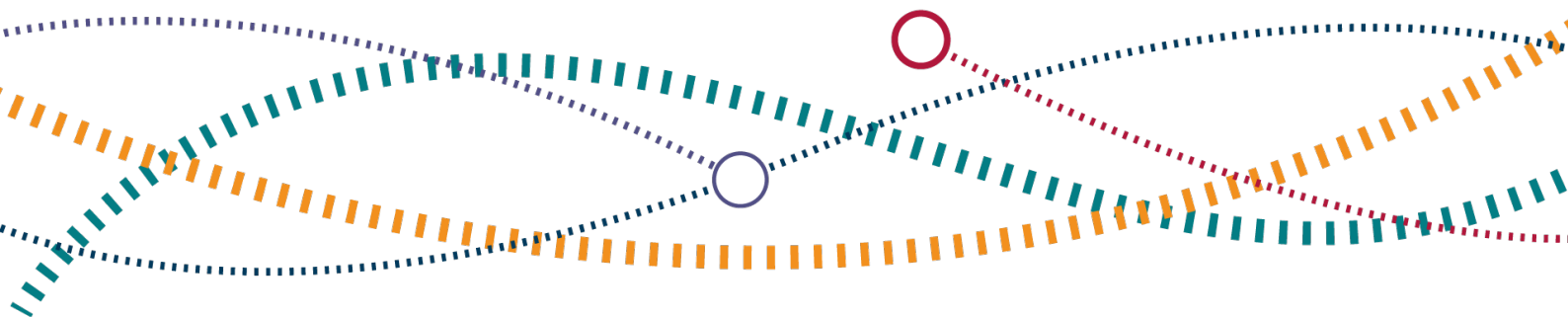




Administration fees for refunds in the National Rail Conditions of Travel

Report summarising findings from our review

16 February 2022



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Executive Summary

Train operators and ticket retailers typically charge an administration fee for certain transactions, for example up to £10 where a passenger seeks a refund on a rail ticket. This is permitted by the National Rail Conditions of Travel (NRCOT).

The Department for Transport (DfT) asked us to review the administration fees for ticket refunds and, in particular, to consider whether the level of fees is appropriate and reasonably reflects the costs incurred by retailers in processing refunds. For the purpose of this document, 'retailers' includes train operators who retail rail tickets and third-party rail ticket retailers (licensed by the Rail Delivery Group). Our review focussed on the administration fees for refunds for tickets that have not been used, as these are the most common refund transaction, accounting for 98% of refunds.

In applying administration fees for refunds, retailers must comply with:

- The Ticketing and Settlement Agreement (TSA), an industry agreement which sets out contractual obligations and requires administration fees to be cost reflective for refunds on tickets that have not been used;
- The National Rail Conditions of Travel (NRCOT), a schedule of the TSA, which sets out the agreement between the passenger and the train operator. NRCOT Condition 29 (C29) places a cap on administration fees for ticket refunds at £10; and
- consumer law, such as the Consumer Rights Act 2015.

The NRCOT caps on refund administration fees were introduced in 2006 and have not since been reviewed. The significant increase in refund claims due to COVID-19 restrictions and the agreement between DfT and retailers to waive the refund administration fees between 23 March 2020 and 6 September 2020, together with data provided to us by retailers suggesting that 92% of refund claims are now received electronically, illustrate that a review is now timely.

Based on the data we received, where retailers are charging a £10 administration fee for C29 refunds, this does not appear to be based on an assessment of costs as is required by the TSA. The average administration fee, when charged, is estimated at £6.96 per ticket, and the average cost of processing a refund is estimated at £3.77 (although we found there to be a range of costs among different respondents).

We now encourage retailers to assess whether their administration fees for ticket refunds are cost reflective or reasonable for each transaction type.

We also encourage DfT and the Rail Delivery Group (RDG) to consider whether the maximum caps for administration fees, particularly the £10 cap in respect of ticket refunds, should be amended to provide additional protection for passengers.

