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**Guidance No: DAB-41**

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Allocation of Responsibility for delays not merged to the Prime Cause incident

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**1. Introduction**

The Delay Attribution Board (the Board) received a request for guidance in connection with the allocation of a number of TRUST incidents for which 829786, 830161, 829886, 836505, 838308, 837951 were provided as examples.

1.1. The Board received the joint request for guidance from Govia Thameslink Railway (GTR) and Network Rail Infrastructure Ltd, South East Route, (Network Rail) on the 13<sup>th</sup> February 2017.

1.2. The Board was asked the following:

1.2.1. Guidance from the Board is sought for the resolution of an issue which despite lengthy discussion at many levels a solution has not been agreed.

1.2.2. The Board is asked to provide guidance regarding the responsibility and attribution of incidents containing reactionary delays that are agreed as being due to an identified prime cause but not allocated to that incident. Instead, they are in a separate incident code matched to that prime cause incident.

**2. Information Received**

2.1. The parties have discussed the issues relevant to this matter, in accordance with the agreed procedures for obtaining agreement in relation to a disputed attribution as set out in Part B of the Network Code. However, they have been unable to reach a common position. The parties are therefore both agreed that the issues raised should be referred to the Board for guidance and have prepared a joint submission accordingly, incorporating their respective interpretations.

2.2. The Parties submitted the agreed factual background and their respective views on how the incident should be attributed.

2.2.1 The Parties agree that the delays in the incident are due to the Prime Cause identified and agreed as a GTR Responsibility and to which the incidents have been Code Matched.

2.2.2 The Parties agree that the Coding and responsibility are covered in the DAG for the prime cause incidents to which these TINs are reactionary. However the DAG (or associated Process Guides) does not cover any guidance as to merging of incidents

### 3. Factual Background to the incident

3.1. The parties provided the following agreed facts:

3.1.1. The submission is based on process application set out under the Network Code and Track Access Contract as well as the DAG, rather than simply the correct Prime Cause allocation.

3.1.2. The 100 plus incidents relating to this submission are on various dates, with various identified Prime Causes.

3.1.3. Examples of the incidents pending resolution are set out below (split into two categories)

3.1.4. The first category, as represented by the three incidents below, is post day 5 attributions from management incidents:-

*829786 Created: 21/11/15 (1G06 5 OVERTIME PUR); Date of delay: 16/11/15  
The Incident was attributed to MY / METX as a duplicate incident to 813124  
which was accepted by GTR on 22/11/15.  
Incident Disputed on 24/11/15 with request to merge into incident 813124.*

*830161 Created: 21/11/15 (2S58 UNIT FAULT BAL); Date of delay 16/11/15  
The Incident was attributed to MY / METX as a duplicate incident to 813408  
which was accepted by GTR on 22/11/15.  
Incident Disputed on 24/11/15 with request to merge into incident 813408.*

*829886 Created: 21/11/15 (2G38 UNIT DEFECT PUR); Date of delay 16/11/15  
Incident was attributed to MO / METW as a duplicate incident to 814093  
which was accepted by GTR on 24/11/15.  
Incident Disputed on 24/11/15 with request to merge into incident 813385.*

3.1.5 The second category, covers incidents created containing reactionary delays removed as re-attributions from other incidents that had originally been attributed on the day of occurrence (not from Management TINs).

*836505 Created: 24/11/15 (1A55 PASS COM BUG); Date of delay 19/11/15,  
Incident was attributed to RB / SETO as a duplicate incident to 822520.  
Incident Disputed on 24/11/15 with request to merge into incident 822520*

*838308 Created: 24/11/15 (2V51 3 OVERTIME BFR); Date of delay:  
19/11/15  
Incident was attributed to RB / SETO as a duplicate incident to 822520.  
Incident Code Matched by GTR and disputed on 25/11/15 with request to  
merge into incident 822520.*

