



Appeals Policy

Penalty Fares and Concession Withdrawal

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This supersedes any previous policy, is accurate at time of publishing and is subject to review.



Appeals Policy for Penalty Fares and Concession Withdrawal

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1. Introduction

1.1 Scope

This document explains our policy on appeals against the decision to issue a Penalty Fare Notice and the decision to withdraw concessionary travel from Zip photocard holders. It is designed to assist Transport for London (TfL) staff, stakeholders and members of the public in understanding the role of the appeals process and how it is used to protect the interests of individuals who have been issued a Penalty Fare Notice or had their concessionary travel withdrawn.

This document does not seek to provide interpretation of the legislation governing Penalty Fares or provide guidance on how to make a successful appeal.

1.2 Penalty Fares

Fare evasion is a crime which costs Londoners around £70m a year. This is money which could and should be used to further improve public transport. The Penalty Fare is one of several tools available to minimise this revenue loss and deter individuals from committing fare evasion.

Penalty Fare Notices are issued on TfL's services by authorised members of staff in accordance with powers granted under Schedule 17 of the Greater London Authority Act 1999 and Part 4 of the Transport for London Act 2008. This document relates to Penalty Fare Notices issued on services run by London Bus Services Limited (LBSL), London Underground Limited (LUL), Docklands Light Railway (DLR), London Overground Rail Operations Limited (LOROL) and London Tramlink (Trams).

A Penalty Fare Notice is issued when a passenger travelling on a TfL service fails to produce a valid authority to travel when required to do so by an authorised person.

Penalty Fare Notices are issued where no assumption of intent to evade payment is made. An individual suspected of deliberate fare evasion risks prosecution which may result in criminal conviction, a fine of up to £1,000 and in some cases imprisonment. Please see TfL's Revenue Enforcement and Prosecutions Policy for further information¹.

¹ <http://www.tfl.gov.uk/tickets/14436.aspx>



The Penalty Fare on TfL services is now £80. However, this is reduced to £40 if paid within 21 days of the Notice being issued. If an appeal is received within the stipulated timeframe and is unsuccessful, the value of the Penalty Fare will be reduced to £40 if paid within 21 days of the date of the letter turning down that appeal². An appellant will then be advised of a new timeframe within which payment must be made or a further appeal must be received. If neither payment nor a further appeal is received within this new timeframe the Penalty Fare will revert to its original level of £80. Section 2.1 provides further details of the appeals timeframes.

Reminder letters may be sent by TfL or other agencies engaged in administering the Penalty Fare scheme in order to ensure payment is received in a timely manner.

If a Penalty Fare remains unpaid it will constitute a debt and TfL reserves the right to pass the details of individuals to a debt recovery agency or consider prosecution.

1.3 Zip Enforcement

Zip is the brand name for Oyster photocard for young people that allow them to travel free or at a discounted rate. It includes 5-10, 11-15 and 16+ Oyster photocards.

Participants of the Zip scheme and/or their parent/guardian are required to sign up to a Behaviour Code in order to benefit from concessionary travel³. The Behaviour Code is aimed at improving the conduct of young people on public transport and is designed to ensure that everyone travels safely, with due consideration to fellow passengers, staff and property.

The Behaviour Code lists a number of behaviours that TfL considers to be unacceptable. It also explains that a breach of the Code may result in the withdrawal of their concessionary travel. A copy is supplied as part of the application process and full details are available on the TfL website⁴.

Earn Your Travel Back (EYTB) aims to provide young people who have had their concessionary travel withdrawn an opportunity to earn it back through volunteering in the community. It also

² The deadline for payment is either 21 days from the date of issue or 14 days from the date on the letter rejecting a first stage appeal; whichever is later.

³ Due to their age, holders of 5-10 Zip photocards are not required to sign up to the Behaviour Code.

⁴ <http://www.tfl.gov.uk/tickets/14435.aspx>



provides an alternative to the appeals process. **For this reason, by making a confirmed booking to participate in an EYTB event an individual waives their right to appeal.**

The EYTB initiative is led by the GLA and implemented by a consortium of volunteer organisations: London Wildlife Trust; 'v'; and BTCV (formerly the British Trust for Conservation Volunteers). Any questions or complaints regarding the administration of EYTB bookings should be directed to the relevant volunteer organisation. Contact details are provided in their correspondence.