Chapter 1 - Background

Purpose and scope

1. The National Rail Conditions of Travel (NRCOT) sets caps on the administration fees that retailers can charge in certain circumstances (see Annex B for the relevant Conditions). These were introduced in the 2006 amendments to the National Rail Conditions of Carriage (as was). The cap was set at £10 for ticket refunds and has not since been reviewed.
2. During 2020, there was a significant increase in the number of refunds being claimed due to COVID restrictions, and between 23 March 2020 and 6 September 2020, the Department for Transport (DfT) and retailers agreed to waive administration fees for ticket refunds.
3. Following on from this agreement, DfT asked us to review the level of the administration fees in the NRCOT (see Annex B) and, in particular, to consider whether the level of fees is appropriate and reasonably reflects the costs incurred by retailers in processing refunds.
4. Our review's scope did not include specific ticket terms and conditions, industry systems, commercial arrangements or commission payments between retailers. Although we are aware of wider considerations around fraud detection and prevention these were also not within scope.

Current rules for rail ticket refunds

5. Rail ticket retailers, both mainline train operating companies and third-party rail retailers, are bound by the Ticketing and Settlement Agreement (TSA). The TSA is an industry agreement which sets out the contractual arrangements relating to the carriage of passengers and the retailing of tickets, changes to which are approved by the Secretary of State. We do not set or approve the terms of the TSA (and this report includes a summary of relevant details of the TSA but does not constitute, nor should it be relied on, as legal advice). Parties to the TSA can raise a dispute or claim in cases of [non-compliance](#), and enforcement of the rights and obligations of the parties is subject to consideration by the Rail Delivery Group (RDG), followed (if necessary) by arbitration or expert determination.
6. Rail operators are required to be party to the TSA as part of their contract with Government (formerly franchise agreement) and also their operating licence issued by us (Condition 3(1) of the passenger [statement of national regulatory provision](#)).

Third-party rail retailers have this requirement in their retail licence issued by the RDG.

7. In respect of refunds, the TSA states that an administration fee must reasonably reflect the cost of processing the refund application and where an operator charges a fee, it should be the same for all transactions of that type (Section 6-49, paragraph 4). The TSA also permits a reasonable administration fee to be charged for issuing a duplicate ticket (for example, a misplaced season ticket) except if it is replacing a ticket which is damaged or is malfunctioning (Section 6-48, paragraph 2(a)). The relevant excerpts from the TSA are at **Annex A**.
8. In terms of consumer-facing obligations, all mainline train operators and third-party rail retailers are also required to comply with the NRCOT, which is a Schedule to the TSA. The NRCOT is consumer-facing, and as such is subject to consumer law. Changes to the NRCOT are proposed by the RDG (on behalf of industry) and approved by the Secretary of State.
9. In support of the TSA requirement for cost reflectivity on fees for refunds, the NRCOT permits an administration fee to be charged, which cannot exceed £10, in the following circumstances:
 - Refunds on tickets which have not been used (C29);
 - Refunds on season tickets (C40); and
 - On a fare or penalty fare where a season ticket or railcard was not available for inspection (C38).
10. Similarly, NRCOT permits an administration fee which cannot exceed £20 for duplicate season tickets (to replace a ticket which has been, or is alleged to have been, lost, stolen, or defaced) (C39).
11. It is important to note that passengers are entitled to a fee-free refund if their journey is affected by delays or cancellation or their reservation will not be honoured (NRCOT Condition 30).
12. Retailers waive the administration fee in some circumstances as a customer service/goodwill gesture and, although the NRCOT permits an administration fee per ticket refunded, many apply an administration fee per transaction rather than per ticket.
13. The relevant NRCOT conditions are set out in full in **Annex B**.

14. More generally, consumer contracts which include terms and conditions attached to the provision of services are governed by consumer law. For example, the Consumer Rights Act 2015 (CRA 2015) sets out a consumer's statutory rights in respect of contracts including service contracts supplied by a trader (which in this context would include train operators and third-party rail retailers). Amongst other obligations, it imposes a fairness test, which states that "a term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations under the contract to the detriment of the consumer" (Section 62(4) of CRA 2015). [Guidance](#) has been published by the Competition & Markets Authority on the provisions of this Act.

