



REVENUE ENFORCEMENT

&

PROSECUTIONS POLICY

**Chilternrailways**

## 1. Introduction

Chiltern Railways is committed to a fair and proactive approach in preventing and reducing the level of offending on its services, including offences of fare evasion and work-related violence against its employees carrying out their duties. Chiltern Railways will proactively protect the safety and security of our services, passengers, and staff. Chiltern Railways is also committed to preventing antisocial 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.

Chiltern Railways is also required by the terms of its contract with the Department for Transport (DFT) to ensure that it protects revenue from ticket sales. This is a sensible requirement designed to ensure that fare paying passengers and taxpayers in general do not have to subsidise the cost of travel for those who do not pay their fare.

*Please Note: These cases are heard in the magistrate's court. Appeals in respect of sentence and/or conviction are heard initially in the magistrate's court but may also be placed before the Crown Court in certain circumstances such as cases taken under the Fraud Act 2006.*

In exercising our power to prosecute, we are acting not only pursuant to our statutory objectives, but also in the interests of justice and the public at large. Our objective in prosecuting is not to seek a conviction at all costs; rather we will approach each stage of the process in a fair, balanced, and impartial manner. Each case will be reviewed and where appropriate prosecuted ensuring that the law is properly applied, that all relevant evidence is put before the court, and that all obligations of disclosure are complied with.

Chiltern Railways may prosecute perpetrators of such offences and may share details of convicted offenders with other transport companies and the Police for effective enforcement intelligence against persistent offenders. Chiltern Railways may also publish the names of convicted offenders to serve as a deterrent to others.

**This policy outlines the approach to be followed in the consideration and enforcement of offences in accordance with relevant legislation, regulations, and byelaws.**

Chiltern Railways will also have due regard to the Code for Crown Prosecutors.

Chiltern Railways recognises that the decision to prosecute is a serious one and will ensure all relevant mitigating factors are taken into consideration before any such decision is taken. The system of prosecution of offences set out in this policy seeks to be robust, effective, consistent, and above all fair. This policy may be supported by procedural documents, providing guidance to Prosecutors in reaching the decision to prosecute or to dispose of matters by alternative means.

This policy applies to prosecutions led by Chiltern Railways or agents. The principles of this policy will also form the basis of revenue enforcement policies operated by concessionaires.

## 2. General Principles

2.1 Fare evasion on Chiltern Railways is contrary to the provisions of the Regulation of Railways Act 1889 and the Railway Byelaws.

2.2 Where a conduct arising from fare evasion is subsequently considered to have resulted in a fraud, Chiltern Railways will consider whether it is more appropriate to prosecute under the Fraud Act 2006 or any other relevant legislation.

2.3 Assault against Chiltern Railways employees is unpleasant in whatever form and constitutes an offence contrary to the Criminal Justice Act 1988 and the Offences against the Person Act 1861.

2.4 In addition to the statutory definition, assault can also include “any incident in which persons are abused, threatened or assaulted in circumstances relating to their work and which constitutes an explicit or implicit threat to their safety and general wellbeing”.

*The Economic Crime and Fraud Unit (ECFU) will cooperate with the police, the British Transport Police (BTP) and the Crown Prosecution Service (CPS) in respect of allegations of assault on passengers and employees. In the event that Chiltern Railways 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 ECFU. (The CPS has agreed that an allegation of assault of a railway employee is not suitable for disposal by way of caution).*

2.5 Penalty fares may also be issued in appropriate cases, in accordance with The Railways (Penalty Fares) (Amendment) Regulations 2022.

2.6 Each case is unique and will be considered on its own facts and merits. There are, however, general principles that apply to the way in which Chiltern Railways Investigators/Prosecutors will approach each case.

2.7 Chiltern Railways Investigators/Prosecutors are trained to a high standard and have the competence to act fairly, objectively and without prejudice to ethnic origin, gender, religion, political beliefs, sexual orientation, or age of suspected offenders.

2.8 Chiltern Railways Investigators/Prosecutors will endeavour to ensure the right perpetrator is identified and prosecuted for the offence. In so doing, prosecutions must always be conducted in accordance with the principles set out in this policy and local procedural manuals.