Further information about EYTB can be found on the following website: eytb.wildlondon.org.uk

Further information about enforcement of the Behaviour Code can be found in our Zip Enforcement Policy. A copy is available on our website⁵.

⁵ <http://www.tfl.gov.uk/tickets/14436.aspx>



2. Appeals

If an individual is found to be liable for a Penalty Fare they will be issued a Penalty Fare Notice. The Penalty Fare Notice provides the individual with details of the offence, a receipt for any monies paid, information on how to make payment and information on how to make an appeal.

If an individual is found to be in breach of the Behaviour Code and the decision is made to withdraw concessionary travel their parent/guardian will be informed of the decision in writing. The letter provides the individual with an explanation of the decision, information on the Earn Your Travel Back initiative and information on how to appeal.

The appeals process provides individuals with the opportunity to challenge the decision to issue a Penalty Fare Notice or withdraw concessionary travel. There are three appeal stages whereby an individual can make an appeal against TfL's decision. Only one appeal stage may be engaged at any one time, i.e. a second stage appeal can only commence once the outcome of the stage one appeal has been decided. **All appeals must be submitted in writing, via email or online where applicable (see 3.1.1). Appeals cannot be considered over the phone or in person.** To ensure that appeals are investigated fully, reference numbers must be quoted in all correspondence.

2.1 Out of Time Appeals

There are strict deadlines for making an appeal. This is to ensure that payments of Penalty Fares are received in a timely manner and to ensure that breaches of the Behaviour Code are dealt with promptly. The deadline for appeal is stated on the Penalty Fare Notice⁶, in the letter informing the individual of the decision to withdraw concessionary travel and/or in any correspondence informing them of the outcome of their appeal. The following appeals deadlines apply (accurate on date of issue):

- 1st Stage – within 21 days
- 2nd Stage – within 14 days

⁶ Alternatively, information on how to pay or appeal a Penalty Fare may be provided on a separate information slip at the time of issue.



- 3rd Stage – within 14 days

The timeframe for first stage Penalty Fare appeals begins the day after the date of travel. The timeframe for first stage appeals against the withdrawal of concessionary travel begins the day after the date of the letter informing the appellant of the decision to withdraw concessionary travel. The timeframe for second and third stage appeals begins the day after the date of the letter informing the appellant of the decision to turn down their previous appeal.

If an appeal is received by TfL (or its contractors) outside of the deadline the appeal will normally be rejected and its contents will not be considered. A letter will be sent to the appellant informing them of this decision. No further appeal will normally be considered.

Out of time appeals will only be considered if the appellant provides suitable mitigation and evidence for submitting an appeal outside of the declared deadline. It is TfL's decision as to what constitutes suitable mitigation and evidence and this is decided on a case by case basis. An example might be where a passenger is taken ill resulting in hospitalisation preventing them from appealing within 21 days. They must then appeal, providing written evidence of their hospitalisation.

2.2 Appeals from Third Parties

Appeals from third parties will not normally be considered. They will only be considered if they are made by the individual concerned or, in the case of a minor, by the individual's parent/guardian. In all other cases, written consent from the individual will be required in order to consider an appeal from a third party.

2.3 Successful Appeals

TfL takes non-payment of fares and breaches of the Behaviour Code very seriously. Therefore, an appeal will only be allowed if:

- For Penalty Fare Notices on buses, the appellant had no reasonable opportunity to purchase a fare



- For Penalty Fare Notices on trains or trams,
 - there were no facilities available to purchase a fare at the station where the appellant began his or her journey;
 - there was a notice from TfL indicating that passengers may use the service at a particular station at a particular time without having a fare;
 - an authorised person gave permission or authorised the passenger to use the service at a particular station at a particular time without having a fare
- The original decision to issue a Penalty Fare Notice or withdraw concessionary travel was incorrect
- There is significant and relevant mitigation and evidence put forward by the appellant to justify discretion

If an appeal is successful and a Penalty Fare has been fully paid or part paid by the appellant, they will normally receive a full refund of the amount paid. However, under certain circumstances TfL may decide to retain the price of the minimum cash fare⁷. No interim travel costs incurred will be refunded in any circumstances.

If an appeal against the withdrawal of concessionary travel is successful, the appellant will have their concessionary travel status reinstated and a replacement photocard will be provided free of charge (where applicable⁸). No interim travel costs will be refunded in any circumstances.

2.4 Unsuccessful Appeals

If the decision is made to turn down an appeal the appellant will be informed of the decision in writing. The letter will also provide the appellant with information on how to make a further appeal (if applicable).