Our review

15. Our review had two strands – the collection and analysis of data and costs, and a review of comparators.
16. We asked all mainline train operators (who also retail rail tickets) and domestic third-party rail retailers to provide us with certain information in respect of the volume of ticket refunds requested, and the costs associated with requests for ticket refunds and other transactions for which NRCOT permits an administration fee (see Annex B). Noting the impact of the COVID-19 pandemic on refund requests, we asked for information for 2019-2020 as a more typical year.
17. We received 24 submissions in response to our request for information, including five from domestic third-party rail retailers. The train operators GTR, ScotRail and Caledonian Sleeper did not respond. Some third-party rail retailers responded that they were unable to submit data due to limited resources. All except two submissions covered the financial year 2019-20 (1 April 2019 to 31 March 2020); the other two submissions provided data from the calendar year 2019.
18. Not all respondents were able to provide full data. We observed a degree of variation across responses, particularly with regard to unit cost estimates, which was to some extent suggestive of data quality issues on at least some scale. Due to time constraints, we have taken the data provided to us at face value, meaning that the findings are an indication of the extent and level of charges and costs rather than providing an evidence base which, particularly at the individual retailer level, has been subject to forensic scrutiny.
19. We also had a discussion with our [Consumer Expert Panel](#) on the principles of charging administration fees. It raised the importance of incentivising efficiency, futureproofing the fee levels, and the marketing value of refund entitlement to

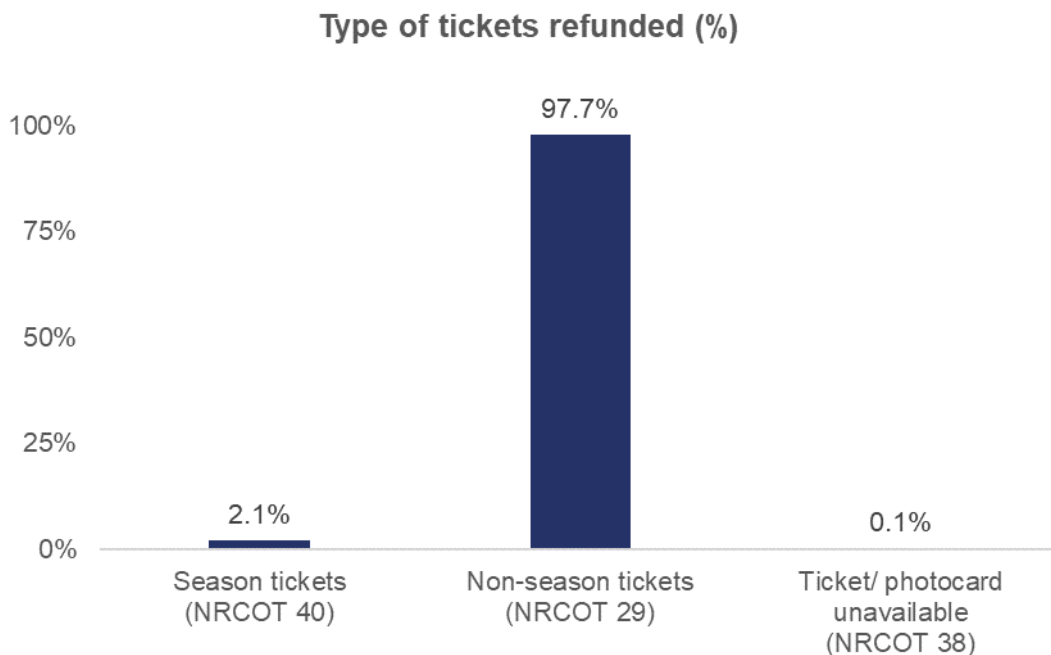
enhance passenger confidence. In addition, we spoke to some retailers about specific aspects of the refund process to help us understand their views on industry systems and their experience of issues such as fraudulent claims.

