

# Revenue Protection Policy



# 1. Introduction

1.1 Arriva Rail North Ltd is required by the terms of its franchise to ensure that it protects revenue from ticket sales. This is a sensible requirement designed to ensure that fare paying passengers and tax payers in general do not have to subsidise the cost of travel for those who do not pay their fare. Arriva Rail North Ltd also protects revenue from its car parks as well as making sure that important safety access routes are kept clear, disabled spaces are not misused and that bad parking does not reduce the number of available parking spaces. Arriva Rail North Ltd is also committed to preventing anti-social behaviour both on-board trains and at stations by pursuing those alleged to have behaved in any way that is unacceptable to passengers and employees.

1.2 Through its Debt Recovery and Prosecutions Unit (DRPU) Arriva Rail North Ltd actively pursues those who choose to ignore the laws and byelaws that govern rail travel, railway stations and station car parks. The vast majority of infringements

are dealt with by the DRPU. In addition the DRPU works closely with the Crown Prosecution Service, the police and the British Transport Police to pursue those who breach the wider criminal law whilst travelling by train or whilst on railway property in order to ensure the safety of passengers and employees alike.

1.3 The DRPU recognises that the decision to prosecute any individual is a serious one. Before making any such decision the individual circumstances of each case are considered and an evidential and public interest test is applied both objectively and robustly.

1.4 The National Rail Conditions of Carriage set out the legal contract you have with us when you purchase a ticket and travel with Northern. You can pick up a free copy from all our stations or from our Customer Relations team. You can also download them from [nationalrail.co.uk](http://nationalrail.co.uk).

## 2. General Principles

2.1 Arriva Rail North Ltd prosecutes those alleged to have

committed offences contrary to the Regulation of Railways Act 1889 and/or the 2011 Railway Byelaws made pursuant to the Transport Act 2000.

2.2 These cases are heard in the Magistrates Court. Appeals in respect of sentence and/or conviction are heard before the Crown Court.

2.3 Offences relate to fare evasion, anti-social behaviour, breach of car park regulations (station car parks are regulated by the Railway Byelaws) but not usually acts of physical violence known as assaults. (See 3.1 below).

2.4 DRPU will cooperate with the police, the British Transport Police and the CPS in respect of allegations of assault on passengers and employees. In the event that Arriva Rail North Ltd is dissatisfied with a charging decision of the police and/or the CPS in respect of an allegation of assault upon an employee it reserves the right to seek to bring a Private Prosecution by way of the DRPU. (The CPS has agreed that an allegation of assault of a railway employee is not suitable for disposal by way of caution).

## 3. Category of Offences

3.1 Arriva Rail North Ltd will prosecute the following type of offences using the provisions of the regulation of Railways Act 1889 and the Railway Byelaws.

### Fares

- Failing to purchase before travel
- Failing to purchase
- Travelling beyond valid destination
- Altering documents
- Forged documents
- Providing false details
- Refusing to provide details
- Refusing to produce documents

### Anti-social behaviour

- Disorderly behaviour
- Abusive language/ behaviour
- Trespass
- Threatening behaviour
- Obscene behaviour
- Littering/fouling/spitting
- Smoking including e-cigarettes
- Intoxication

## Parking

- Use of non-designated area
- Altered ticket

This is not an exhaustive list but provides an understanding of typical types of case undertaken.

3.2 The provisions of the Regulations of Railways Act 1889 and the Railway Byelaws made pursuant to the Transport Act 2000 can be found at [www.legislation.gov.uk/ukpga/Vict/52-53/57/contents](http://www.legislation.gov.uk/ukpga/Vict/52-53/57/contents) and [www.gov.uk/government/publications/railway-byelaws](http://www.gov.uk/government/publications/railway-byelaws).

## 4. Decision to Prosecute

4.1 The DRPU applies the same principles as the Crown Prosecution Service when deciding whether or not to prosecute.

4.2 Each case is individually assessed to establish whether there is sufficient admissible evidence to make a conviction more likely than not. This is the evidential test. We will not prosecute a case that fails the evidential test.

4.3 If a case passes the evidential

test we then apply a public interest test. We do this by assessing whether or not it is in the public interest to prosecute a case. (An example of a case that would fail the public interest test is where the individual concerned acted due to an emergency). If the case fails the public interest test we will not prosecute that case even if it has passed the evidential test.

