

RECOMPENSE FOR PASSENGERS AFFECTED BY THE 2016 & 2017 ELECTRIFICATION BLOCKADES OF THE BARKING - GOSPEL OAK LINE

Note for BGORUG / TfL meeting - 9th November 2017

Introduction

This note sets out BGORUG's case for passengers on the Barking - Gospel Oak line affected by the electrification blockades to be reimbursed for paying higher than normal fares, and to be compensated for the disruption caused by the failure of the 2016-17 blockades to complete the work and thus require additional blockades in 2017-18.

A. Reimbursement for paying higher than normal fares

1. When the first electrification blockade of the Barking - Gospel Oak line was confirmed in 2016 TfL announced that regular users of the line who chose alternative travel routes via Zone 1 would be allowed to use a non-Zone 1 travelcard without extra charge or, if they used pay-as-you-go, would be automatically refunded any excess over their normal fare

2. BGORUG welcomed this scheme so far as it went. However we considered that -

a) TfL's definition of a regular user was too restrictive

b) Pay-as-you-go passengers who chose an alternative route which remained within Zones 2 and / or 3 but which, by virtue of their chosen combination of bus / tube / rail routes, meant a higher than normal fare, should also be automatically refunded the excess. In support of this claim, BGORUG supplied a comprehensive analysis of likely journey choices which would result in passengers paying higher fares for journeys which would be slower and (because of extra interchanges) less convenient than normal. We can supply a copy of this document on request.

3. Item a) was eventually resolved after BGORUG enlisted the support of London Assembly members to question the Mayor. We regard the new definition of regular user ("*anyone who travels on the route on five separate days or more, during the eight weeks preceding the closure*") as reasonable.

4. Item b) has not been resolved, as TfL have refused all requests to change the rules so as to reimburse passengers for excess fares if they do not go via Zone 1.

5. The most recent TfL statement about this refusal is contained in para b) of their e-mail of 21st September 2017, viz.

"As you know we are providing rail replacement bus services. Customers have the option to complete their journeys using this service and can therefore avoid any additional expense. We are unable to provide refunds to customers who choose a different travel option. Regular customers who incur extra expense because of the need to travel into zone 1 will be refunded."

6. BGORUG agrees that passengers have the option of using the rail replacement buses. However these buses offer a poor service because -

a) they are very slow (through no fault of TfL - this is just the nature of things on suburban

**BARKING - GOSPEL OAK RAIL USER GROUP
RECOMPENSE FOR PASSENGERS AFFECTED BY 2016 & 2017
ELECTRIFICATION BLOCKADES OF THE BARKING – GOSPEL OAK LINE**

London roads)

- b) for some passengers they are inconvenient, where stops are a long distance from the station they purport to serve (a result of TfL policy decisions to which BGORUG offered constructive alternatives)
- c) frequencies are low - particularly Route J - and less frequent than normal service bus routes in the area, whereas higher frequencies could have partly offset the slow running times (also a TfL policy decision)
- d) the break in the routes between Walthamstow and South Tottenham adds to the inconvenience for passengers whose journeys straddle these points (again a TfL policy decision, to which BGORUG strenuously objected), and is particularly objectionable for passengers with reduced mobility.

7. In fact TfL recognises the shortcomings of the replacement bus services, because their own recommendations for alternative routes (as displayed on posters and their website) include many journeys which wholly or partly ignore them and instead advise using normal service buses, the Underground and other Overground lines. Examples include -

- Crouch Hill - Woodgrange Park: replacement bus from Hornsey Road (remote stop) to Gospel Oak (also a remote stop), Overground to Stratford, then bus 25 or 86
- Gospel Oak - Leyton Midland Road: Overground to Stratford, Underground to Leyton, then bus 69
- Barking - Walthamstow: Underground via Kings Cross (a commendable admission of the weakness of the replacement buses, given that they run directly between these two places)
- Barking - Gospel Oak: Bus to Leyton, Underground to Stratford, then Overground

All of these examples would give passengers additional expense, but only Barking - Walthamstow would attract a refund because that is the only one which uses Zone 1.

8. Whilst some passengers may follow TfL recommendations, TfL must also recognise that many are making their own choices (quite reasonably) based on their total journey (i.e. postcode to postcode, rather than station to station). These will involve many combinations of replacement bus, service bus, Underground and Overground. Any PAYG passenger who uses a service bus in addition to Underground or Overground will be paying a higher than normal fare for a journey which is both much slower and less convenient than their normal one on the BGO - yet they are only reimbursed if they go via Zone 1.