Chapter 2 – Findings

Analysis of 2019-2020 data received

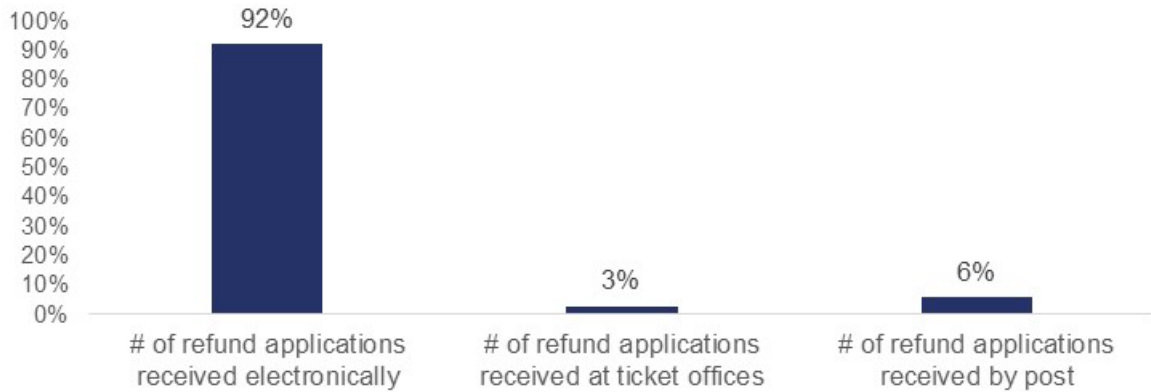
Refund volumes and methods

20. The information provided showed that 341 million tickets were issued over the 12 months spanning 1 April 2019 to 31 March 2020, of which 5.8 million were refunded. Based on this data, therefore, 1.7% (or one in 59) tickets issued were reported as refunded.
21. In 2019-20, non-season tickets (C29) were responsible for almost all (97.7%) of the refunds. Season tickets (C40) accounted for 2.1% of all tickets refunded, and refunds of tickets purchased (or Penalty Fares issued) whilst the passenger's ticket or photocard was unavailable for inspection accounted for 0.1%.



22. Nationally, the overwhelming majority of 2019/20 NRCOT C29 claims (92%) were made electronically. 6% of NRCOT C29 claims were made by post, with the remaining 3% at ticket offices. However, these proportions varied significantly across respondents, with some companies receiving a much higher proportion of refund applications in person at ticket offices.

Volume of applications by contact method (%)



23. Almost all (94%) of all 2019/20 NRCOT C29 ticket refunds were paid out by card payment. For other ticket types, notably season ticket refunds, this proportion was lower, although card payments still accounted for the majority of refunds (71% in the case of season ticket refunds and 93% in instances of refunds where ticket/photocard had been unavailable).

Refund method (%) (NRCOT 29 tickets only)



Refunds on tickets that have not been used (NRCOT C29)

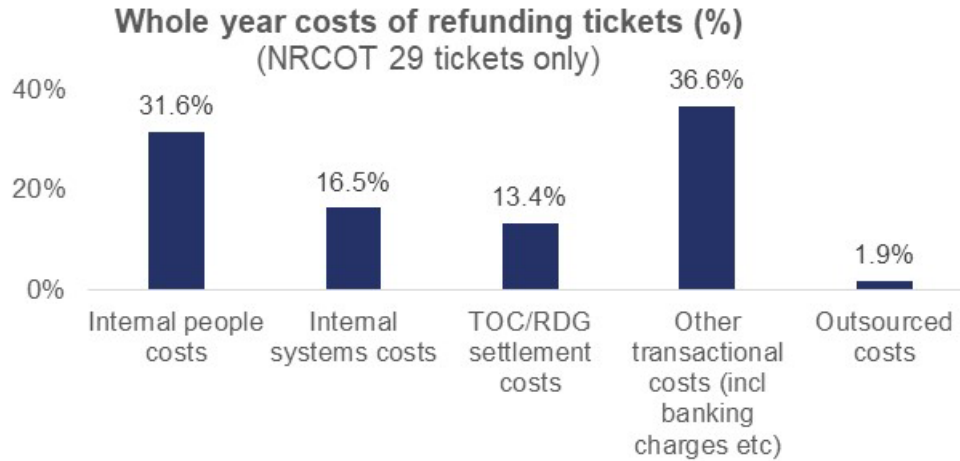
Fee levels

24. As noted above, the NRCOT imposes an administration fee cap of £10 per ticket for refunds on tickets that have not been used. Whilst stakeholder discussions suggested that charging right up to this cap is widespread and seen as a 'norm' of sorts, the data provided suggests there is considerable variation between retailers in administration fees charged.

25. Our data suggested that charging below the £10 maximum per ticket was commonplace in 2019-2020, with all but one respondent telling us that their average admin fee charged for C29 refunds was below £10. A notable example of charging below the £10 maximum is [Trainline's tiered policy](#), whereby refunds on the lowest value (below £2) fares attract no fee, with progressively higher fees being levied on higher fares and the maximum of £10 being charged on fares of £15 upwards. We were also told that, where retailers applied a £10 charge, it was common for some retailers to apply a £10 charge to each refund transaction rather than each ticket.
26. Aggregated across all responses to our data request, where an administration fee was applied, we found that the average administration fee per ticket in 2019/20 was £6.96.
27. We also found that respondents often apply their discretion to waive the administration fee in certain circumstances. Data collected indicates that 28% of potential administration fees were waived during 2019/20. Re-calculating the average administration fee to take these waived fees into account would give an average per ticket across all refunded tickets of £4.64.