⁸ Where an appeal is allowed but a warning is still issued a replacement photocard will not be provided free of charge. The appellant will be advised to contact the Oyster helpline to obtain a new photocard paying a £10 administration fee.



3. The Appeals Process

3.1 First and Second Stage Appeals

First stage Penalty Fare appeals relating to London Buses, London Underground, Docklands Light Railway and London Overground are handled by the Independent Appeals Service (IAS). First stage Penalty Fare appeals relating to London Tramlink are handled by Tram Operations Limited (TOL). First stage appeals relating to the withdrawal of concessionary travel are handled by the Youth Appeals Administrators in the Community Safety, Enforcement and Policing directorate (CSEP).

All second stage appeals (including those relating to Zip Enforcement) are considered by the Youth and Penalty Fare Manager (CSEP).

Responses to first and second stage appeals will normally be provided within 21 days of receipt of the appeal. However, in certain circumstances it may not be possible to meet this deadline or it may be necessary to investigate a case further. If the delay in providing an outcome is likely to be significant the appellant will normally be notified of this in writing.

TfL may request further evidence from an appellant to support their claim. In these circumstances a letter requesting the supporting information will be sent to the appellant specifying a deadline within which this information must be provided. If the deadline is not met the appeal will normally be refused.

3.1.1 Penalty Fare Appeals

An individual who has been issued with a Penalty Fare Notice on a London Bus service, on London Underground, on DLR or on London Overground may submit an appeal against the decision within 21 days of the date of issue to:

Independent Appeals Service
PO Box 212
Petersfield
GU32 9BQ



Or online at www.ircas.co.uk

Or by downloading a form from www.ircas.co.uk to return by fax or post

An individual who has been issued with a Penalty Fare Notice on a London Tramlink service may submit an appeal against the decision within 21 days of the date of issue to:

Penalty Fare Administration
Tramlink Shop
5 Suffolk House
George Street
Croydon
CR0 1PE

The Independent Appeals Service (IAS) and Tram Operations Limited (TOL) are contracted by TfL to independently consider first stage appeals on their behalf in accordance with TfL guidelines. IAS and TOL communicate their decisions directly with the appellant and provide details of how to make a further appeal.

If unsuccessful with their first stage appeal, a second stage appeal may be submitted to the Youth and Penalty Fare Manager in the Community Safety, Enforcement and Policing Directorate (CSEP) at TfL.

If an appellant submits a second stage appeal, all previous correspondence with IAS or TOL will be requested by TfL and considered as part of their appeal. The Youth and Penalty Fare Manager reviews each case and considers any mitigation put forward by the appellant. The appellant is then informed of the decision in writing. If the decision is made to turn down the appellant's second stage appeal, they will be provided with details on how to submit a final appeal to the Independent Appeals Panel (IAP).

3.1.2 Zip Enforcement

An individual who has had their concessionary travel withdrawn due to a breach of the Behaviour Code may appeal against the decision within 21 days of the date on the letter



informing them of the decision to withdraw concessionary travel. First stage appeals must be sent to the Youth Appeals Administrator at:

Community Safety, Enforcement and Policing
Transport for London
9G4 Palestra
197 Blackfriars Road
London SE1 8NJ

Or alternatively by email to be@tfl.gov.uk

If unsuccessful with their first stage appeal, a second stage appeal may be submitted to the Youth and Penalty Fare Manager at the same address.

The Youth and Penalty Fare Manager reviews each case and considers any additional mitigation put forward by the appellant. The appellant is then informed of the decision.

If the decision is made to turn down the appellant's appeal, they will be provided with details on how to submit a final appeal to the Independent Appeals Panel (IAP).

3.2 Final Stage Appeals – The Independent Appeals Panel (IAP)

The third stage of the appeals process is the final opportunity for an individual to make an appeal against a Penalty Fare Notice or withdrawal of concessionary travel.

All final stage appeals must be submitted in writing and are considered by the IAP. There is no provision for appellants to attend IAP meetings in person. In the event that an individual is unable to make a written appeal (e.g. due to a disability) the IAP will consult with TfL on an alternative method of appeal.

3.2.1 Authority

The IAP operates in accordance with the TfL Conditions of Carriage, DLR Conditions of Carriage, London Overground Ticketing and Travel Guide, Tramlink Conditions of Travel and



National Rail Conditions of Carriage as appropriate, together with the GLA Act (1999). Powers are delegated to the IAP as required to enable it to undertake any activity falling within its remit.

