
Guidance No: DAB-42

Allocation of Responsibility for delays due to lodging turns

1. Introduction

The Delay Attribution Board (the Board) received a Request for Guidance in connection with the allocation of TRUST incident 303045.

- 1.1. The Board received this joint Request for Guidance from Serco Caledonian Sleepers and Network Rail Infrastructure Ltd, Scotland Route, (Network Rail) on the 11th April 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 discussion at the required levels of escalation a solution has not been agreed.
 - 1.2.2. To provide guidance regarding the responsibility and attribution of incidents where train crew are late booking off for their required rest period then late booking back on duty during the same day.
 - 1.2.3. Whether, in this circumstance, allocation would be to Operator responsibility or as a reaction to the reason for the late arrival of the original inward service.

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 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.

3. Factual Background to the incident

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

3.1.1 The Serco Caledonian Sleeper service 1M16, the 20:44 Inverness to London Euston on 15/06/16, had a twenty minute late start from Inverness.

3.1.2 The reason for the late start was identified as due to awaiting Sleeper Team Leader and hosts for the service. These staff had previously worked 1S25 the 21:16 London Euston to Inverness service on 14/06/16

3.1.3 The Sleeper Team Leader and hosts had arrived into Inverness on 15/06/16 one hundred and eighty seven minutes late. These staff are required to lodge in Inverness prior to their next turn, being London-based crew. The lodging period is required to be consistent with the required minimum rest period between turns. The reason for the late arrival into Inverness was due to a Network Rail responsible incident 300953 (Lamington Viaduct faulty monitoring equipment).

3.1.4 The initial attribution was to Delay Code TG (Driver) – TESA (Caledonian Sleeper Train Crew Default) as it was not known at the time which train crew were late to the train. The incident remains coded TG.

3.1.5 The incident was disputed by Caledonian Sleepers on the basis that 1M16 was a late start due to awaiting the on-board crew who had been delayed on 1S25 on the morning of 15/06/16, with a request to merge to 300953. This merge was not undertaken by Network Rail Level Two.

3.1.6 The incident has been discussed at Level Three and Level Four within the Delay Attribution and Resolution hierarchy within both organisations but no agreement was reached.

4. Operator's View

- 4.1 Caledonian Sleeper services are unique in that the on-board team – Team Leader and three sleeper hosts – work on an ‘out and back’ basis, with crews based in London and Scotland. On a Sunday night, London Crews work north and Scottish crews work south, lodging at the respective destinations before working the opposite direction the next night. So London crews work north on Sunday, Tuesday and Thursday nights, and south on Monday, Wednesday and Friday nights. Scottish crews work the opposite pattern. There is no sleeper service on a Saturday night.
- 4.2 As a consequence, the only staff available to work the sleeper service on any particular night are either those staff starting a two day lodging turn, or those who are midway through it. There are no spare staff available to ‘step up’ in the event of late running, because the roster is constructed on an ‘out and back’ basis.
- 4.3 On the night in question, a London crew had worked north. Their shift had started as booked at 1945, and was due to finish at 0855. There is a requirement for a minimum nine hour rest period to be taken before commencing their southbound shift, due to commence at 1930, finishing at 0815 the next day in London.
- 4.4 As described above, 1S25 had been delayed by a spurious alarm at Lamington Viaduct, and so had not arrived in Inverness until 1145. The on-board crew had therefore been on duty for 16 hours. The minimum rest period of nine hours meant that they could not take duty until 2045, which is just after the booked departure time of 1M16 at 2044. The service departed at 2106, 20 minutes late, because of the requirement for the crew to prepare the train and check customers on board prior to departure. This process normally takes around an hour, but the team’s efforts meant the train was ready to depart at 2106.
- 4.5 The southbound turn is a 12 hour 45 minute shift, so Caledonian Sleeper believe it is entirely reasonable for the crew to have taken their minimum nine hour rest period following the 16 hour northbound shift, to be ready for the following 12 hour 45 minute shift.
- 4.6 There were no other Caledonian Sleeper crew available in Scotland who could have worked 1M16 punctually as the Scottish crews were in London to work northbound services. Equally it is not possible to work the service with fewer crew because staffing levels – one member of staff per two vehicles – are mandatory as a result of the specific fire regulations relating to the operation of sleeper services.
- 4.7 Caledonian Sleeper believe therefore that there was no opportunity to mitigate the late start to 1M16 on 15th June and therefore the delay should be attributed to the root cause of the 187 minute late arrival of 1S25 that morning.