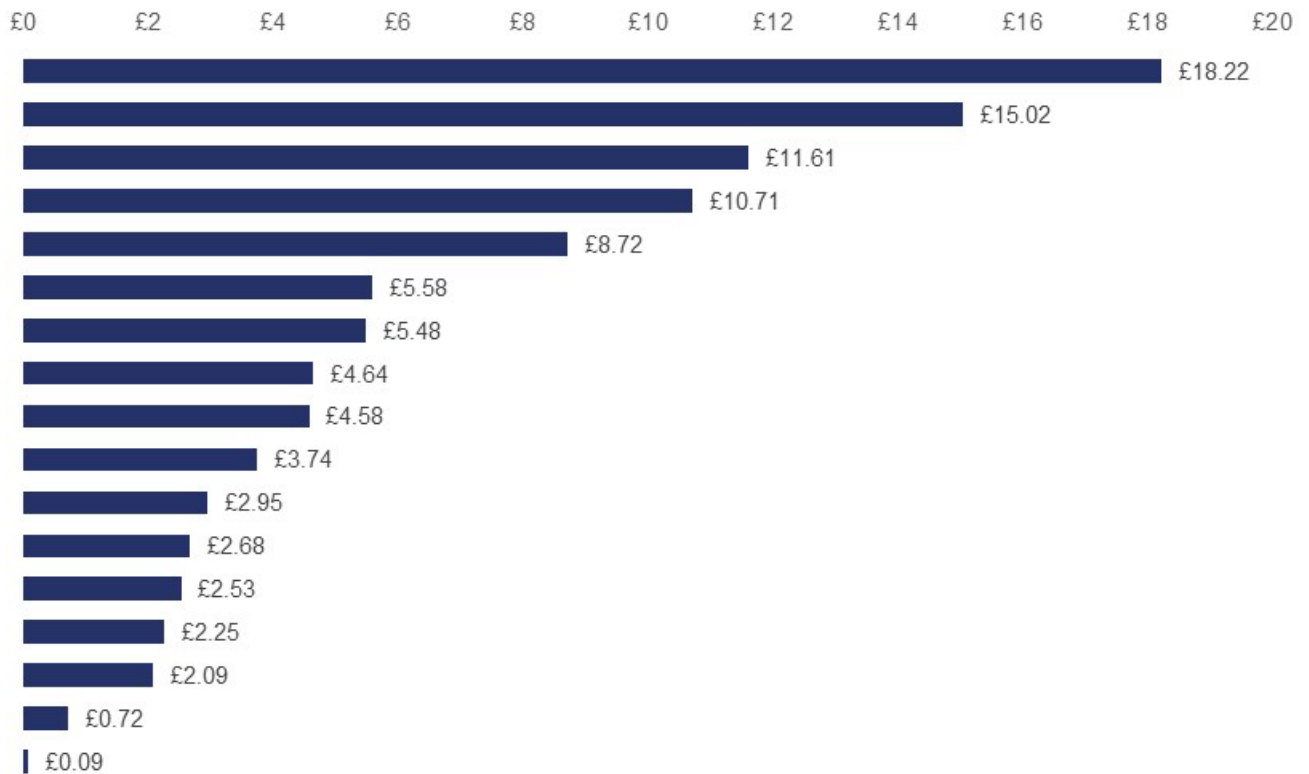
Costs incurred

28. We also asked companies to supply us with information on the costs that they incurred as a result of providing refunds. Adopting a proportionate approach to collecting and analysing this data, we set out to gain a reasonable understanding of the companies' costs via a single (qualitative and quantitative) information request, noting the limitations of this approach in terms of accuracy and comparability of results and the possible incentives of respondents to err on the high side when arriving at estimates of their costs.
29. The data supplied by the companies suggested that costs of providing refunds to customers during 2019/20 had a number of important drivers, as summarised in the chart below.



