

Delay Attribution Board Meeting of 23rd October 2018

Summary of Meeting

ORR Position Statement

The Board has previously approached ORR with three areas of concern relating to ADA33 and CP6 Metrics and a proposed escalation process. In response the Board was provided with a position statement from ORR on the afore mentioned topics.

ORR provided an update that the individual who was leading the PR-18 Attribution Review, has now left and his replacement would be in contact with the Board in November.

The Chairman reiterated that in his opinion the PR-18 Attribution Review has been poorly conducted to this point and the Board welcomes visibility of a formal remit and will still appreciate the opportunity for its involvement.

It was reiterated that the problems with attribution alluded to in the PR-18 review still have not been explained by ORR as has been requested by the Board numerous times.

ORR advised that the problems were effectively the interpretation of the issues highlighted and opinions expressed by parties as part of the PR-18 consultation feedback.

It was advised that some of the comments relating to problems with attribution were provided in the consultation response to the original proposal in which TOC Schedule 8 could change to the 3rd Party responsibility principle utilised in the FOC Schedule 8.

Whilst most of the issues being questioned by the Board, including the perceived problems and the escalation process, will be covered in the PR-18 Attribution Review, concern was raised that any PR-18 Attribution Review needs to be carried out in unison the wider Industry Rail Review.

DAB Newsletter

The Board was provided with a paper on the proposed DAB Newsletter following on from the request for members to feedback ideas for layout, style and particularly content.

The paper raised concerns that there would likely be very little news after the first issue and the Board should further consider the newsletter approach, perhaps targeted bulletins.

The main purpose of any communication from the Board will be to improve awareness of its activities and outputs and specifically the benefits and value of attribution to the Industry.

Evolution of DAB

A paper was provided to the Board as a follow up to the paper submitted to the last meeting by the Chairman which looked to challenge the status quo and ask members to consider the existence of DAB, its constitution and remit.

The Board was advised that the proposed joint DAB and Access Dispute Committee (ADC) session was now diarised for Tuesday 13th November at which the seeming disconnect between the DAPR and the Contract will be discussed along with consideration of options for future dispute resolution.

A view was expressed that given the wider Rail Review, not just the PR-18 Review, that the Board should wait and see what transpires. Some factions in the Industry believe there may be a new governing body akin to the old Strategic Rail Authority that could encapsulate the current Network Rail central functions and to which the DAB could also sit under.

It is believed the DAB should focus on providing the rules and processes but not deal with disputes or the legal and contractual issues.

It was suggested that if DAB did not hear disputes and provide its own guidance it could lose the ability to understand why those disputes were occurring and improve the DAPR being it is far harder to interpret the reasons for Access Dispute Determinations.

It was pointed out that whilst there are differences in the TOC and FOC contracts that attribution is still carried out as per the DAPR for all parties and it may just be the Schedule 8 payments that are differently. Members should be forming their decisions based on the black and white entries in the DAPR and not contracts.

The Chairman suggested that it is the structure of the industry that results in DAB to get involved in issues it shouldn't and asked whether attribution is really the problem or whether it is therefore strings attached that cause the perceived problems.

It was mooted that Schedule 8 does incentivise data quality citing the fact that Industry generally ignores investigating class 0,3 and 5 trains as they have no financial value.

It was suggested that the Board also needs to look at how it can assist parties in resolving disputes where a greater number of small incidents need to be sorted rather than, as generally happens, providing guidance on and helping parties resolve a single incident.

It was suggested that the Board should review the top 20 oldest incidents to understand why they are still in dispute and whether they are as a result of DAPR interpretation and offer assistance where appropriate.

The Chairman stated that Industry needs to decide whether it wants to maintain Prime Cause or go to the 'Dominant', or effectively, Root Cause. At some point a decision needs to be made but the question to be answered is who makes that decision?

The consequences of ADA33 was raised at NTF and it is believed that group collectively agreed that Industry should continue with Prime Cause as the driver for performance improvement so perhaps ORR should consult with Industry formally as to what they want.

DAPR Section H Review

The Board was provided with a paper setting out an initial draft proposal for amendments to Section H of the DAPR, covering yards, depots and sidings.

