

## **TfL Travelcard holders who travelled on South Western or Southeastern could benefit from proposed claims**

**Currently living in the UK? Do nothing, you are already included.**

**Currently living outside the UK? You must act now to participate.**

*This is a legal notice that has been issued at the direction of the Competition Appeal Tribunal*

- The Competition Appeal Tribunal has decided that two claims filed on behalf of rail passengers against the companies which run or used to run the South Western and Southeastern rail franchises<sup>1</sup> may proceed to a full trial. Mr Gutmann will act as the class representative, on behalf of a “class” of persons who it is alleged have each suffered losses due to South Western’s and Southeastern’s conduct.
- Mr Gutmann alleges that South Western and Southeastern have breached competition laws by charging TfL Travelcard holders too much for travel on their routes. Travelcard holders have already paid for their travel within the relevant TfL zones, so a Travelcard holder would only need to purchase a (cheaper) ‘boundary’ fare or ‘extension’ fare for the remainder of their route, to get to their destination. However, Mr Gutmann alleges that South Western and Southeastern do not make boundary fares sufficiently available for purchase.
- The class of persons who can bring a claim is:
  - all persons who, at any point during the Relevant Period<sup>2</sup>, purchased or paid for a rail fare for themselves and/or another person, which was not a Boundary Fare<sup>3</sup> or a fare for the portion of their journey from the last station covered by their Travelcard to their destination, where:
    - (a) the person for whom the fare was purchased held a Travelcard (or Travelcards) valid for travel within one or several of TfL’s fare zones (the “**Zones**”) at the time of their journey or, where the fare was a season ticket, for at least the period of validity of that season ticket fare; and
    - (b) the rail fare (including a fare for a return journey and a season ticket fare) was for travel in whole or in part on the services of the Defendant(s) from a station within (but not on the outer boundary of) those Zones to a destination beyond the outer boundary of those Zones.
- No money is available now and there is no guarantee that money will be available in the future. These claims will have to be proved in the Tribunal at trial or concluded by way of an earlier settlement agreed between the class representative and South Western and/or Southeastern.
- You have important legal rights related to these claims. Exercising these rights could affect your ability to get a payment in the future (if the case is won and money becomes available).

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<sup>1</sup> First MTR South Western Trains Limited, Stagecoach South Western Trains Limited and London & South Eastern Railway Limited

<sup>2</sup> For “the Relevant Period” see the answer to Question 3 under General Information below.

<sup>3</sup> “Boundary Fare” means a fare valid for travel to or from the outer boundaries of TfL’s fare zones, intended to be combined with a Travelcard whose validity stretches to the relevant zone boundary.

This notice explains the claims, who is covered by each of the two claims, your rights in relation to that claim, how to exercise these rights and any related deadlines. Please read this notice carefully as your decisions about this claim will have legal consequences.

- To read the Tribunal's full Collective Proceedings Order and judgment, which allows the claims to proceed, visit [www.BoundaryFares.com](http://www.BoundaryFares.com) or [www.catribunal.org.uk](http://www.catribunal.org.uk).

YOUR LEGAL RIGHTS AND OPTIONS	
<b>STAY IN THE CLAIM(S)</b>	If you are currently living in the UK as of 19 October 2021 and meet the description of the class, you do not need to do anything at this time to be eligible to claim a share of any money that may become available in the future. By doing nothing, you give up the right to make an individual claim against South Western and Southeastern in respect of the legal claims in these cases and you agree to be bound by judgments the Tribunal may issue in these cases.
<b>OPT-OUT</b>	If you are currently living in the UK as of 19 October 2021 you have the right to "opt-out" or request to be excluded from either or both claims by 07 November 2023. By opting-out you keep the right to bring your own separate claim against South Western and Southeastern. However, if you opt-out you will not be able to get any money from these claims (if money becomes available). More information on how to Opt-Out can be found at <a href="http://www.BoundaryFares.com">www.BoundaryFares.com</a> .
<b>OPT-IN</b>	If you are living outside the UK as of 19 October 2021, you will need to "opt-in" to either or both claims. Complete an Opt-In Form by visiting <a href="http://www.BoundaryFares.com">www.BoundaryFares.com</a> . The deadline for opting-in is by 07 November 2023.