30. Taking companies' submissions at face value but excluding two outliers whose figures raised data quality concerns, the data suggests that an average of the companies' estimates of costs incurred in processing C29 refund applications for during 2019/20 was £3.77 per ticket. This is lower than both the current maximum permitted fee of £10 and the current average fee charged as summarised above.
31. Data received showed a significant spread of costs across individual retailers, as shown in the Figure below. Whilst this spread is likely to be to some extent reflective of genuine differences between the retailers (for example, in terms of their scale and their ways of working, including the proportion of refund applications that they receive and/or pay out on electronically), it is also suggestive of data quality issues with at least some of the responses that we received, necessitating a degree of caution when interpreting these results. (We did not explore the possible reasons behind this range in any detail. Within responses we found some evidence to tentatively suggest that retailers with the highest proportion of non-electronic applications tended to have higher unit costs, but this finding did not strongly hold across the whole sample.)
32. However, even taking account of data quality issues, nonetheless our average 2019/20 cost estimate of £3.77 per ticket refunded is comfortably below the current cap of £10, and is indeed less than £5, i.e. half the current cap. Whilst a number of retailers supplied us with estimates that are in excess of both this lower figure of £5, and indeed the current cap of £10, it is significant, in our view, that 10 out of the 17 firms for whom we were able to calculate an average cost submitted an estimate for 2019/20 of below £5 a ticket, and that these 10 firms included examples of all of regional, intercity, and London commuter operators, and independent/third-party rail retailers.

Cost per ticket refunded (NRCOT 29 tickets only)



33. Limited data was supplied for the costs of processing the other refund types in the information request submissions. Our understanding is that the small numbers of other such refunds was a key driver of this.
34. The information request submissions showed that there were 124 000 season ticket refunds (C40) in the year 2019-2020, which equates to 2.1% of all applications refunded. As the process involves a manual calculation to determine how much the passenger will receive based on the length of time left on the ticket, the processing cost for the retailer might be expected to be higher than for a standard non-season ticket.
35. Based on the data received, refunds for season tickets or photocards unavailable for inspection (C38) account for 0.1% of refunds. The process results in a refund of the ticket purchased (or the Penalty Fare issued) whilst the passenger's existing ticket was unavailable.
36. For duplicate season tickets (C39), which account for approximately 0.1% of the transactions, we understand that there may be a deterrent element to the

administration fee (maximum £20) to encourage passengers to take good care of their ticket, and also possibly an anti-fraud consideration to reduce the risk of either the original or duplicate ticket being passed or sold on for 'free' travel, due to the high value nature of the ticket.

Comparator analysis

37. We looked at possible comparators in other sectors, to understand how they approach refund administration fees:

- [Eurostar](#) – online refunds for fully-flexible (Business Premier) tickets do not incur a charge; if a request is made to exchange a non-refundable (Standard or Standard Premier) ticket by phone or in person (rather than online), a £10 service fee is charged per transaction, in addition to an exchange fee (which depends on the ticket type);
- [National Express coaches](#) – there is an administration fee of £5 for processing a refund online for a standard ticket, £6 if done by telephone;
- Airlines – in 2019 the Civil Aviation Authority published a [report](#) on airline terms and conditions in which it stated that it considers that a refund should be provided for free or for a nominal fee (many airlines now do so);
- [Wightlink Ferries](#) – there is a £5 cancellation fee on Standard Tickets, if cancelled up to 24 hours before the scheduled sailing time; booking fees are not refunded;
- Property tenancy fees – a [ban](#) was introduced on 1 June 2019 on certain fees charged to residential tenants and their guarantors, with the aim of helping ensure the fees charged reflect the real economic value of the services provided.

Summary

38. The TSA establishes that administration fees charged for refunding tickets that have not been used should be cost reflective - representative of the actual costs of administering the transaction. We also consider that it is reasonable to expect that all retailers will be operating with a reasonable degree of efficiency, so that costs incurred in processing refunds represent an efficient cost.

39. The main focus of our review was on C29 administration fees for refunds of tickets that have not been used, as the most common refund transaction accounting for 98%

of refunds. Our conclusion is that, where retailers are charging £10, this appears not to be based on an assessment of costs, and actual costs are generally lower.