*837951 Created: 24/11/15 (2F18 STOCK ALT VIC); Date of delay: 19/11/15,  
Incident was attributed to MS / MET9 as a duplicate incident to 824592.  
Incident Code Matched by GTR and disputed on 25/11/15 with request to  
merge into incident 824592.*

#### 4. Operator's View

- 4.1. GTR accepts that the incidents are currently attributed to the same cause-code as the incidents which contain the Prime Cause. However, GTR do not agree with the Network Rail notion that the incidents have been correctly attributed as explained in the DAG for the following reasons:

*DAG 2.6.2 : Each separate and unconnected occurrence resulting in 'Minutes Delay' and or Reliability Events is set up by Network Rail staff as a TRUST Incident.*

*DAG 2.7.1 : The immediate cause or event that results in delay to a train is known as 'Prime Cause'. Until a Prime cause has occurred there will be no delay to a train service. For the avoidance of doubt, 'Prime Cause' cannot be a reaction to a previous incident. In addition, where a delay is caused by a human error or oversight then that delay should be considered as a potential new 'Prime Cause'. Examples of the Application of Prime Cause can be found in DAB Process and Guidance Document PGD1 (which can be found on the DAB website).*

*DAG 2.7.2 Primary Delay: A Primary Delay is a delay to a train that results from an Incident that directly delays the train concerned, irrespective of whether the train concerned was running to its schedule (schedule includes booked platform or line) at the time the incident occurred, i.e. the delay is not the result of another delay to the same or other train. Primary Delay should not be attributed a 'Y' reactionary code.*

*DAG 2.7.3 Reactionary Delay: A Reactionary Delay is a delay to a train that results from an incident that indirectly delays the train concerned, i.e. the delay is the result of a prior delay to the same or any other train.*

- 4.2. The creation of a new separate incident, rather than merging delays at source is an agreed process between Network Rail (South East Route) and GTR emanating from the inability to see further delays and cancellations added after Day One when an incident is already in dispute. This subject was addressed to the ORR by the DAB December 2014. The response was received 9th February 2015. The ORR provided their interpretation of 6.2 of the Track Access Agreement:

*"If Network Rail's nominated representative has reasonable grounds to believe that any further incident was the responsibility of the Train Operator or of Network Rail but was not shown as such in the information made available in accordance with paragraph 6.1, then Network Rail may, within seven days after the last Minutes Delay or Cancelled Stop caused by that incident, issue a notice in accordance with paragraph 15 revising the information and/or allocations of responsibility made available under paragraph 6.1."*

The TAA considers a further incident not further delays and cancellations, as per the NR interpretation. This was acknowledged and agreed by the ORR.

- 4.3. D. Condition B5.3 also makes it clear that the TAC Parties can, however, agree a more onerous Performance Monitoring System than that contemplated by Part B. The model set out in Part B is therefore a minimum standard.

The Network Code Part B Paragraph 2.2 explains:

*“2.2 Information relating to causes of delays or cancellations Network Rail shall, when determining and recording the persons and causes which are responsible for train delays and cancellations, have due regard to all information which is relevant in the circumstances, including the following:*

*(a) information from any computerised or other recording system which Network Rail may, for the time being, be permitted to use for the purposes of a particular Access Agreement;*

*(b) information supplied by signallers and other persons duly authorised to participate in the signalling of trains;*

*(c) information supplied by any operator of trains, whether such information is within its knowledge or based on information supplied by other operators of railway assets;*

*(d) information supplied by Network Rail, whether such information is within Network Rail’s knowledge or based on information supplied by persons engaged or acting on behalf of, or otherwise in accordance with or subject to the instructions of, Network Rail or other operators of railway assets; and*

*(e) information and guidance set out in the Delay Attribution Guide.”*

- 4.4. The Delay Attribution Statement of Good Practice (page 3 of DAG) states:

*“Accepting responsibility for ensuring that adequate resources are applied to the delay attribution process.”*

- 4.5. NR SE did not have adequate resources to apply the correct and agreed delay attribution process. The Great Expectations Charter (agreed between NR South East Route and GTR in November 2014 and attached as Appendix 1) contains process agreements and was implemented in accordance with the Network Code Part B.