The IAP operates independently of TfL and was established in consultation with London TravelWatch (LTW).

The IAP is registered under the Data Protection Act (1998) and will treat all personal information as private and confidential.

The IAP considers Penalty Fare appeals from London Underground, London Buses, London Overground, Docklands Light Railway and London Tramlink. It also considers appeals against TfL's decision to withdraw concessionary travel due to a breach of the Behaviour Code.

TfL is bound by the decision of the IAP. In this respect, TfL may be required by the IAP to cancel a Penalty Fare Notice, refund the payment of a Penalty Fare, reinstate Zip concessionary travel and/or provide a free replacement Zip Oyster photocard.

3.2.2 Membership

The IAP is comprised of three persons of suitable standing and relevant expertise for the task. They are wholly independent from TfL, its subsidiaries, contractors, operators and providers.

The IAP members are appointed by TfL in consultation with LTW and may have to commit to between 12-15 days per year.

One of the three IAP members performs the role of Chairperson. The individual performing the role of Chairperson is specifically appointed to that role by TfL. The role of the Chairperson is to direct the proceedings at an IAP hearing and to take principal responsibility for the decisions of the IAP.

An additional reserve IAP member is appointed by TfL to ensure that hearings can be arranged as frequently as required.

The Chairperson may make recommendations to TfL in the appointment of other IAP members.

To avoid conflict of interest, LTW cannot have a role on the IAP.



3.2.3 Professional and Administrative Support

The IAP receives all written documents, case papers and summary papers from TfL.

A Secretary to the IAP, employed by TfL, attends all IAP meetings to take minutes, provide the members with all necessary papers and information and subsequently notify the appellants of the results of the deliberations.

TfL personnel may attend to support the IAP and provide professional and technical advice. These personnel and the Secretary to the IAP have no active role in the decision-making process.

The Youth and Penalty Fare Manager keeps IAP members informed of any changes in working practice or procedure and provides any additional documentation in this respect.

3.2.4 Quorum

The IAP will be quorate where three members (excluding the Secretary) are present.

However, in the event that one IAP member is unable to attend due to unforeseen circumstances, the IAP may be considered quorate if the absent member has fully reviewed the cases in advance and their written comments have been provided to the Chairperson for consideration.

In all other scenarios, the Chairperson and TfL will reschedule the meeting for an alternative date.

In the event that the Chairperson or any other member of the IAP becomes permanently unavailable TfL would consult with LTW to appoint a replacement.

Where a member is unable to participate due to illness or other unavoidable circumstances, an ordinary IAP member may be selected by TfL to undertake the role of Chairperson at any one meeting.



3.2.5 Frequency of Meetings

TfL provide suitable accommodation for IAP meetings in a Central London venue.

The date and time of IAP meetings are agreed between all members and TfL.

The IAP will normally consider no more than 25 cases at a time.

The frequency of meetings is dictated by the volume of appeals received. The IAP normally meets at least once a month with a view to ensuring that appeals are considered in a timely manner.

3.2.6 Process and Procedures

Appeals to the IAP must be made in writing to the Secretary of the IAP stating the grounds for the appeal. Appeals must be received before the deadline specified in the letter informing the appellant of the decision to turn down their second stage appeal. Any additional information submitted after that deadline will only be considered at the Chairperson's discretion.

The IAP considers all cases where appellants want their case to proceed regardless of the circumstances of the Penalty Fare Notice or withdrawal of concession. The only exception to this rule is cases where the appeal has been received after the deadline. In these circumstances the IAP will not consider the appeal. The Secretary to the IAP will write directly to the appellant informing them of the decision to reject their appeal for being out of time.

3.2.7 Decision making

The IAP only considers appeals that have been reviewed through the first and second appeals stages.

If any member of the IAP believes, from the information provided, that they have personal knowledge of the individual, they must declare this to the Chairperson. The Chairperson will then decide whether or not to replace the individual or make a decision without their active participation in the decision-making process.



Decisions are made following consideration of all the evidence and recorded at the end of the meeting by the Secretary to the IAP.

The Chairperson will ensure consistency in panel decision-making across all meetings.

No decision may be made by the IAP simply on the grounds that an otherwise correct and legally sound procedure or process is simply unreasonable. The IAP must work within the relevant TfL regulations, policy and processes.