5. Network Rail's View

- 5.1. It is Network Rail Scotland Route's view, notwithstanding the unique challenges and operational requirements the Caledonian Sleeper franchise involved, that DAG 4.7.2 would apply in this scenario and therefore 1M16 late start from Inverness on 15/06/16 should be allocated to the operator of the train involved.
- 5.2. It is Network Rail Scotland Route's view that this incident is similar in nature to DAB 39 previously submitted by VTEC (late start to a VTEC service at Inverness which also involved a lodging rest turn) and therefore the guidance received in DAB 39 would apply to this incident also.

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 either 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 (ADA 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 9th May 2017, considered the Request for Guidance and took account of the following:
 - 7.1.1 The facts provided by both Serco Caledonian Sleepers and Network Rail in connection with the incident disputed between the Parties and their Request 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 Caledonian Sleepers and Network Rail at the Board meeting (Set out in Appendix 2).
 - 7.1.3 The guidance provided within the Delay Attribution Guide and any prior related DAB Guidance.

- 7.2 In coming to its conclusion the Board regarded the following points as particularly relevant:
 - 7.2.1 The guidance provided in DAB39.
 - 7.2.2 DAG Paragraph 4.7.2
 - 7.2.3 The Sleeping Car Attendants book off and back on duty as part of the diagramming arrangements (the 'lodge' is not considered to be a PNB within one diagram).

8 Guidance of the Board

- 8.1 Based on the information presented the Board agreed, unanimously, the following:
 - 8.1.2 That Serco Caledonian Sleepers was wholly responsible in terms of delay attribution for the incident.
 - 8.1.3 That in line with the Delay Attribution Guide, the incident should be allocated to Operator Responsibility.
 - 8.1.4 The Board did not believe a review of the DAG was necessary in this instance.

This guidance was approved by the Delay Attribution Board on 6 th June 2017	Richard Morris (Chairman)
Signature:	

APPENDIX 1

Questions submitted by Board members and the respective responses from Serco Caledonian Sleepers and Network Rail in advance of the meeting.

Caledonian Sleepers:-

Q - Can it be confirmed if the crew book off duty and, if so, the time between trains was theirs e.g. they could have an alcoholic beverage if they chose to or whether they were bound within company T&C's?

A - The crew are booked off duty for the minimum rest period but will of course be bound by the company D&A policy and therefore consumption of alcoholic beverages etc. is unlikely to occur.

Q - Can it be confirmed when they resumed duty whether it was to a new diagram number, or the same one of their inward working?

A - There is no diagram number as such but the overall rostered turn is from start in London to finish in London two days later with the rest period described above within that overall spread. The 'inward' turn is therefore not a 'new' turn.

Q - Can it be confirmed if the opportunity had existed that cancelling a train in full and replacing it with a Non applicable VSTP is within their business model and operating practices?

A - Given the relatively short duration of the late start this was not considered on this occasion; cancelling services and replacing with non-applicable VSTP schedules is not generally within our operating practices.

Q - Can it be confirmed that if a discussion took place with regard to the late start with Network Rail and what was agreed as the mitigation?

A - Control to control discussion took place; it is generally possible for sleeper services to make up for late starts given the nature of schedules, which are timed at a lower speed than the theoretical maximum and also allow for the effect of engineering work (cover speeds etc); it is also possible to miss stops if no passengers are booked to be set down (as this is a reservation only service).

Q - Can it be advised whether the staff involved are safety critical?

A - The staff are not safety critical in the normal sense of that term but the fire regulations for operation of sleeper trains require them to be present for the train to run, to an agreed ratio of staff to sleeper coaches (typically 1:2 or 1:3 in emergencies) – therefore the train cannot run with passengers on board unless these staff are present.