- 4.6. This situation has ultimately arisen due to having too few Delay Attribution staff in Network Rail South East to cope with the number of delay alerts on the day of occurrence. Therefore, necessitating allocation on the following days (sometimes up to 7 days after the event) leaving no time for the merge process to be actioned if required.

- 4.6.1 The Track Access Agreement states the Train Operator will dispute within two working days but, attributing post day six limits our ability to remove incorrect attribution.
- 4.6.2 This situation has been on-going – and still continuing - for over a year and the workload and this shortage could and should have been addressed with an internal NR review of the situation over a year ago.
- 4.6.3 The shortage of staff on the South East Route has caused the excessive use of Management TINs resulting in a number of incidents not being merged as per the agreement in the Charter. The integrity of GTR data is being compromised due to this issue.
- 4.7. GTR believe that the process has not been fulfilled adequately, even under the prevailing circumstances, and that incidents should be merged within the standard timeframe to capture the relevant impact in one TRUST incident to be deemed correctly attributed, and to allow GTR to verify this as so.
- 4.8. GTR do not object to further delay being added to their responsibility after Day One following further review ideally on Day Two, but do object to being unable to quickly identify what trains within an incident have already been audited prior to more trains being added. The above agreed process ensures that extra delays/cancellations being attributed to GTR responsibility is easily identifiable and does not unnecessarily increase the workload of GTR attribution staff when trying to audit this allocation. When the incident has been audited, a merge to the correct incident will be requested by GTR and actioned by Network Rail before timing out. The majority of the disputed incidents were addressed by GTR staff within hours of creation but, not addressed further by Network Rail.
- 4.9. GTR contests that by having several TRUST incidents (albeit code-matched) that this does not follow the Delay Attribution Guide Section 2 and has an impact on cross-industry analysis, reporting and KPIs that are based on incident count such as Industry fleet failure reports and 'Delays per Incident', a current focus in NR's CP5 delivery. Correct and appropriate reporting, and associated railway business decisions and investment, should be utilising the best possible allocation of delay and responsibility to incidents using the attribution process.
- 4.10. Therefore, the incidents should reflect that Network Rail have not accurately recorded the delays and the incidents should be re-coded to Delay Code ON (Network Rail responsibility) as this would indicate an opportunity for process improvement within the Route team and the business case to ensure that NR have the resources to attribute properly in future.
- 4.11. GTR believes that correct attribution is based on the process (as set out in various industry documents) being followed properly giving all parties a chance to review and object to the allocation of train delays and cancellations to incident, not just the attribution of the correct cause code.

## 5. Network Rail's View

- 5.1. Network Rail believe that the incidents as currently coded represent the correct Delay Code and Responsibility for the Prime Cause identified (and agreed) and thus fulfil the requirement of delay allocation set out in the DAG including the sections quoted by GTR in paragraph 4.1.
- 5.2. Network Rail accepts that there are a number of factors that have impacted the process due to circumstances such as increased delay alert and indeed dispute levels. It is accepted that ideally incidents should be merged to capture the relevant impact in one TRUST incident. However, this has not prevented correct Delay Code or Responsibility to be identified and recorded.
- 5.3. Network Rail do not have the same interpretation as GTR on ORR comment. The Track Access Contract requirement is to correctly allocate responsibility it does not specify merging.
- 5.4. Network Rail believes the context of “a more onerous performance monitoring system relates to the measurement of delays and lateness i.e. a 2 Minute threshold. In any case, Paragraph 5.3 of Part B of the Network Code actually states “Nothing in this Part B shall restrict the TAC Parties from agreeing, in an Access Agreement, obligations in relation to performance monitoring which are more onerous than those contained in this Part B. A more onerous system has not been agreed in a Track Access Contract
- 5.5. In response to paragraphs 4.2 and 4.8 of the GTR submission, GTR appear to be interpreting parts of the TAC in relation to the attribution of incidents that are allocated to their responsibility and are also citing the use of other systems (TRUST) as the means of notification. Whilst it has been custom and practice for industry parties since privatisation to use TRUST as the means of notification, the TAC actually specifies that notification should be the provision of a statement (meaning a PEARS statement). Network Rail believes it is incorrect to use part of the TAC in one vein and ignore it in other respects i.e. for the allocation of delay but not for the provision of notice.
- 5.6. The creation of a new separate incident, rather than merging delays at source, is an agreed process between Network Rail South East and GTR to give greater visibility emanating from the challenges faced by the South East Route with Management TIN reattribution. The creation of separate incidents gives GTR improved visibility of any further delays being allocated to an incident already identified as the Responsibility of GTR. This is not in line with what is considered to be custom and practice since 1994 for any other Train Operator. The fact that duplicate incidents are being created, which are then disputed, creates additional work for the Network Level 2 staff.
- 5.7. Network Rail accepts that by having two TRUST incidents (Code Matched) that this could have an impact on any KPIs that are based on incident count such as