40. Our review found that for C29 refunds, of the retailers that responded to our data request, they on average incur costs of less than £10 per ticket refunded, and indeed that for most the incurred cost is less than £5. Given this, it would seem reasonable to expect all retailers to be able to deliver refunds at a cost below, and therefore a fee below, the current cap of £10 per ticket.
41. Averaged across all tickets refunded, including those where the administration fee was waived, the fees charged to passengers averaged less than £5 per ticket refunded in 2019/20, with only some firms charging higher average fees than this.
42. The picture is less clear for season ticket refunds (C40) as there is a greater manual calculation element in this type of claim. Similarly, for duplicate season tickets (C39), the TSA permits a 'reasonable' fee and the definition of 'reasonable' has not been defined or tested. For instances where the season ticket or photocard is unavailable for inspection (C38), the data we received points to the likelihood that the actual costs are generally lower than the current cap.
43. Further exploration of 'reasonable' costs associated with these other transactions would be beneficial, given that the limited data we received in the information request submissions means it is not possible for us to reach firm conclusions.
44. In other sectors, administration fees for comparable activities are generally below £10 although fees may vary depending on whether the refund is claimed online, by telephone or in person.
45. In conclusion, we would expect all retailers to be able to justify administration fees based on cost-reflectivity or reasonableness, in line with the TSA requirements. We encourage retailers to assess whether their administration fees for ticket refunds are cost reflective or reasonable for each transaction type.
46. We also encourage DfT and RDG to consider whether the maximum caps for administration fees, particularly the £10 cap in respect of ticket refunds, should be amended to provide additional protection for passengers.

Annex A

Extract from the [Ticketing & Settlement Agreement](#) dated 23 July 1995, issued 21 February 2021

6-48 Duplicate Tickets And Duplicate Discount Cards

(1) Issue of Duplicate Tickets and Duplicate Discount Cards

(a) An Operator must issue a Duplicate Ticket or a Duplicate Discount Card in respect of a Fare or, as the case may be, a Discount Card which it has Sold if the Purchaser of the Fare or Discount Card is entitled to one under the National Rail Conditions of Travel, the CIV Rules or any other conditions of which it is aware to which the Fare or Discount Card is subject.

(b) An Operator must also issue a Duplicate Ticket in exchange for a Ticket which is malfunctioning so that the information on it cannot be read electronically.

[..]

(2) Ability of the Operator to make an administrative charge

(a) An Operator which issues a Duplicate Ticket or Duplicate Discount Card may make a reasonable administrative charge to the person to whom it is issued, except in the case of a Duplicate Ticket which is issued in exchange for a Ticket which is damaged or is malfunctioning.

(b) An Operator which makes such a charge must make the same charge for all Duplicate Tickets that it issues and the same charge (which may be different from the charge for Duplicate Tickets) for all Duplicate Discount Cards that it issues.

6-49 Refunds

(1) Entitlements to Refunds

An Operator must make a Refund in respect of any Rail Product it has Sold if the Purchaser of the Rail Product is entitled to the Refund under the National Rail Conditions of Travel, the CIV Rules, or any other conditions of which it is aware to which the Rail Product is subject.

[...]

(4) Administrative charges

(a) An Operator which makes a Refund may make an administrative charge to the person applying for the Refund if it is expressly permitted to do so under the National Rail Conditions of Travel, the CIV Rules and/or, as the case may be, any other conditions to which the relevant Rail Product is subject.

(b) An Operator which makes any such charge must make the same charge in respect of all amounts in respect of Fares which it refunds, all amounts in respect of Discount Cards which it refunds, all amounts in respect of Reservations which it refunds and all amounts in respect of Upgrades which it refunds. However, the charge for Fares, Discount Cards, Reservations and Upgrades respectively may be different.

(c) Any administrative charge that is made must reasonably reflect the cost of processing the application for the relevant refund.

Annex B

Extract from the [National Rail Conditions of Travel \(NRCOT\)](#), issued 6 February 2022

Condition 29.2 (on refunds on tickets which have not been used) states that:
“An administration charge may also be made, which will not exceed £10 per Ticket; however, if the administrative charge and/or other deductions exceed the refund amount no refund will be payable.”;

Condition 40.2 (on season ticket refunds) states that:
“The refund will be calculated by deducting the cost to make one return journey for each day from the start date the Season Ticket until the day it is returned, and an administration charge (not to exceed £10).”;

Condition 38.2 (on season tickets or photocard unavailable for inspection) states that:
“If you possess a valid Season Ticket and/or photocard but were unable to present it when requested because you had forgotten to carry it on that particular journey or mislaid it, the Train Company concerned may at their discretion refund any fare or Penalty Fare paid in accordance with Condition 9, less an administration charge not exceeding £10.”; and

Condition 39.1 (on duplicate season tickets) states that:
“If you lose or mislay a Season Ticket valid for one month or longer, or it is stolen, the Train Company or Licensed Retailer from which it was purchased, will arrange for a duplicate Season Ticket to be issued, provided that: [...]39.1.3. you pay the Train Company or Licensed Retailer’s administration charge, which will not exceed £20.”



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