2.9 In considering the decision to prosecute, Chiltern Railways operational officers submit cases to the ECFU or agents for review. A member of the team will then take a decision on whether or not to prosecute the case depending on the facts and circumstances. The Prosecutor must seek to rely on relevant and admissible evidence having regard to matters of disclosure, in accordance with the provisions of the Criminal Procedure and Investigations Act 1996 and the Attorney General's Guidelines on disclosure of evidential materials.

2.10 Chiltern Railways is bound by the provisions of the Human Rights Act 1998 and Investigators/Prosecutors must have regard to the principles of the European Convention on Human Rights in accordance with the Act.

2.11 Chiltern Railways will comply with the General Data Protection Regulations and the Data Protection Act 2018 in relation to all aspects of investigations and prosecutions. This includes the collection of personal data and its retention, disclosure, and other processing. It is to be noted that personal data will not be disclosed to third parties except in accordance with the law.

**Each case is unique and will be considered on its own facts and merits.**

### **3. Types of Offences**

3.1 Chiltern Railways will prosecute the following offences:

a) All Passenger and fare evasion offences in contravention of the Regulations of Railways Act 1889, the Railway Byelaws, the Fraud Act 2006, and any other relevant legislation.

b) All other offences perpetrated against Chiltern Railways' interests including employees and assets.

c) Chiltern Railways may also seek an injunction or a Criminal Behaviour Order under the Anti-Social Behaviour Crime and Policing Act 2014 against any person whose behaviour is found to have caused or is likely to cause any Chiltern Railways employees or passengers using Chiltern Railways services or on Chiltern Railways premises, harassment, alarm, or distress.

***Please Note: Any ticket or railcard purchased after commencement of the rail journey will be wholly disregarded, as this would not have been valid at the time of inspection.***

### **4. Who will prosecute?**

4.1 Offences listed in paragraph 2.1 above will normally be prosecuted by Chiltern Railways or their approved prosecuting authorities.

4.2 This policy is restricted to those prosecutions that are conducted by Chiltern Railways and plays no part in the process of prosecution applied by the Crown Prosecution Service.

### **5. Young Offenders**

5.1 Chiltern Railways will not normally prosecute any person under the age of 18. This is in line with the Home Office guidelines of diverting youths, where possible, away from the criminal justice system. However, where the offence is of a serious nature, Chiltern Railways may prosecute or in appropriate cases refer such an offence to the Police or Youth Offending Team (YOT).

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Chiltern Railways considers the following offences to be of a serious nature:

- a) Assaults on staff or other Public Order offences
- b) Criminal damage to Chiltern Railways property
- c) Forgery and counterfeiting of travel tickets and passes
- d) Illegal production/reproduction or sale of Railways travel tickets and passes
- e) Using valued passes issued to Railway Employees / Freedom pass holders
- f) Repeat offences of any nature or offences committed after a previous warning
- g) Breach of an Injunction or Criminal Behaviour Order under the Anti- Social Behaviour Crime and Policing Act 2014.

5.2 Chiltern Railways will consider all offences objectively in deciding whether to prosecute. Youth offenders will be prosecuted in accordance with Chiltern Railways prosecution criteria contained in this policy after taking all surrounding factors into consideration including necessary Home Office guidelines.

5.4 Passengers in receipt of concessionary travel from Chiltern Railways will be subject to the agreed Chiltern Railways Behaviour Code associated with the concessionary travel scheme. A breach of the Chiltern Railways Behaviour Code could lead to enforcement action taken against the holder of the concessionary travel pass, ranging from temporary to a permanent withdrawal of the concession depending on severity.

## **6. Decision to prosecute**

Fair and effective prosecution is essential to the maintenance of law and good practice – prosecution punishes wrongdoing, deters repetition, and acts as a warning to others.

6.1 It is recognised that the decision to prosecute a person suspected of an offence is an important and serious one. Chiltern Railways will therefore only prosecute if:

- a) The evidence shows that there is a realistic prospect of conviction; and
- b) It is in the public interest and in the interest of justice to prosecute.

### 6.2 The Evidential Test

In deciding whether there is a realistic prospect of conviction, the Prosecutors will have regard to the following:

- a) Relevance and Admissibility of available evidence
- b) Reliability of evidence relating to the identity of the alleged offender
- c) Reliability of evidence of any observation of the alleged offender
- d) Reliability of any admissions and confessions, including comments as recorded in the Investigators original notes, or in the Travel Irregularity Report as the case may be
- e) Reliability of Prosecution Witnesses

If Chiltern Railways considers that there is insufficient evidence upon which to base a prosecution, no prosecution will be brought. Consideration may however be given to other responses, such as to dispose of the matter by way of a warning in appropriate cases.