fleet failures. However Network Rail believes this is a Reporting issue and should not influence how delay is allocated and that the incidents are allocated in line with DAG.

- 5.8. Network Rail would point out that the DAG does allow for prime cause and reactionary to be legitimately recorded in two TRUST incidents – for example P coded TSRs. One incident is created for the TSR delay and a separate incident is created for the reactionary impact.
- 5.9. Additionally, internally to Network Rail where this situation arises with, for example, Infrastructure failures, there is a process to ensure incidents are appropriately code matched and made identifiable that the incident is a 'duplicate'. The principle being the correct capture of cause and impact even if it is two (or more) incidents for the same failure cause.
- 5.10. Network Rail believes that for Data Quality and future analytical benefit the incidents that cannot be merged are better coded to the relevant Prime Causes rather than any other Network Rail code.
- 5.11. Network Rail believes the use of code ON would be completely against the TAC and DAG. Paragraph 4.2.4.3 of the DAG states “when Network Rail have not investigated a delay correctly (and timescales restrict the correct re-attribution) the associated delays, including reactionary, should be attributed to Network Rail as mis-investigated with delay code ON used” In all of the cases in dispute the delay has been investigated to the correct cause and has been re-attributed to that cause within the contractual timescales. Attributing the delay incidents to ON would not be in line with the DAB’s statement of good practice “to accurately identify the prime cause of delay to train services for improvement purposes”.
- 5.12. Network Rail would like to highlight DAB Process Guide 4, specifically point 7 which sets out if a dispute relates to only part of an incident and it is clear it will not be resolved within the contractual / system timescales, then the disputed part should be removed and allocated to another incident with delay code and responsibility matching the original incident. The secondary incident should then be disputed whilst the original incident should be accepted. Network Rail believes this process to be a sensible approach to reduce disputes but also allows for code matching to take place Network Rail would add that the process of splitting out delays in incidents in this way has been in place for a number of years and is an accepted practice across industry parties.
- 5.13. Network Rail does not see how paragraph 4.6 (i) of the GTR submission is relevant as the removal of incorrect delay is not in question with the incidents that are in dispute.

## **6. Locus of the Board**

- 6.1 The Board reviewed its locus in respect of providing guidance on this issue. The Board's locus to provide guidance is set out in the Network Code Conditions B2.4.3 and B6.1.3.
- 6.2 The Board noted that while it could offer guidance to the parties regarding how incidents of this nature should be attributed, this guidance was not binding on any party. If either of the Access Parties were dissatisfied with the guidance provided they could refer the matter to Access Dispute Adjudication (ADA).
- 6.3 If the issue were referred to ADA, then an Access Dispute Adjudication Panel would be formed to consider the dispute. In doing so, the ADA Panel would take account of the guidance provided by the Board but was not bound by it. The ADA Panel would then make a determination that was binding on the parties concerned. This document is therefore being prepared as the vehicle for providing the guidance and the reasons for how the Board arrived at its position both to the parties and, if necessary, to the relevant ADA Panel.
- 6.4 The Board agreed that it should seek to provide guidance that meets with the delay attribution vision:

"For all parties to work together to achieve the prime objective of delay attribution – to accurately identify the prime cause of delay to train services for improvement purposes".