The paper contained comments explaining some of the key changes but also asked questions of the Board as to other proposed improvements such as combining Paragraph H1 and H3 given they effectively cover the same principles for TOC Fleet Depots and Freight yards

The Board agreed that Section H would benefit from an introductory paragraph setting out the 'off network' locations covered by the Section (e.g. yards, terminals, depots) and by doing so that Paragraphs H1 and H3 could then be combined.

It was requested that for completeness Section H should also cover off GSM-R REC calls and situations such as fires and security alerts that also impact the network.

It was suggested that as part of the locations listed in the opening paragraph that it also covers 'other networks' to cover off the likes of HS1, ELL and CrossRail for example.

Process Guides Update

The Board was provided with a paper setting out the revised version of Process Guides PGD4, PGD12 and PGD19 incorporating amendments suggested and agreed at the September Board meeting.

The Board was asked to provide its agreement for sign-off of the documents and for them to be distributed to Industry, which was duly received.

In relation to PGD19 (Incident Templates) it was suggested, and agreed, due to briefing and implementing changes during autumn not always being easy that the implementation date be set as 1st January 2019. Where possible it should be used prior to that date.

As part of the discussions the restriction on the freeform text field in incidents was once again highlighted as all too often key information is lost.

It was advised this issue had been looked at and costed by ATOS previously and was dismissed as too expensive. However, it was suggested that with data storage costs reducing it may be worth submitting a new request and ascertaining current costs.

The Secretary advised the Board does have its 'Systems' budget which can be utilised if any work commences prior to 31st March, else the Board can add the relevant costs into its 2019/20 Budget if deemed beneficial and cost effective.

Proposals for Amendment (Pre and Post Consultation)

The Board was provided with, and discussed, two Proposals for Amendment. This first being a clarification relating to bird strikes and the other a further review of the unplanned routing proposal (DAB P313) deferred from the September meeting.

The Bird Strike clarification was reviewed and agreed to be sent for Industry consultation.

In relation to the Unplanned Routing Proposal the Board considered the performance risks and safety concerns highlighted in the paper relating to behavioural changes that could occur from any DAPR change.

A representative from the Rail Delivery Group (RDG), that is involved in the Operations Principles Group, has offered his assistance to assist with progressing this issue which will be taken up.

Passenger Overcrowding

It was proposed at its September meeting in relation to the discussion around ADA35 that the Board should re-review its Proposal for Amendment that was drafted as a result of the original Request for Guidance from Chiltern Railways and Network Rail (DAB45).

The Secretary provided the Board with a paper setting out the previously drafted proposal relating to passenger overcrowding due to displacement from an unplanned incident.

The Chairman suggested that as a date for the Board's meeting with Access Dispute Committee has now been arranged (13th November) that it would be sensible to hold this item until the November Board meeting as there may be more clarity provided by then.

PERFORM Update

A representative from the RSSB attended and presented to the Board providing a progress report on the Augmented Delay Attribution work stream.

It was advised that the title of the work stream was amended on advice of the sub group to avoid causing any concern among the attribution fraternity that was witnessed with the previous IDAS work stream. 'Augmented' was ultimately selected as it better describes the work stream.

Current tasks being undertaken include identification of Industry partners, other workstreams for alignment, looking at previous work carried out in this area and the development of the scope, objectives and RACI.

Mid-Year Accounts

The Secretary provided the Board with the mid-year accounts which was noted.

The update included the Board's spend to date and year end estimates, an update on the outstanding levy payments and an update on the Board's Bank Accounts.

P Coding Challenge

On behalf of two Freight Operators, the Secretary asked the Board its views on how an Operator could or should challenge delays that have been P coded but are felt, by the Operator, to be true delays.

The Board agreed that a Request for Guidance submission is not required and that for this situation a formal paper should be submitted. The Secretary will advise the parties concerned.

Network Rail Investigations

A concern was raised that Network Rail are regularly allocating incidents to Operators for investigation without carrying out an initial investigation or at least initiating its investigations.

Whilst the risk of its lack of investigation sits with Network Rail it often results in the Operator doing much of the investigation leg work and consequently extends resolution timescales if Network only start investigation once the Operator has concluded theirs.

The wider risk to the Industry is that by not conducting investigations real time or at least concurrently that information and the opportunity to identify causes is often lost.

The concern was noted and Operator representatives were requested to provide some examples to demonstrate the issue for further review by the Board.

The official minutes will be available to Industry after sign-off at the 20th November meeting

Mark Southon

Secretary to the Delay Attribution Board