## GENERAL INFORMATION

### 1. Why has this notice been issued?

The Competition Appeal Tribunal has directed that this notice be issued following a Collective Proceedings Order made on 19 October 2021. The Order allows these claims to proceed as a collective claims on behalf of eligible UK class members. To read the full Order and judgment, visit [www.BoundaryFares.com](http://www.BoundaryFares.com) or [www.catribunal.org.uk](http://www.catribunal.org.uk).

This notice has been issued to inform you of important legal rights you have related to these claims. Exercising these rights could affect your ability to get a payment in the future (if money becomes available). This notice explains the claims, who is covered by the claims, your rights in relation to the claims, how to exercise these rights and any related deadlines. Please read this notice carefully as your decisions about this claim will have legal consequences.

### 2. Who are the claims against?

The South Western claim is against the following UK train operating companies:

- i. First MTR South Western Trains Limited
- ii. Stagecoach South Western Trains Limited

The Southeastern claim is against the following UK train operating company:

- i. London & South Eastern Railway Limited (and its parent companies Govia Limited, The Go-Ahead Group Limited and Keolis (UK) Limited).

First MTR South Western Trains Limited is the train operating company currently operating all rail services under the South Western rail franchise. Stagecoach South Western Trains Limited previously operated the South Western rail network until 20 August 2017.

London & South Eastern Railway Limited is the train operating company that ran all rail services under the Southeastern rail franchise until 2am on 17 October 2021.

Collectively, these companies are the “Defendants.”

### **3. What is the Relevant Period?**

The Relevant Period is the period starting on 1 October 2015 when the law enabling such collective proceedings came into force and ending:

- i. In the case of the South Western claim, on the date of final judgment or settlement of the claim
- ii. In the case of the Southeastern claim, at 2am on 17 October 2021 when London & South Eastern Railway Limited ceased to hold the franchise.

### **4. What did the Defendants do wrong? What are the claims?**

These claims combine the individual claims of class members against, respectively, South Western and Southeastern for damages arising from their alleged abuse of their dominant position in breach of UK competition law (section 18 of the Competition Act 1998).

It is claimed that South Western and Southeastern have breached competition laws by charging Travelcard holders too much for travel on their routes: specifically, it is alleged that South Western and Southeastern do not make (cheaper) ‘boundary’ fares or ‘extension’ fares available, or sufficiently available, for purchase on their services. The Tribunal has ordered that the two claims will be managed and heard together with very similar collective proceedings claims which have been certified against Govia Thameslink Railway Limited (and its parent companies) which runs the Thameslink, Southern, Great Northern, and Gatwick Express rail franchises (the “**GTR claim**”).

### **5. Who has brought the claims? What is the role of the class representative?**

The Tribunal has authorised Mr. Justin Gutmann to serve as the class representative for both of these claims.

As the class representative, Mr. Gutmann will conduct the claims against South Western and Southeastern on behalf of all class members (except for those who opt-out of the class). Mr. Gutmann will instruct the lawyers and experts, make decisions on the conduct of the claims and, in particular, will decide whether to present any offer of settlement that South Western and Southeastern may make to the Tribunal for its approval.

During the case, Mr. Gutmann is responsible for communicating with the class and for issuing formal notices, such as this notice. Updates about the claims will be available on the website [www.BoundaryFares.com](http://www.BoundaryFares.com), through the media and on social media.

### **6. Who is Justin Gutmann?**

Mr. Gutmann has spent a large part of his professional life dedicated to public policy, market research and, specifically, to consumer welfare. His final post prior to retirement was as Head of Research and Insight at Consumer Focus, the UK’s statutory consumer champion, and later

Citizens Advice. Mr. Gutmann also spent eight years working for London Underground as Market Planning Manager. Mr Gutmann is also the Class Representative in the GTR claim.

## 7. Who is in the class?

The Consumer Rights Act 2015 allows for a collective claim to be brought on behalf of a group of individuals who are alleged to have suffered a common loss. The group is the “class” and all individuals within the group are “class members.” As a result of the 2015 Act, groups of persons who have all lost out do not need to each bring an individual claim to obtain compensation for their loss. Instead, class members may all receive compensation through a single, collective claim brought on their behalf by a representative.