- 6.5 The Board would need to consider if, in providing guidance, an amendment to the Delay Attribution Guide should be proposed, to improve clarity.

## **7 Consideration of the Issues**

- 7.1 The Board at its meeting on 14<sup>th</sup> March 2017, considered the request for guidance and took account of the following:
- 7.1.1 The facts provided by both GTR and Network Rail in connection with the incident disputed between the parties and their requests for guidance.
- 7.1.2 The information provided by the representatives in response to questions raised by the Board prior to the Board meeting (Set out in Appendix 1).
- 7.1.2 Additional information provided by the representatives of Network Rail and GTR at the Board meeting (Set out in Appendix 2).
- 7.1.3 The guidance provided by the Delay Attribution Guide.
- 7.2 In coming to its conclusion the Board regarded the following points as particularly relevant:
- 7.2.1 That Network Rail had by its own admission not executed the agreed process (as set out in the Charter agreed between the parties) with GTR for incidents requiring to be merged to the Prime Cause incidents.

- 7.2.2 That the element of the ‘Charter’ agreement in place is unique to GTR in terms of identifying and merging reactionary delays to an existing Prime Cause incident.
- 7.2.3 The ‘Charter’ agreement does not set out what happens should the processes in that ‘Charter’ not be fulfilled by either Party.
- 7.2.4 That the resulting incidents in dispute are accepted by GTR to be correct in terms of Delay Code and Responsibility.
- 7.2.5 That the incidents would have been merged to the identified Prime incident had system limitations not prevented it.
- 7.2.6 Delay Code ON should be utilised when correct allocation (cause and responsibility) cannot be made or corrected within contractual timeframes.
- 7.2.7 Delay Attribution is primarily about capturing and understanding delay causation for improving train performance.

**8 Guidance of the Board**

- 8.1 Based on the information presented the Board agreed, by majority vote, the following:
  - 8.1.2 That GTR was wholly responsible in terms of delay attribution for the incidents.
  - 8.1.3 That in line with the Delay Attribution Guide, the incidents should be allocated a Delay Code and Responsibility matching the identified and agreed Prime Cause incident to which the reactionary delays relate.
  - 8.1.4 That the Parties need to review their ‘Charter’ agreement to set out what should happen if processes set out within that agreement are not met.
  - 8.1.5 The Board will review the DAG and Supporting Process Guide Documents to cover the principles and process for merging incidents.

This guidance was approved by the Delay Attribution Board on 11 <sup>th</sup> April 2017	Richard Morris (Chairman)
Signature:	

## APPENDIX 1

### Questions submitted by Board members and the respective responses from GTR and Network Rail in advance of the meeting.

1. The last paragraph on page 5 refers to something as not being in line with the Charter agreement which is appended. It's not clear which part is alleged to have been breached so can this be clearly stated please?

GTR Response: Point 1 and point 2 of the charter agreement. GTR provide an email below as evidence to support the fact that NR SE DA team were aware of the agreement and an instruction was issued by the RPMM to ensure adherence to the agreement. GTR and NR SE came to a clear understanding.

*From: RPMM*

*Sent: Thursday, November 19, 2015 10:37 PM*

*Subject: Management TINs - a reminder of the ground rules for re-attribution*

*Dear all.*

*We continue to see high levels of delay alerts and lots of hard work and help being carried out to re-attribute the TINs. Please see below a reminder of the protocols that need to be followed as this is easy to forget in the heat of the moment. Thanks again.*

*All, please note as a reminder that any re-attribution from a Management TIN to an identified GTR incident should be to a new, separate GTR incident (with references in the freeform to the identified GTR incident) and coded with the same Delay Code as the identified GTR incident.*

*GTR will then assess the attribution in the separate GTR incident and accept/dispute accordingly. If the incident is accepted it will be merged with the identified GTR incident. This requirement is part of the attribution Charter the route has with GTR.*

*Any spare/extra resources involved in the re-attribution of management TINs need to be made aware of and implement this requirement.*

2. On Page 6, it is not clear what the purpose is of including paragraph 4.1 of the extracts from the DAG. Could some context be provided?