9. We note (see 5. above) that TfL have said "*We are unable to provide refunds to customers who choose a different travel option.*" It is not clear to us whether this means that TfL would like to provide refunds to everyone affected but cannot find a way of doing so, or whether it means TfL are just not willing to do so.

10. Whatever the answer to 9, BGORUG quite simply regards the present situation as completely unfair. We therefore once again ask TfL to accept our point and find a way of ensuring that all regular passengers paying higher than their normal fares are reimbursed. This request applies to all regular users affected by either or both the 2016-17 and the 2017-18 closures. If TfL really is flummoxed as to how to do this, we would be happy to discuss possible ways - even if it means something that is a "best we can do" rather than something which refunds everybody the precise sum to which they are entitled.

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RECOMPENSE FOR PASSENGERS AFFECTED BY 2016 & 2017
ELECTRIFICATION BLOCKADES OF THE BARKING – GOSPEL OAK LINE

B. Compensation for inconvenience caused by the additional 2017 blockades

11. Quite separate from the matter of reimbursement for higher fares, there is the matter of compensation for the additional disruption caused by the failure of the 2016-17 blockades to complete the work and thus require additional blockades in 2017-18.

12. BGORUG's case here is that TfL effectively made a deal with regular BGO passengers which said - we will close the line for x-weeks in 2016-17, and in return for the inconvenience you suffer we will give you 4-car electric trains early in 2018 instead of your present 2-car diesel trains.

13. In the event, failure to complete the necessary work in x-weeks has resulted in the need for further closures for y-weeks in 2017-18. That is, TfL have broken their side of the deal. Regular passengers who endured the first closures are now having to endure a second round of closures before they can enjoy the fruits of the deal.

14. If this were a legal contract, passengers affected by both 2016-17 and 2017-18 closures would be entitled to compensation.

15. We recognise that the relationship between TfL and passengers in this instance is not that of a legal contract. However we consider that it is morally equivalent, and that all people who were regular travellers (as per TfL's definition, see 3. above) both before the 2016-17 closures and before the 2017-18 closures should receive a payment as compensation for TfL's failure to deliver their side of the bargain.

16. We would argue that TfL's moral responsibility is in fact greater than would be the case for a normal legal contract, because in this instance there was (in the nature of the thing) no free negotiation between the parties. Passengers had no option but to accept what TfL decreed; they were not free to say "no thanks, we don't want the deal you are offering."

17. A recent precedent for the railway industry compensating regular passengers for failing to provide their side of the travel bargain is the payment of compensation by the GTR franchise to regular passengers affected by the prolonged disruption on Southern - this being additional to any refunds / rebates under their normal passenger charter terms.

18. We acknowledge that fault in this case rests with Network Rail rather than TfL. However passengers have no legal, nor any other relationship with Network Rail. Passengers deal with TfL and it is no concern of theirs whether or not a contract between TfL and Network Rail has been broken.

19. BGORUG looks forward to discussing both the level of compensation for regular passengers affected by both sets of closures and the means by which it will be delivered.

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RECOMPENSE FOR PASSENGERS AFFECTED BY 2016 & 2017
ELECTRIFICATION BLOCKADES OF THE BARKING – GOSPEL OAK LINE

Extract from e-mail Katrina Campbell (TfL) to Graham Larkbey (BGORUG) - 21/09/2017

"Dear Graham,

Thank you for your patience. As promised, please see our responses to your enquiries below. I have utilised your lettering for ease of reference:

a) A “regular user” is defined as anyone who travels on the route on five separate days or more, during the eight weeks preceding the closure. Details of these users will be captured in our refunds database. We are not aware of a large number of customers facing difficulty with automatic refunds. As discussed at our meeting earlier this year, we continue to advise customers to contact Customer Services with queries or concerns leading up to and during the closure.

b) As you know we are providing rail replacement bus services. Customers have the option to complete their journeys using this service and can therefore avoid any additional expense. We are unable to provide refunds to customers who choose a different travel option. Regular customers who incur extra expense because of the need to travel into zone 1 will be refunded. We have organised leaflet drops and drop-in sessions staffed by TfL and Network Rail at every station along the route in the past two weeks, in order to ensure customers are aware of the upcoming closure and the alternate travel arrangements, and to answer any queries they might have.

c) The next update to the London's Rail & Tube Network is in December, where the closure will be noted. Updating existing network maps on ad-hoc basis is cost prohibitive I'm afraid.

d) As mentioned above, TfL does not plan to make any changes to the refund and rail replacement arrangements during this closure. We are of course happy to continue to review any issues with the automatic refunds and the usage of the rail replacement buses.

e) As always, we are happy to review any suggestions."