to establish from the outset that FCC have robust processes in place to look into this type of issue. Following your email, we committed to drilling down to the truth, to separate fact from fiction and detach speculation and hearsay from reality. More importantly as a business, we have integrity and a reputation to uphold and an obligation to make sure that barring human error, we work inside the penalty fare regulations.

So, looking at each of the situations individually, here are our findings:

Allegation One

Whilst carrying out a Station Block at Peterborough recently they were issuing Penalty Fares to passengers travelling from Oakham, Stamford, Whittlesey, March and Spalding.

There were two Peterborough blockades on the 25 February and 18 March 2009 and looking at some of the outlying stations we don't manage there are varying ticket buying opportunities at March, Whittlesey, Stamford, Oakham and Spalding. After the peak it would be unlikely that customers would be able to purchase tickets from these stations

⁴ Redacted – Data Protection Act

although the National Rail Conditions of Carriage indicate customers should purchase their tickets at the first available interchange which would be Peterborough.

After investigation we have established that three penalty fares were incorrectly issued outside of the block in Period 10 [P10] from March station to Peterborough. There is nothing in P11 or P12 and we await the results from P13. All other penalty fares totalling 45 in Period 12 were correctly issued.

Conclusion:-

Human error from two Inspectors meant that a very small number of penalty fares were incorrectly issued.

Actions:-

Further briefing to all relevant staff reinforcing familiarity with the penalty fare arrangements for customers travelling outside of our route.

Specific inspectors involved will receive 1 to 1 briefing.

The penalty fares will be automatically refunded if this has not already been done on appeal.

Allegation Two

At the same Block some Child Travellers were dealt with by way of MG11 for travelling without making any attempt to purchase a ticket and for intent to avoid. All of the above station offices would have been closed and have no Ticket Machines, indeed, Whittlesey has no facilities at all!!

An MG11 is a report taken under caution which is then submitted to the prosecutions team for consideration for court action and generally carried out for adults.

'WARN' fares and Pro formas are issued when we take details from an individual which is then followed up with a request for payment to the parent/guardian.

Minors presenting without tickets can be treated in two ways. If they don't have any money or a ticket then their details are taken and their parents are contacted. The cost for this process is £35 including an administration fee. If the minor has money this is dealt with as a nil paid penalty fare of £20 but we should not take money from a minor.

Conclusion

After substantial investigation, this allegation is unfounded. We are unable to locate any evidence of an MG11 being issued to a child under these circumstances. We would issue an MG11 for persistent juvenile offenders aged 16 -17 and have carried out successful prosecutions at the juvenile court.

Allegation Three

A person in possession of a valid ticket and Railcard discount Card broke his return journey between London and Doncaster and was Penalty Fared for £52.00. He was PF'd on the basis that it wasn't his ticket. He has since won his appeal. Fact. Turned out he was the cousin of one of the TET Team.

This situation did occur but the details as described have been misinterpreted. An individual was stopped at the Peterborough blockade without a ticket and penalty fared. As is his right, he appealed through IPFAS successfully as he later produced a ticket. Whatever our suspicions about his ticket, the responsibility to determine the outcome of his appeal lay with IPFAS. IPFAS are independent and impartial therefore the cousin relationship is irrelevant and would mean nothing to the IPFAS agent dealing with the appeal.

Conclusion

Allegation unfounded and based on speculation.

Allegation Four

A partially sighted person has recently been Penalty Fared by the TET Team travelling from Waterbeach to London Kings Cross. No Booking Office at Waterbeach and the person could not see sufficiently to work machine and told Inspector that.

Waterbeach has two TVMs. The penalty fare policy states that discretion may be exercised if a customer is partially sighted.

In the last three reporting periods there have been a very small number of penalty fares issued from this station- five in total

Conclusion

We are unable to substantiate this claim. Aside from contacting the five individuals direct and asking them, which we will do if all else fails, any further information which would help our enquiries would be appreciated.

Allegation Five

They only ever have 1 Mobile Avantix ticket machine between 4 staff so are never able to show any discretion when dealing with Ticket less travellers.

FCC ensures that staff are given the correct tools to carry out their job successfully. We maintain that one advantix is appropriate for a blockade of 3 people with one individual selling tickets and the remaining individuals providing fare prices or issuing penalty fares. If there are 10 people on a block then they should have three machines in circulation.