GTR Response: The purpose of entering excerpts from the DAG is to demonstrate that we have a process within the DAG which sets out the correct process for attributing delays. Each incident requires a Prime cause delay and any delay without

a reactionary code displays a direct delay to the Prime cause and delays with a reactionary code displays the link to the primary or direct cause of delay.

3. In the second paragraph on page 7 GTR states “This was acknowledged and agreed by the ORR”. Could GTR explain what was acknowledged and how it was agreed?

GTR Response: Thank you for drawing attention to this entry. It is clear that the words GTR have used within the request for guidance are not as specific as they should be.

9<sup>th</sup> February 2015 DAB received a response from the ORR for which DAB had asked several pointed questions. DAB had asked the ORR to comment on their interpretation of the word ‘incident’ used within 6.2 of the Track Access Agreement. The Network Rail interpretation was set out in the question as: Network Rail believes this to apply to all delays and reliability events. The ORR responded: We consider the meaning of paragraph 6.2 to indeed refer to an incident in the sense of an actual event, either one that is created as a new incident or one where ownership of an existing incident is reattributed.

The reason why GTR have used the words acknowledged (recognised as being a good point) and agreed (holding the same view) is: The ORR response appears to agree with the interpretation as raised.

4. In relation to point 4.3, is this a reference to NC Part B? Similar to Q2 what is the point that GTR is seeking to make by including these extracts?

GTR Response: Similar answer to question 2, the reference is to demonstrate the current process dictated by the Network Code. If GTR have misunderstood this question or not answered effectively, please let me know. This will allow sufficient time prior to the DAB meeting to respond.

5. In relation to point 4.5 how is the charter a more onerous Performance Monitoring System? Where is the paperwork to support this? It would need to be signed by appropriately authorised parties from each side as an amendment to the TAC which incorporates the NC.

GTR Response: The Charter supports the onerous Performance Monitoring system. It allows

GTR to identify new delays being added which will require auditing, from those delays which have already been audited. TRUST does not identify attribution of new delays added to an existing incident if it has already been disputed. When you have already audited an incident it is not reasonable to expect the Operator to know what delays were in the incident prior to further delay being added.

Again, this may not have been the best use of words within the GTR request for guidance, however, the point being made is: it provides an Operator with a fighting chance of identifying extra delays. Although GTR does not believe that the TAA supports the process of Network Rail attributing further delays between day 1 and seven, it does recognise the importance of capturing delays that were not attributed on the day the incident occurred. GTR believes that this process agrees with and supports the Network Rail view of all delay known to be the responsibility of GTR needs to be captured but, is easily identified as new attribution. Though stretching the meaning of attributing a 'new event' as per our interpretation of 6.2 of the TAA, it does easily allow an Operator to identify new delay being added rather than having to spend time investigating an incident on several occasion from start to finish, unreasonably increasing the workload of Train Operator DA staff whilst trying to audit the normal daily workload along with reinvestigating already audited incidents for new delay. Had GTR staff not been given the ability to clearly see added delay in this way we would have needed to investigate the same incident each day for 7 days as was the number of days NR spent re-attributing from holding incidents. The new incident containing extra delays was always supposed to be merged into the incident containing the Prime/direct cause of delay.

It is legally recognised that a document does not have to be signed when two parties have agreed by email.

Why do you (person who asked the question) believe the TAA agreement would need to be amended? The process described in the Charter is no different to the process already used. As said, the Charter supports the current system, allowing further delay to be captured which was not attributed on day 1. The TAA agreement assumes NR will have attributed all delays on day 1.

Do you believe that the RPMM is not in a position to authorise an enhancement such as this?

