

## **Delay Attribution Board Meeting of July 4<sup>th</sup> 2017**

### **Summary of Meeting**

#### **Request for Guidance**

The Board had received a Request for Guidance from Network Rail and West Coast Railway Company. The matter was regarding the allocation of responsibility for delays relating to lineside fires following the passage of a train hauled by a steam locomotive.

A representative of West Coast Railway Company and Network Rail gave an overview of their position and covered the key points made within their submission.

Further clarification was received on various aspects of the Request for Guidance and the Board then discussed the Request for Guidance and formulated a response.

Considerations by the Board included, but were not limited to, the following:-

- That it was clear that investigations had not been fully completed by either Party and there was no defined process to follow for investigations into incidents of this nature.
- That the facts of the individual incidents were therefore not fully known or understood and so the Board would only be able to base their decision on the information available.
- That the incidents in dispute go back six years and so the ability for either Party to investigate any of the incidents further is very limited if not impossible.
- That West Coast Railway Company in their opening statement advised they generally accept instances of multiple fires.
- Improvements in standards, procedures and processes (and for noting, improvement in the relationships) were cited but related to events post 2015 after the incidents in question occurred (since when no fire related incidents are in dispute).
- That West Coast Railways had disputed the incidents pending provision of technical locomotive investigation reports but had not subsequently provided those reports and therefore not substantiated their dispute.
- Whilst it was likely that investigations were conducted and concluded by Network Rail at the time of the fires, they could not provide details of those investigations.
- In at least one instance a concurrent report from a competent person was received citing emissions coming from the steam locomotive directly causing the lineside fire.
- The current DAPR, under Section R3 No Fault Found, does outline allocation on the basis of probability where a train or infrastructure asset is linked to more than one instance of failure.

The Board agreed unanimously that, based on the information provided within the paper (noting and accepting limitations due to the lack of investigation) and the further presentations made to the Board, that the responsibility for the incidents should be attributed as follows:-

- Where there are instances of multiple fires following the passage of a train hauled by a steam locomotive these should be attributed to West Coast Railway Company.
- Where a fire was reported and steam loco emissions were witnessed by a competent person these should be attributed to West Coast Railway Company.
- All the remaining single event fires should be accepted by Network Rail.

In line with the Delay Attribution Guide, the Operator incidents should be allocated with Delay Code ME and the Network Rail incidents with Delay Codes I9 (where the fire occurred lineside) or XL (where the fire occurred off Network Rail infrastructure).

This submission was accepted for consideration by the Board taking into account the (acknowledged) history of the relationship between the Parties and the obvious requirement for the Board to help the Parties close these ongoing disputes.

No precedent should therefore be considered as being set for current or future fire related incidents, either multiple or single fires which should go through the full investigation process. This was particularly important for noting as the Board were made aware of a similar incident currently in dispute with another Operator of locomotive hauled steam services.

Additionally, during the discussions certain aspects were noted for the Board to consider and take forward separately, namely;

- A possible contradiction in the DAPR relating to fires caused by a train but causing fires on land or property off the network –this will need to be reviewed by the Board.
- The Board need to be aware of, understand, potentially intervene and raise as appropriate any instances where disputes are outstanding for an exceptional long period of time (as in this case up to six years).
- Guidance should be considered and developed for a suitable process to follow where incidents involve fleet and lineside investigations following reports of a lineside fire potentially caused by a steam locomotive – what should be asked for, investigated and what evidence should be provided by both Parties to aid resolution of disputes to prevent similar occurring in the future.

The full record of the submission and subsequent questions and responses will be set out in the Board's Guidance Paper (DAB43).DAB42 Guidance Note

### **DfT Discussion on Third Party and Displaced Passenger delays:-**

The Chairman and Secretary met the DfT on the 22<sup>nd</sup> June to discuss the issues of Third Party delays and passenger displacement delay responsibility. The key outputs were:-

#### ***Passenger Overcrowding***

The DfT is to consider how Franchise Reporting requirements could be affected or addressed in specific circumstances when it can be demonstrated Parties are doing the right thing for passengers and regarding whether there is any potential for neutralisation of Schedule 7.1 in those circumstances.

It was noted that ORR may also need to consider similar consideration for Schedule 8 mechanisms.

The DfT will provide more detailed feedback to the Board at the September Board meeting.

#### ***Third Party Delay errors***

This was considered as not really being an issue for DfT as it doesn't affect their Franchise Reporting commitments or Schedule 7 arrangements so should be raised with ORR as it has more relevance to NR Reporting (DPI and Third Party Industry impact).

### **Board Objectives**

#### **Objectives Matrix**

An updated Objectives Matrix was provided to the Board for the purpose of review and agreeing any alterations or additions required for delivery during 2017.

The Board agreed to fully review the Objectives Matrix and consider other aspects that could be included at the next meeting.

#### ***e-DAPR Joint Responsibility***

The Secretary circulated an attribution assistance tool – e-DAPR - that has been resurrected from its initial state demonstrated last year now that the DAPR is live.

The e-DAPR is simply a click button selection process to get initial and basic guidance for the allocation of Joint Responsibility incident scenarios.