The IAP only considers material factors and attributes appropriate weight to the claim(s) of the appellant.

Any decision must take the following into account:

- the principles adopted by the TfL operators
- the legal requirements, conditions of carriage and associated regulations
- precedence from previous cases

Appeals will only be upheld if TfL have failed to follow due process or exercise appropriate discretion. This may be due to evidence that was available at the time or evidence that has come to light as part of the appeals process. In this respect, it may be that a Penalty Fare Notice was correctly issued or concessionary travel was correctly withdrawn at the time, but consequent information has deemed it suitable for the appeal to be upheld.

The IAP has no powers to make financial awards to appellants.

The IAP can raise issues related to legal matters, conditions of carriage and associated regulations to be pursued independently by TfL. The IAP can also request legal advice from TfL General Counsel if unable to make a clear judgment or decision.

The Chairperson responds to all post-IAP appeal letters through the Secretary. The Chairperson has no power to reverse any decision previously agreed by the IAP.



3.2.8 Communications and Reporting

The Secretary to the IAP is required to confirm receipt of every third stage appeal in writing to the appellant. The Secretary is also required to inform the appellant of the IAP's decision within one week of the meeting taking place.

The Secretary provides a case summary for each file and takes minutes of the outcome of every decision. A copy of the minutes is circulated to the IAP and relevant stakeholders in TfL.

The Chairperson compiles a summary of the cases to be heard at each meeting and on the day will note on the summary the IAP's decision in each case adding additional explanatory comments as necessary. This final summary is provided to the Secretary for use as the basis for a response to appellants, for information in the minutes and other official reporting.

The identity of the members of the IAP will remain confidential and only released subject to permission of each individual member.

Media contact will be handled in compliance with TfL's communications policy.

3.2.9 Payment

Use of the IAP is free to appellants. The Chairperson and IAP members receive a modest fee for their services at each meeting to cover their attendance time, pre-consideration time and travel expenses.

3.2.10 Review

The membership, operation and remit of the IAP will be reviewed on an annual basis by the Youth and Penalty Fare Manager in consultation with LTW.



4. Ownership and Review

4.1 London TravelWatch (LTW)

An appeal may be made to the Local Government Ombudsman (LGO) through London TravelWatch (LTW). However it may be made only on the basis that there has been an alleged abuse of procedure during a specific stage of the appeal process. LTW will only investigate an appeal if TfL have been given the opportunity to respond to the allegations. Such appeals can be made directly to LTW at the following address⁹:

London TravelWatch
6 Middle Street
LONDON
EC1A 7JA

LTW has no role in reviewing the particular case decisions of the IAP. The IAP's decision is final.

4.2 Policy Owner

This policy is sponsored and owned by the TfL Director of Community Safety, Enforcement and Policing (CSEP).

This policy will reside with the following TfL official who is responsible for responding to all policy related queries in the first instance:

- Youth and Penalty Fare Manager, CSEP, TfL

4.3 Policy Review

This policy will be reviewed periodically to reflect any changes in the law, regulations, byelaws, or any TfL policies in effect at the time. Any amendments will be reflected in the policy and published as appropriate. The key stakeholders will normally be consulted as part of these reviews:

- Community Safety, Enforcement and Policing (CSEP)
- London Underground Prosecutions

⁹ Further contact details can be found on the London TravelWatch website: <http://www.londontravelwatch.org.uk>

Transport for London



- London Overground Prosecutions
- Docklands Light Railway
- Serco
- ITAL
- The Independent Appeals Panel
- London TravelWatch

TfL will publish a copy of this policy on its official website and will provide a copy on request in appropriate cases.