6. In relation to point 4.7, GTR refers to a process; what process is being referred to here?

GTR Response: The process refers to the agreed process within points 1 and 2 of the Great Expectations Charter.

7. In relation to Point 4.8, the 4<sup>th</sup> line refers to a process; again what process?

GTR Response: As above

8. In relation again to Point 4.8, the eighth line uses the phrase "before timing out" - what does this mean?

GTR Response: Before it is too late to remove delays from an incident

9. In relation to Point 5.5 why does Network Rail believe that a statement can only be a PEARS statement? Where does the TAC state this?

NR Response: TAC 6.1 refers to an Initial Statement and that this statement must provide information on the responsibility for incidents and an aggregated summary, by Service Group, of Minutes Delay and cancellations and a full listing of Minutes Delay and cancellations by responsible party. The TAC also states that revisions of the statement can be issued within 7 days.

Network Rail and the operators make use of a PEARS statement as this provides information consistent with the requirements of a Statement according to the TAC, as described above. Network Rail does not believe this is the only means by which the conditions of the TAC can be met but PEARS is certainly the accepted standard method.

10. General: If a train crew report comes back on day 8 indicating a door fault was the reason for a delay and upon checking it was a repeat failure of an outstanding fault for which an incident already existed how would GTR code the incident?

GTR Response: It would be accepted as it is due to the failure to comply with contractual timescales. Bugle root cause captures the failure to comply with timescales. This process resembles 6.4 of the TAA.

11. General: If a Maintenance Depot on day 8 reports a points failure was due to an outstanding defect for which an incident already existed how would NR code the incident?

NR Response: Normally incidents relating to the same defect would be merged. Where incidents causing delays on the same day should have been merged but time / system constraints prevent this, the incident (to be merged) should be amended as far as is possible to fully replicate the original failure incident (incident header and FMS code must be amended to be identical). FMS (Fault Management System) is the NR system dedicated to recording 'faults' whether those faults cause delay or not.

The recoded incident should also have the words "DUPLICATE ASSET INCIDENT" added into the freeform text so that it can be identified as a duplicate for incident count reporting.

There are also additional guidelines to what is (and isn't) appropriate for considering as a repeat failure.

12. General: In both parties' opinion what are the reasons for undertaking delay attribution?

GTR Response:

To understand our business and assist with improvement.

Whilst the attribution of punctuality and reliability is used for the calculations under Schedule 8 of the Track Access Agreement, it is not the reason for undertaking delay attribution. The introduction of Schedule 8 during 1994 came after the introduction of delay attribution.

GTR want to make it clear that at no point has GTR refuted the point that GTR is responsible financially for these incidents.

GTR has disputed the incidents on the basis that Network Rail followed only half of an agreement which ensured the Delay Attribution Guidelines for incident attribution was no longer being followed and paid no mind to the quality of data this would provide to GTR or the industry. The reason for the agreement only being used in part was due to the correct number of staff not being available to attribute delays, which again flouts the DA guidelines.

Despite being advised the previous year by representatives from the Independent NR Performance Team at Milton Keynes that the Route did not have sufficient staff required to cope with the number of delay alerts that were experiencing, NR SE Route did not heed advise. This resulted in undue pressure being placed on the NR and TOC/FOC attributers, as well as unreasonable expectations for output and poor data quality for GTR.

The GTR level 2 staff were advised by the NR level 2 staff that merging incidents was not a priority. The priority was to re-attribute delay from the holding incidents. NR level 2 staff were being utilised to attribute delays from holding tins rather than dealing with disputes from GTR whilst the incidents were live. PEARS edit sets were necessary to remove incorrect attribution during this time.

NR Response:

The reason for undertaking Delay Attribution is to identify causes of train delay for performance improvement planning and to provide data to enable Schedule 8 of the Track Access Contract to operate, allocating responsibility and penalties to the correct party.

That is the opinion of Network Rail, as requested. The Network Code and DAG set out the formal definitions.

13. General: What communication (other than the dispute asking to merge) took place between GTR & NR advising that a TIN required merging or hadn't been completed?