### 6.3 Public Interest and Interest of Justice

Even where the evidential test has been satisfied, the prosecution of an alleged offence must be in the public interest and in the interests of justice, i.e., must be seen to be appropriate, fair, and properly brought. There can be no definitive guidance as to when it may not be in public interest or in the interest of justice to prosecute an alleged offence, as each case will turn on its own individual merit.

## **7. Injunction or Criminal Behaviour Order under the Anti-social Behaviour Crime and Policing Act 2014**

7.1 Chiltern Railways will continue to work closely with Police partners to pursue Criminal Behaviour Orders against individuals that commit offences on Chiltern Railways services in accordance with the Anti-social Behaviour Crime and Policing Act 2014.

7.2 Chiltern Railways may seek an injunction where perpetrators have acted in an anti-social manner on, or in relation to any land or vehicles used in connection with, or for the purposes of, the provision of any relevant transport service.

7.3 For the purposes of the Anti-social Behaviour Crime and Policing Act 2014, relevant transport service includes bus replacement services, or any of its subsidiaries or by any person pursuant to an agreement with Chiltern Railways .

**Prosecution punishes wrongdoing, deters repetition, and acts as a warning to others.**

## **8. Prosecution Criteria**

Chiltern Railways regards the following as aggravating factors.

- Previous conviction for similar offences.
- Substantial revenue loss or offences persisting over a prolonged period of time.
- Being previously warned for a similar offence.
- When stopped and questioned failing to answer any reasonable questions at the time.
- Using abusive or threatening behaviour towards any person on the railway.
- Any behaviour which is deemed to be anti-social and fails within the Railway byelaws.

**Q. Why, was I not issued with a penalty fare?**

A. The authorised person will establish all the facts before deciding what course of action to take, if they have any reason to believe that an offence has been committed, they may caution you, a statement/report taken and the facts reported to the company. It is not a traveller's automatic right to be issued a Penalty fare if the matter falls outside of the penalty fares rules.

**Q. Last time I was stopped I was allowed to pay a penalty fare; can I just pay the penalty fare again this time?**

A. If you have been issued a penalty fare previously it would be more likely that you will be cautioned and reported for the offence as a suspected persistent fare evader.

**Q. It was not my intention to avoid my fare?**

A. If you are charged under Railway Byelaw 18 (1), it is known as a strict liability offence. This means that the Prosecutor needs only to prove that you boarded the train without purchasing a valid ticket at the start of your journey and the proof of intention is not required.

**Q. If convicted will I get a criminal record?**

A. If you are convicted under the Regulation of Railways Act 1889 it is a criminal conviction. However, if the case against you is proved under the Railway Byelaws 2005, this is a recorded conviction with the magistrates' courts.

**Q. I have had my details taken and been told the ECFU will be contacting me, but I have not heard anything?**

A. We are a very busy team, and it can be a little while before we receive the inspector's reports and process them. If you are concerned you may have missed some correspondence, for example if you have moved address, you can e-mail the Economic Crime & Fraud Team at [Fraud@chilternrailways.co.uk](mailto:Fraud@chilternrailways.co.uk) with the details you gave the inspector at the time and the date you made the journey, and we can look into this further for you.

It is vitally important that you inform us of any address changes, as it is likely we will be sending letters to you via the address provided to the member of staff at the time. If correspondence is not replied to, this may mean that court action to recover any outstanding fare is taken.

*PLEASE NOTE – This mailbox is only used to inform us of a new correspondence address or sending through evidence of a valid ticket or railcard at the time the journey was undertaken, this email address cannot be used to make any appeal or mitigation.*

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The ECFU or our Prosecution Agents are responsible for processing and enforcing the recovery of fares owed to Chiltern Railways, they must follow the guidelines set out in this and their own policies. The Head of Fraud & Prosecutions or the Revenue Protection & Events Manager will audit the process being used and ensure they are following the agreed policies and codes of practice to ensure we adhere to our firm but fair approach.

The offer of an administrative disposal does not stop the defendant from having the case heard in court, and if the administrative disposal is not settled within the 21 days the case will proceed as normal to prosecution.