It was agreed that once the e-DAPR was tidied up that it could be included on the DAB website for providing initial basic guidance ensuring that the user is directed to the relevant DAPR entries and Process Guides for more detailed application

## **DAB and NTF**

The Board was presented with a paper covering the outputs from the NTF session attended by the Chairman and Secretary on the 7<sup>th</sup> June.

The Escalation Process Flowchart as shown in the paper was re-submitted to NTF after the session primarily to show escalation will now be to NTF and not the DfT and ORR as initially proposed but also to provide supporting notes on the process and confirming that issues escalated will be issues relating to behaviours and process compliance and NOT technical disputes.

As part of the process it was agreed that the Board would provide NTF with a Quarterly Report setting out relevant KPI data (to be agreed), key issues emanating from the Board, as well as issues for escalation.

### **Subject Matters considered for Escalation and Reporting to NTF:**

- Compliance and consistency issues
- Staffing levels
- Engagement issues
- Training and Competence
- Behaviours

### **KPI Reporting Measures for the Quarterly Report;**

- Benchmarking / Comparisons / Shifts in data patterns
- Disputes at Day 42 and over 6 months – where, why
- Training take up / Competence levels

It was considered appropriate that NTF should be utilised to aid the Board in either unblocking the way for the Board to progress an issue with a Party or for NTF to solve an issue where specifically asked to do so by the Board.

## **Training and Competency**

The Board was provided with an update on progress being made with aspects of Training and Competency specifically the Training Programme, supporting Competencies, Knowledge Goals and Testing that will be in place this year.

As an addendum to the Training Update the Chairman provided a separate paper which expressed his views that given the Trainer will not be dedicated to TDA or sit within the National Performance Team that the Board explores the possibility of having an ‘investigator’ post instead that can investigate issues raised and feedback to the Board. The Board could part fund the role or activities carried out on the Board’s behalf.

### **TRUST Accuracy and Unrecorded Recovery**

The Secretary presented a revised paper to the Board covering both TRUST Accuracy and Unrecorded Recovery issues as raised at previous Board meetings and subsequently allocated to a Sub Group to review and progress.

Given the previous discussions and the challenges to TRUST accuracy it was again reiterated that anything agreed and or published by the Board will need to be very clear in its intent and meaning to avoid misinterpretation and misapplication.

The Board was in agreement with what had been captured within the TRUST Accuracy and the Unrecorded Recovery elements of the paper in terms of identification and rectification of the issues captured.

It was agreed that both aspects will be formulated into a new Process Guide Document (PGD) and distributed to Industry and uploaded to the DAB website.

### **On – Off Network Assets**

A revised paper covering attribution of responsibility for asset failures on and off network was presented to the Board. This paper built on a previous submission at the June Board meeting where further understanding of ‘Connected Network’ was required to progress the issue.

The Board agreed with the revised content and guidance set out within the paper and endorsed the proposed Process Guide Document for distribution and uploading to the DAB website.

### **Stock Swaps**

The Secretary provided a paper to the Board setting out various scenarios and appropriate allocation of responsibility for delays caused by stock swaps.

The scenarios set out in the paper were reviewed by various Industry Parties and all feedback was taken into account when producing the paper and supporting matrix as presented to the Board.

Through the Industry discussions concerns were raised about the suggested responsibility allocation driving wrong behaviours. This was considered a much wider issue than just this one aspect and a wider discussion paper is being prepared for the August Board meeting covering the wider scenarios.

It was requested that the guidance for stock swaps should include a caveat covering where pre-agreed local arrangements are in place with Network Rail and respective Operators precluding the requirement for Control to authorise the stock swaps. This was agreed to be added to the appropriate scenarios.

The Board agreed that the guidance, once amended, should be formulated into a Process Guide Document for distribution to Industry and uploading to the DAB website.



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### **Annual PDAC Report**

The Secretary highlighted that the Annual PDAC report was included in the meeting pack for information and Members review.

Any issues identified or questions can be raised at the next Board meeting.

### **Holding Codes in PEARS**

Network Rail raised the previously identified issue of Holding Codes and how PEARS is processing them.

It was advised that PEARS is reading the Network Rail half of the Dual Code as Network Rail responsibility and paying as such despite the incident being in dispute.

The current 'fix' being applied is that when the Day 42 statement is produced the incident will need to be set to Operator Responsibility and disputed. Once the relevant Daily PEARS Statement is produced the incident can be recoded to the Holding Code. A longer term rectification is being looked into.

This issue does not affect freight as their Schedule 8 is calculated manually.

### **Autumn Good Practice Guide**

In relation to the Autumn Good Practice Guide being an agenda item for the next meeting, it was requested that clarification be included regarding when is a Railhead Treatment train considered as planned to run.

Last year general guidance was provided, but not documented, that a Railhead Treatment train is considered as being planned to run if it is included in the autumn mitigation programme and not based on whether it was cancelled off for a particular day or week.

The official minutes will be available to Industry after Board sign-off at the 1<sup>st</sup> August meeting

### **Mark Southon**

Secretary to the Delay Attribution Board