GTR Response:

GTR disputed the incident within TRUST, populated the shared spread sheet, sent a reminder by email and made a telephone call.

GTR were advised on several occasions that merging incidents was not a priority and DRC's were focusing on attributing delays from holding incidents.

NR Response:

GTR disputed the incident within TRUST, populated the shared spread sheet, sent a reminder by email and made a telephone call.

The NR South East route DRC team were faced with an unprecedented level of disputed incidents (as reported previously at DAB ) during the period in which the disputes requesting a 'Merge' were created. The team implemented measures to respond to the level of disputes. These measures included weekly DRC review and planning sessions, a 'sweeper' role (picking up on incidents due to time out), specific reports highlighting priorities including where Merges were required, borrowing resources from other teams to cover tasks, DRC 'sweep up' telephone and face to face sessions near Period ends and frequent joint working with GTR resulting in tweaks to the resolution transaction processes. Other TOC and NR routes are now adopting some practice implemented by GTR and NR South East route

The GTR second paragraph is a view given by a DRC on their task prioritisation on the day rather than Route policy.

## APPENDIX 2

### Additional information provided by Network Rail and GTR during further questioning by Board members at the meeting.

1. Why were the incidents not merged as requested?

NR Response: Entirely down to either oversight or workload at the time.

2. What is the process for merging and why have they not been merged since?

Joint Response: It takes a minute or so to align the incidents and then click to merge. They haven't been merged as the system only allows it to be done within 7 days (in line with the Schedule 8 of the Track Access Contract)

3. Is the non-merging and code matching issue seen elsewhere?

Joint Response (plus member input): It is seen elsewhere but not a common occurrence so accepted as a necessary custom and practice. However the situation with GTR on SE Route is exceptional. Network Rail will code match internal incidents too.

4. When a Management TIN is created are you not aware that there will be further delays allocated to GTR?

GTR Response: It is clear that further delays will be allocated to GTR over the ensuing days but GTR does not know which delays will be or where they will actually go. When delays are added to an already disputed incident there is no system flag to identify they have been added or which ones they are. That is why the process for creating new incidents was agreed by the Parties.

5. Is the Charter a jointly agreed document?

Joint Response: Yes, it was designed to enable both Parties to work closely together to improve process and achieve our aims.

6. Does the Charter set out what you do where processes within the Charter are not fulfilled?

Joint Response: No.

7. In the paper incident 838038 is cited as an example. Interestingly in the GTR dispute text it sets out the incident is Code Matched is case it is too late to merge'; is this not accepting the fact that the merges may not happen?

GTR Response: That was entered by the GTR Level 1 team who are requested to ensure they are code matched in line with the process.

8. In the questions asked prior to this hearing, specifically question 10, GTR has not actually answered the question as to what they would do should they identify post day 7 an incident that should have been merged to one of their own (i.e. GTR process rather than NR) – is it code matched or left as already coded?

GTR Response: They would be left as originally coded and not code matched as the process wasn't adhered to internally.

9. What is the status of your Charter – is it binding?

GTR Response – Yes, we believe it is

NR Response – No, it is an agreed process in good faith to improve the relationship

10. Why does GTR believe ON better reflects the cause of the delays?

GTR Response: Delay Code ON describes why the delays were not attributed to the appropriate TIN and reflects the process failure.

11. Would ON not give improved incentives to improve staffing levels?

NR Response: Staffing levels are being increased regardless of ON delay Code usage. The SE Route has a programme of recruitment and restructuring ongoing currently.

12. Is Network Rail confident that measures in place will prevent this happening again?

NR Response: Improved processes and resources will certainly make it less likely but will not eradicate it completely, errors and oversights can always happen.

13. Are the processes in the Charter reflected in your Track Access Contract given the reference to a 'more onerous system' in your response?

GTR Response: No, the Charter is about process enhancement it doesn't change the Track Access Contract.

NR Response: Not seen as contractual but it is evident that by trying to overcome one problem we have created ourselves another.