*Please Note- We or our agents are not obliged to offer an administrative disposal*

If you're stopped by a member of staff whilst on our trains, they may:

- Sell you a ticket (usually a full price Anytime Day Single/Return ticket for your journey (with no discount) Please Note: An advance ticket cannot be exceeded, and a new ticket will have to be purchased.)
- Issue you a Penalty Fare Notice (PFN)
- Report you to our Economic Crime & Fraud Unit – which could mean you have to go to court.

*(This is in line with The National Rail Conditions of Travel Section 9)*

### **What can I do if I feel I have not been treated politely and with respect?**

If, at any stage of any of the procedures outlined above, you are not satisfied with the behaviours of any member of railway staff, you should contact our [Customer Relations Team](#)

Members of the Customer Relations Team can only deal with complaints about behaviour and cannot comment on the details of any case.

8.1 Chiltern Railways will have regard to the following factors in favour of prosecution:

- a) The offender has a previous conviction for a relevant offence or where the offender has committed a similar offence on Chiltern Railways, any of TfL or Train Operating Company services.
- b) The offender has previously been issued a Penalty Fare on Chiltern Railways, any of TfL or Train Operating Company services.
- c) The offender has previously been issued with a Formal Warning by Chiltern Railways, any of TfL or Train Operating Company services.
- d) The offender has committed any of the offences of a serious nature as set out in paragraph 5.1 of this policy.
- e) The offender has failed to pay for the service or failed to have sufficient Oyster card or contactless payment credit before boarding a relevant service. Where a contactless payment/electronic ticket is concerned, the previous usage history may be taken into consideration.

The logo for Chiltern Railways, featuring the word "Chilternrailways" in a blue, sans-serif font. The "Ch" is in a darker blue, and "ilternrailways" is in a lighter blue.



- f) The offender has unlawfully used or transferred a freedom pass, staff pass or other concessionary passes or travel documents issued to named holders other than the offender.
- g) The offender has behaved in an aggressive, unacceptable, or uncooperative manner.
- h) The offender has used aggressive, obscene, or unacceptable language.
- i) The offender has boarded the train without having with them a valid rail ticket and only purchased a ticket when stopped or when an Inspector approaches them.

8.2 Chiltern Railways will have regard to the following factors against prosecution :

- a) Insufficiency of evidence
- b) Where it appears that there has been a genuine mistake of fact by the alleged offender
- c) Age of the offender.
- d) The offender's mental health supported by satisfactory medical proof from a Medical Expert in the relevant field.
- e) Where, owing to circumstances beyond the offender's control, commission of the offence was unavoidable.
- f) Where there is no realistic prospect of conviction.

8.3 Chiltern Railways will have regard to the following factors in the decision to discontinue proceedings:

- a) New and compelling evidence not previously available to Chiltern Railways and likely to undermine the case of the Prosecution or assist the Defendant's case.
- b) Insufficient evidence to proceed with the prosecution.
- c) Where the continuance of proceedings is likely to lead to an abuse of the process of the courts.
- d) Where continued proceedings are likely to be deemed malicious or in fact likely to be prejudicial to Chiltern Railways' interest.
- e) Exceptional circumstances.
- f) Where the decision to discontinue is due to (e) above, the Head of Fraud & Prosecutions or Revenue Protection & Events Manager may set the terms and conditions for such withdrawal.

*Please Note: It is not an acceptable mistake to believe erroneously that your Oyster card contains sufficient credit, or a failure/omission to validate an Oyster card or contactless, or to use another person's pass/ticket which is non-transferable when on any Chiltern Railways services. It is also not an acceptable mistake to believe erroneously that your smartcard or flexi-season ticket contains an activated product.*

8.4 Where Chiltern Railways takes the decision to discontinue a case on public interest grounds, the Defendant may be requested to pay the value of any agreed unpaid fares in relation to the discontinued proceedings this may include a contribution towards the costs in investigating the matter. Chiltern Railways may also issue proceedings in a county court for the recovery of agreed unpaid fares.

8.5 In exceptional circumstances, the Head of Fraud & Investigations or Revenue Protection & Events Manager (or those authorised by them) may withdraw a case against any person. What constitutes exceptional reasons will be determined on the facts of individual cases and the decision to discontinue a case can only be taken by the Head of Fraud & Investigations and Revenue Protection & Events Manager.