Conclusion

This allegation is again based on speculation. Common sense needs to prevail and staff need to be responsible for the allocation of the equipment they need. There is no shortage of advantix machines so if this has happened in the past it will be a localised issue. Going forward we will ensure that

One machine between three on a blockade but discretion must be used if a specific event is taking place where queues may build, therefore two machines may be more appropriate.

Two machines if more than three on a blockade.

Two machines per 8 carriage train

Allegation Six

Last Weekend, during the Major Service Disruption (Buses from Welwyn Garden City to Biggleswade) they were instructed to Penalty fare people travelling on the buses despite the Buses departing from areas nowhere near the stations or ticket offices. We have always had a clear company instruction to sell tickets to these passengers as they have already had the inconvenience of an extended journey time. We did point out to them not to do this (in advance, by the way) but they still did it.

In general buses depart from close to station buildings although for logistical reasons at some locations buses can't get close to the station. On this particular week the team sold £200 worth of tickets and issued three penalty fares all of which were issued correctly with those individuals presenting no money or ticket.

Conclusion

Allegation unfounded. This seems to be a reasonable amount of tickets sold compared to penalty fares issued and looking at these three incidences the team ascertained these individuals had no intent to purchase a ticket.

Allegation Seven

During the same disruption, they went to Hatfield Station and re-set the Ticket Barriers there despite direct instruction to leave them open as NX were using the station as their service turnaround point having trains terminating from London and people being bussed from Huntingdon and Peterborough to rejoin southbound services

This is correct and is not an issue of concern. This operational decision was made as while NX did have buses running FCC still had a train service operating and had additional staff available to assist the operation.

Conclusion

We are within our rights to do this where we believe that we can operate safely and efficiently without inconveniencing customers. We work closely with our industry partners to best meet the needs of the travelling public and this decision was acceptable.

Allegation Eight

They are Penalty faring some passengers BEFORE they travel

We would need further information about this but on the face of it, it is highly unlikely. There may be individuals who will rush onto a train, having not had time to buy a ticket, in full knowledge that they accept the penalty fare up front.

Conclusion

Without actual concrete evidence or reports from affected individuals this looks like hearsay. We cannot locate any customer complaints about this and must therefore come to the conclusion this is unfounded, please provide further information if you want us to look into again.

Allegation Nine

Two weeks ago they had a big block at Stevenage Station to cope with a Junior Disco at one of the Big Clubs there. A pager message was sent out saying the Hertford North Station Booking Office was closed and that all machines were out of order. They still caused chaos by still Penalty Faring from there causing real problems and potential conflict for the resident staff on duty, so much so that a complaint was made to the Manager, ██████████⁵, by one of the Station Resident workers. It was swept under the carpet.

The junior disco took place at Stevenage on 17 February. The booking office was open and TVMs were working on the night. Our records indicate one penalty fare was issued.

The number of penalty fares issued from Hertford North to Stevenage in Period 10 was two in total, Period 11 six in total and Period 12 the figure was twelve. After speaking to local management they have no recollection of confusion or chaos following this alleged incident. If the chaos was as serious as claimed we would expect staff would remember this or would have taken remedial action on the night.

Conclusion

We do not have enough evidence to arrive at a robust conclusion although the number of penalty fares issued around this time is small. Every situation has to be dealt with suitably and more importantly local decision making can be crucial in ensuring that changes to an operation can be made there and then if appropriate.

Overall findings

FCC takes the safety and well being of its staff very seriously and as a responsible organisation we are committed to reducing risk to staff and ensuring they uphold the company's reputation. Staff have ample training including SWERVE training, where appropriate, and receive briefings about behaviour and the correct application of their duties within the penalty fare process. To suggest that there may be a deep seated or endemic problem affecting the behaviour of some individuals and therefore directly impacting on the customers of FCC is indeed serious. However, as this report has established, many of the instances where you have concerns are based on unsupported rumour. While the problems you've related are generally not founded, there clearly exists another issue and that is with the morale of some of the team and their perception and faith in how management take charge of one of the most important groups in FCC.

Going forward, the senior team will be addressing all of these issues with local management and our colleagues in the revenue team. This isn't the time for a witch hunt but an opportunity to get back to basics, reinforce our pride in our work and join together as a motivated, effective and professional group carrying out a challenging yet necessary customer service role for FCC.

Thank you for getting in touch.

⁵ Redacted – Data Protection Act