In this case, the Tribunal has decided that the class of persons who can bring a claim is:

all persons who, at any point during the Relevant Period purchased or paid for a rail fare for themselves and/or another person, which was not a Boundary Fare<sup>4</sup> or a fare for the portion of their journey from the last station covered by their Travelcard to their destination, where:

- i. the person for whom the fare was purchased held a Travelcard (or Travelcards) valid for travel within one or several of TfL’s fare zones (the “**Zones**”) at the time of their journey or, where the fare was a season ticket, for at least the period of validity of that season ticket fare; and
- ii. the rail fare (including a fare for a return journey and a season ticket fare) was for travel in whole or in part on the services of the Defendant from a station within (but not on the outer boundary of) those Zones to a destination beyond the outer boundary of those Zones.

See “Am I part of the class?” below, for additional information.

## 8. What is an opt-out proceeding? What is the “domicile date”?

These claims are proceeding as opt-out cases. In simple terms, if you come within the class and don’t opt-out, you’re in. This process means that, if you are living in the UK as a resident as of 19 October 2021, which is known as the domicile date, and you satisfy the class definition, you are included in the class (and do not need to do anything) unless you ask to be excluded from the class. Asking to be excluded is also called opting-out of the class.

If you are not living in the UK as of 19 October 2021, and you meet the criteria to be in the class, and you want to participate in these claims, you must take steps to say that you want to be included. Asking to be included in the class is called opting-in to the class. You need to consider opting-in if you are living abroad as of the domicile date.

All class members who stay in the class or opt-in to the class will be bound by any Tribunal judgment. As a class member, you will not be able to bring an individual claim against South Western and Southeastern raising the same issues included in this claim.

This notice explains how to opt-out or opt-in to the class.

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<sup>4</sup> “Boundary Fare” means a fare valid for travel to or from the outer boundaries of TfL’s fare zones, intended to be combined with a Travelcard whose validity stretches to the relevant zone boundary.

### **9. How much money does the claim ask for?**

The proposed claims seek compensation for all those who have been affected by the train operating companies' allegedly anti-competitive behaviour. The total sought for the South Western claim is £57 million, the total sought for the Southeastern claim is £36 million. If either or both claims are successful, all persons who have an eligible claim will be able to seek their share of the compensation recovered in the claim that relates to them.

### **10. How do I get a payment?**

No money is available now and there is no guarantee that money will be available in the future. The cases will have to be won in the Tribunal unless a settlement can be agreed as between the class representative and South Western and/or Southeastern.

The court process can take time, so please be patient. If, and when, money becomes available, class members will be notified about how to obtain a payment. Please register at [www.BoundaryFares.com](http://www.BoundaryFares.com) to stay up to date.

### **11. What is the Competition Appeal Tribunal?**

The Competition Appeal Tribunal is a specialist court based in London that covers the whole of the UK and hears disputes such as these. The Tribunal publishes its Rules and Guidance, together with information about what it does, on its website [www.catribunal.org.uk](http://www.catribunal.org.uk). A summary of the claims against South Western and Southeastern can be found on the Tribunal's website at [www.catribunal.org.uk](http://www.catribunal.org.uk).

## **WHO IS IN THE CLASS?**

### **12. What does it mean to be a class member?**

As a class member, if money becomes available, you will be eligible to receive a payment. You will also be legally bound by all Tribunal judgments with respect to that claim. Whether Mr. Gutmann wins money for the class or not, unless you opt-out, you will never be able to make your own claim against South Western and Southeastern in respect of the claims included in these cases.

### **13. Am I part of the class?**

The class for each of the two claims includes only those domiciled in the UK as of 19 October 2021. If you otherwise fall within the class definition but are not domiciled in the UK as of 19 October 2021, you may opt-in to the proceedings if you choose. Businesses are included in the class. In these cases someone domiciled in the UK is the same as a UK resident.

### **14. Am I a UK resident?**

For these cases, a UK resident is someone living in England, Wales, Scotland or Northern Ireland. If you are living in the UK on 19 October 2021, you are automatically within the class unless you ask to be removed from the class (See "How to Opt-Out or Opt-In," below). However, if you are not living in the UK on 19 October 2021, you must take steps to opt-in to the class if you want to be part of either or both of these claims and be eligible for a payment in the future.

#### 15. What if I am a UK resident and move outside the UK after 19 October 2021?

If you move outside the UK after 19 October 2021, you should keep some documents showing that you were a UK resident on 19 October 2021. If money becomes available in the future and you are living outside of the UK at that time then you may need to show that you were a UK resident on 19 October 2021 to receive your payment.