8.6 Chiltern Railways may decide, in exceptional circumstances, to dispose of an offence by way of a Warning Letter in lieu of prosecution after considering several factors: -

- a) The offender has admitted the offence.
- b) The offender is willing to accept the warning.
- c) There must be sufficient evidence to provide a realistic prospect of a conviction if the offender were to be prosecuted.
- d) The offence is not one where a prosecution is required in the public interest
- e) There is likely to be a low risk of re-offending.
- f) Satisfactory mitigation has been provided.

## **9. Verification Letters**

9.1 Chiltern Railways Investigators/Prosecutors or their agent(s) will send a Verification Letter to all those suspected of fare evasion or other offences. The Verification Letter invites the alleged offender to provide an explanation under caution for the alleged offence or to provide any comments about the alleged incident.

9.2 Any explanation/comments given by the alleged offender will be considered in arriving at the decision to prosecute. Failing to respond within the given time limit may mean that the matter will be listed for court.

## **10. Investigations**

10.1 Chiltern Railways Investigators will "caution" any suspect in accordance with the Police and Criminal Evidence Act 1984 (PACE), where questions put to the suspect are likely to result in admissions or confessions prejudicial to the suspect's case.

10.2 Please be aware that questions are asked merely to establish the facts and relating only to a suspect's identity, address and possession of a particular ticketing product are unlikely to trigger a caution within the meaning of PACE.

*Please Note: Depending on the circumstances of each case, Chiltern Railways reserves the right to prosecute without issuing a Warning Letter.*

10.3 In administering the caution to a suspect, the Chiltern Railways Investigator will read out the caution and ask if the suspect understands. If the answer is 'no' the Investigator will then explain the caution as simply as possible and then ask again if the suspect understands. Any reply to the caution must be recorded in the Investigator's notebook or any other recording medium used for this purpose.

## **11. Costs After Trial**

**11.1** In accordance with its contractual obligation to protect revenue, Chiltern Railways or their Prosecuting Agents 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.

**11.2** 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.

## **12. Banning Orders**

**12.1** Chiltern Railways 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.

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

**13.1** In the event of an accused person seeking to appeal against his conviction and/or sentence, initially an appeal should be made to the Magistrates Court.

*PLEASE NOTE ECFU or their agents may be represented at the court by counsel. Any application for costs in the event of an appeal being dismissed will reflect this.*

**13.2** Once an appeal is lodged Chiltern Railways or their agents will consider any new material supplied by the appellant and will forward the same to counsel instructed. Counsel will be asked for advice on the merits of the appeal as lodged.

**13.2** Chiltern Railways and ECFU reserve the right to update and amend this policy.

*The above list is not exhaustive, and Chiltern Railways may prosecute other offences relevant or incidental to fare evasion and fraud, criminal damage, or assault on employees, outside of the list of offences set out in this policy.*

**Depending on the circumstances of each case, Chiltern Railways reserves the right to prosecute without issuing a Warning Letter.**

## 14. Disclosure

14.1 Chiltern Railways Investigators/Prosecutors or their agents will have regard to the Criminal Procedure and Investigations Act 1996 and the associated Code of Practice in the disclosure of prosecution materials.

14.2 Chiltern Railways Prosecutors or their agents will endeavour to retain and preserve evidence that may be relevant to a prosecution, whether or not that evidence is to form part of the prosecution case.

14.3 Chiltern Railways recognises that the rules of disclosure in magistrates' court are less formal in comparison to disclosure rules in the Crown Court. However, in the interest of justice, Chiltern Railways will endeavour in all cases to adopt a consistent approach to disclosure by disclosing prosecution materials in advance of any hearing and in any event in accordance with the Criminal Procedure Rules.

## 15. Policy Owner

15.1 This policy is owned by Chiltern Railways Head of Fraud & Investigations

15.2 This policy will reside with the following Chiltern Railways officials who will be responsible for responding to all policy related queries in the first instance:

- a) Head of Fraud & & Investigations
- b) Revenue Protection & Events Manager

## 16. Policy Review

16.1 This policy will be reviewed periodically to reflect any changes in the law, regulations, byelaws, or any policies in force at the time. Any amendments will be reflected in the policy and published as appropriate.

**Chiltern Railways will publish a copy of this policy on its official website and will provide a copy on request in appropriate circumstances.**