4.4 In applying the public interest test our approach differs from that of the CPS in one important regard. A large number of the cases prosecuted by the DRPU involve relatively small amounts of money. This reflects the fares charged for travel on the network operated by Arriva Rail North Ltd. However, these small amounts add up to a large sum and comprise the revenue that Arriva Rail North Ltd is committed to protect. Because of this the DRPU will not regard a case as failing the public interest test just because the sum in dispute is relatively small.

Likewise in assessing allegations due to parking we remain aware of the particular issues relating to safety and access that can arise at a station car park.

4.5 If a case is judged to meet

both limbs of the test and a prosecution commences that case will be assessed again should further information come to light.

## 5. Disclosure

5.1 We will disclose all aspects of our case ahead of trial.

5.2 If we have material in our possession that may undermine our case or assist the defence (unused material) we will disclose that material in good time ahead of trial.

5.3 Our prosecutors undertake regular training from independent senior prosecutors in all aspects of disclosure of unused material.

## 6. Juvenile Offenders

6.1 Where appropriate Arriva Rail North Ltd will seek to divert young people away from the Criminal Justice System. However in applying this policy we will not compromise on the safety of our passengers and our employees. This aspect of a case involving a young person will form part of our consideration when applying the public interest test.

6.2 Even if we decide not to prosecute a particular case we may still provide details of the allegation to the police.

6.3 If the police ask for assistance in relation to the prosecution of a young person Arriva Rail North Ltd will provide such assistance.

6.4 If requested Arriva Rail North Ltd will attend Referral Panel Order Hearings.

## 7. Our Prosecutors

7.1 The DRPU has a team of experienced lay-prosecutors who undertake regular training provided by experienced independent counsel.

7.2 If an individual faces additional prosecution by other agencies (such as the CPS) DRPU prosecutors will work alongside the representatives of that agency.

7.3 In certain circumstances the DRPU will instruct independent counsel to prosecute on behalf of Arriva Rail North Ltd

## 8. Alternatives to Prosecution

8.1 The police may of their own motion or at the direction of the CPS offer to dispose of a criminal case by way of caution or conditional caution. That process will result in a criminal record number. Arriva Rail North Ltd is not under an obligation to replicate that process and does not do so.

8.2 Arriva Rail North Ltd may offer to resolve a case by way of Formal Warning or Fixed Penalty. Resolution by either method does not result in a criminal conviction.

8.3 A Formal Warning may be appropriate if someone of good character in circumstances where there is strong mitigation admits an allegation. However there may well be circumstances where despite those factors being present it will not be an appropriate course.

8.4 Arriva Rail North Ltd regards court proceedings as a last resort and so reserves the right to offer to resolve matters through the use of a Fixed Penalty Notice where the circumstances of the

offence and the offender are appropriate.

8.5 In order to ensure that all disposals are consistent with the franchise obligation of revenue protection Arriva Rail North Ltd may seek to recover the administrative costs associated with any form of disposal.

## 9. Costs after Trial

9.1 In accordance with its franchise obligation to protect revenue Arriva Rail North Ltd will usually seek to recover the costs of any court proceedings that result in a conviction. In cases in which counsel has been instructed an application for costs will include counsel's fee.

9.2 An indication of costs and the extent to which they will increase if proceedings are contested will be notified to a defendant in the course of the progression of the case.

## 10. Banning Orders

10.1 Arriva Rail North Ltd will impose Banning Orders against all persons whose behaviour have caused or are likely to cause harassment, alarm or distress to any passenger or employee.

10.2 We will provide information in support of applications by other agencies to obtain orders to prevent anti-social behaviour.

## **11. Appeals against conviction and/or sentence**

11.1 In the event of an accused person seeking to appeal against his conviction and/or sentence DRPU will be represented at the Crown Court by counsel. Any application for costs in the event of an appeal being dismissed will reflect this.

11.2 Once an appeal is lodged Arriva Rail North Ltd will consider any new material supplied by the appellant and will forward the same to counsel instructed. Counsel will be asked to advise on the merits of the appeal as lodged.

## **12. Policy Ownership**

12.1 Queries in relation to this policy should be made in writing to the DRPU Manager, Arriva Rail North Ltd, Freepost NORTHERN RAILWAY.

12.2 Arriva Rail North Ltd and DRPU reserve the right to update and amend this policy.

12.3 This policy document will be published on the website of Arriva Rail North Ltd.



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