#### 16. Are businesses included in the class?

Businesses are included in the class. It is called an opt-out class because anyone, including businesses who meets the class definition will be included in the claim automatically and bound by the result, unless they ask to opt-out.

#### 17. I am not sure if I am included in the class.

If you are not sure whether you are included in the class, visit [www.BoundaryFares.com](http://www.BoundaryFares.com) to review the Order, the frequently asked questions (FAQs) and answers and other documents, which can help you to determine whether you are a part of the class.

### HOW TO OPT-OUT OR OPT-IN

#### 18. I was a UK resident on 19 October 2021 and I want to be removed from the class.

If you were a UK resident on 19 October 2021 and you want to be removed from the class for either or both of the claims, send a letter to:

Class Representative  
Care of: Charles Lyndon  
22 Eastcheap  
London  
EC3M 1EU  
Telephone: 0207 058 0050

Include the following statement in your letter **“I want to opt-out of the collective claim against the South Western rail franchise, Case No.1304/7/7/19”** and/or **“I want to opt-out of the collective claim against the Southeastern rail franchise, Case No. 1305/7/7/19,”** along with your full name, postal address, email address and telephone number. Sign and date your opt-out letter. You do not have to give a reason for opting-out.

To be considered, your opt-out letter must be received or postmarked by 07 November 2023. Once your opt-out is received and processed, you will be sent an acknowledgement by email if you have provided an email address, or by post if not.

By opting-out, you will not be able to receive a payment from the claim(s) if money becomes available. However, you may be able to bring your own separate claim against South Western and Southeastern for the same issues.

**IMPORTANT CONSIDERATION:** Please note, if you opt-out and then wish to bring a claim on your own against South Western and/or Southeastern, you must do so within six months of the date on which you opt-out. If you do not file an individual claim within this timeframe, your claim will be time barred and not allowed.

**19. I was NOT a UK resident on 19 October 2021 and I want to be part of the class.**

If you were not a UK resident on 19 October 2021 (even if you were before), you must take steps to opt-in to the class for one or both claims if you want to be part of that claim and be eligible to receive a payment in the future.

Visit [www.BoundaryFares.com](http://www.BoundaryFares.com) and complete the Opt-In Form on the website. On the form, you will be asked to provide your full, name, postal address, email address and telephone number. You will also be asked to provide the dates after 1 October 2015 that you were a UK resident.

If you prefer, you may also opt-in by post. Send a letter with the information listed in the previous paragraph. To assist you in submitting an opt-in by post, a sample opt-in letter is available at [www.BoundaryFares.com](http://www.BoundaryFares.com). If you would like to be sent a stamped addressed envelope to submit your opt-in, please send an email with your postal address to: [info@boundaryfares.com](mailto:info@boundaryfares.com).

Send your opt-in letter to:

Class Representative  
Care of: Charles Lyndon  
22 Eastcheap  
London  
EC3M 1EU  
Telephone: 0207 058 0050

To be considered, your opt-in request must be received or postmarked by 07 November 2023. Once your opt-in request is received and processed, you will be sent an acknowledgement by email if you have provided an email address, or by post if not.

**IMPORTANT CONSIDERATION:** Please note, if you decide not to opt-in and then subsequently wish to bring a claim on your own, you must do so within six months of the deadline for opting in (07 November 2023) or your claim will be time barred and not allowed.

**20. If I am NOT a UK resident and do not opt-in by 07 November 2023, can I get a payment?**

Under the rules of the Tribunal, if you are not a UK resident on 19 October 2021, you are required to submit an opt-in request by 07 November 2023 (*see* previous question) to be part of the class. If you do not opt-in by 07 November 2023 and money later becomes available, the only way for you to be eligible to receive a payment is for the Tribunal to give you permission to opt-in at a later time. There is no guarantee this permission will be given, so you must opt-in by 07 November 2023 if you want to be eligible to get a payment.

## **GETTING MORE INFORMATION**

**21. How can I stay updated on the progress of the claim?**

You can visit the [www.BoundaryFares.com](http://www.BoundaryFares.com) and register to receive updates and any future notices via email as the claim progresses. If, and when, money becomes available, you will be contacted with information on how to claim your share.



## 22. How can I get more information?

This notice summarises the Order. To read the full Order and see other information about the claim, visit [www.BoundaryFares.com](http://www.BoundaryFares.com).