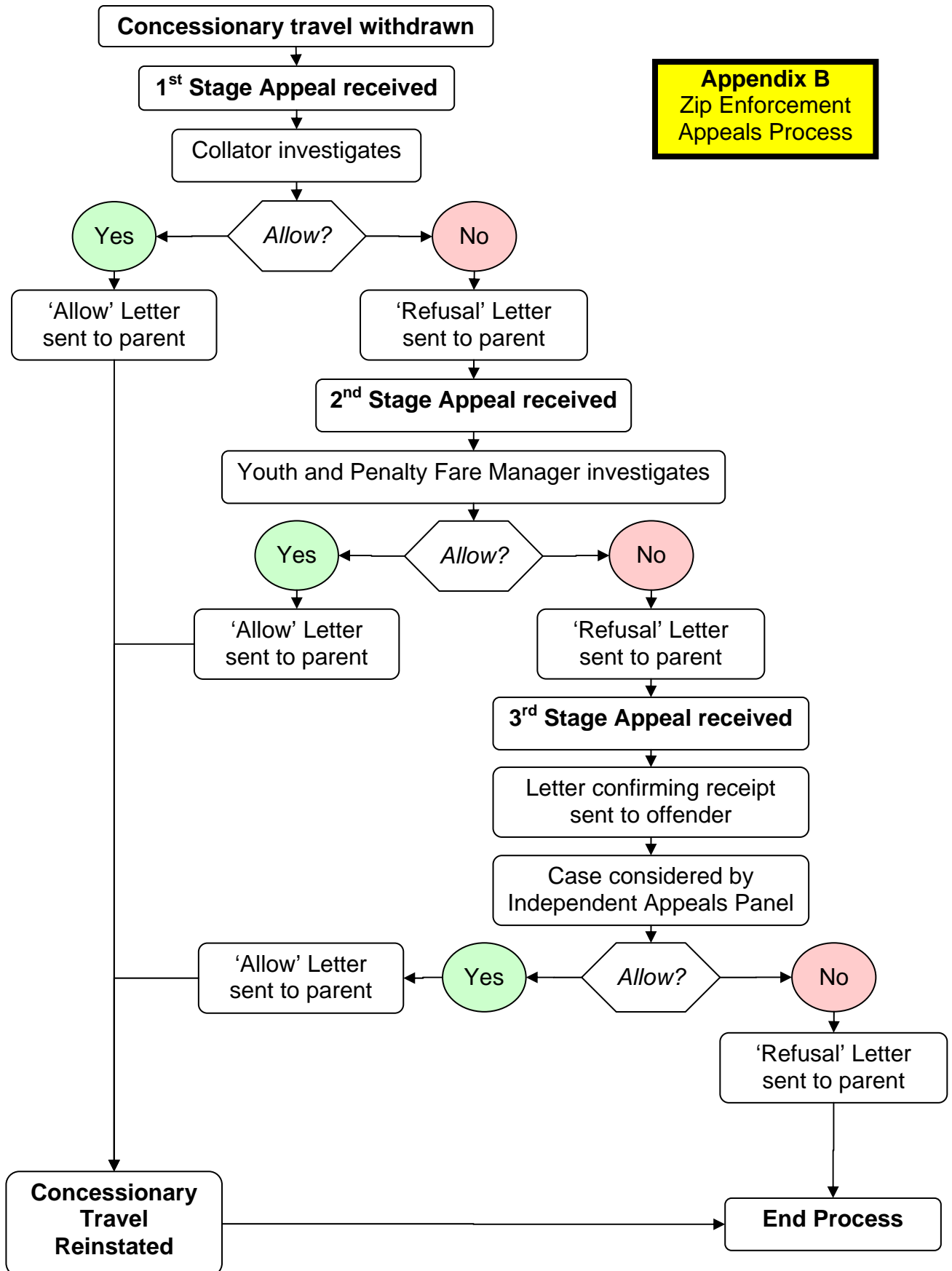


Appendix A Penalty Fare Appeals Process





Appendix B
Zip Enforcement
Appeals Process





Appendix C – History of the Appeals Process

During discussions in 2005 with London Transport Users Committee (LTUC) on the proposed Penalty Fare increase from £10 to £20, the Committee members expressed their requirement for an independent Penalty Fare appeals process.

In 2008 the procedure was extended to encompass final appeals against withdrawal of TfL's youth concessionary travel.

In 2009, at the same time as the Penalty Fare increase from £20 to £50 (£25 if paid within 21 days) the first stage appeal relating to Penalty Fares issued on London Buses, Docklands Light Railway and London Overground was outsourced to an independent appeals company – Independent Appeals Service (IAS).

In 2010 the decision was made for the second stage Penalty Fare appeals for all modes (excluding London Trams) to be considered by the Youth and Penalty Fare Manager and for the third stage Penalty Fare appeals for all modes (excluding London Trams) to be considered by the IAP.

In 2011 the first stage appeal relating to Penalty Fares issued on London Underground was outsourced to the Independent Appeals Service (IAS).

In January 2012 the Youth and Penalty Fares Manager became responsible for considering second stage appeals relating to PFNs issued on London Tramlink and the IAP took responsibility for considering third stage appeals relating to London Tramlink.