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Q - What contingency arrangements are in place for an emergency?

A - These would be dealt with on a case by case basis – given the sleeper operates one train per day on each route it is normally the preference to continue to destination, even if late, as opposed to cancelling or terminating short. In these situations staff would be deployed according to circumstances for the following night. We have a suite of contingency plans which normally involve diverting around a problem as the preferred solution.

Q - What risk assessments have taken place with regard to having such a limited number of crews on such long shifts?

A - The current operating practices have been in place for some years and generally work well; all necessary risk assessments with respect to fatigue and shift length have been carried out with no significant issues identified. It would not be economical or practical to have spare staff deployed at the outstations in case of late arrivals, as the 'core' staff would still have to be conveyed back to their home station, and as described above there is a minimum requirement of staff per train (team leader, three hosts and train manager) to comply with fire regulations.

Q - What mitigations are in place should a member of staff report in sick or unavailable for other reasons – e.g. are there any spare / flexible cover turns?

A - There are spare turns available on the evenings of departure from home stations, i.e. Sunday, Tuesday and Thursday. Should a member of staff become unavailable for work on the 'return' leg then there are emergency procedures to provide the necessary level of cover for fire regulations.

Q - Why were there no cover crew available in Scotland on the day in question?

A - As described above cover crew are only available on the night of departure from home station, for covering an 'out and back' turn; out with these nights, as on this occasion, no spare cover was rostered – it would be impractical and uneconomic to do so given the minimum level of staffing required to work each train.

Network Rail:-

Q - Can it be confirmed that if a discussion took place with regard to the impending late start with Caledonian Sleepers and what was agreed as the mitigation?

A - From what can be seen in the control logs, no discussion took place though it is suspected this would need to have been initiated by CS as NR would not have their diagrams.

Q - Can it be confirmed that when it was identified that there would be a late start on 1M16, if a viable VSTP path existed that could be offered?

A - The late start appears to have been identified when the train departed Inverness late. It is likely 1M16 could have been offered a viable VSTP as it has a great deal of recovery potential.

Q - Can it be confirmed if Network Rail would have accepted accountability for a full cancellation of the service if / when it was superseded by a Non applicable VSTP schedule?

A - It is NR's opinion that DAB39 would apply to that also as the cancellation and VSTP request would still be the result of crew booking off. This is where CS find it difficult to arrange an emergency TT as the incident happened post 2200 the day before but their first service affected 'indirectly' is at 2044 (19hrs after the original incident delaying the inward working occurred) therefore a P-code is not suitable either.

Q - With regard to DAB 39, in this case does it make a difference that these services were planned to terminate and commence on the same day?

A - DAB39 was simply about crew booking on and booking off therefore NR Scotland does not believe this makes a difference.

Q - If so, why should the same rules apply in this case?

A - N/A

Q - Does the fact that the staff are (believed) not safety critical make any difference?

A - NR Scotland believe they were safety critical as they are required to man the coaches however if a train was waiting on other non-safety critical staff I would expect the operator to accept that incident regardless as the train could safely depart and run as booked. It would be the operator's decision therefore to hold the train at that point for staff who are not essential to the safe operation of a train service.

APPENDIX 2

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

Q – Did the train involved arrive in London right time?

A – The train did arrive in London on time due to Recovery Time within the Train Schedule (to allow for possible diversions) and that it is timed at 80mph for comfort but can, when late, run at a faster speed.

Q – Did Caledonian Sleepers approach Network Rail to retime the departure?

A – Retiming was considered but due to the restricted paths on the Highland Main Line retiming is not always possible and thus it is preferable to manage it through Control arrangements.

Q – Could Network Rail confirm why they believe DAG 4.7.2a does not apply?

A – On the basis that the exception is understood to only apply where the train crew do not book off duty and back on again – i.e. they are still on the same duty.

A – Caledonian Sleepers added that they consider the out and back workings as a single duty.

Q – Could Caledonian Sleepers advise why they believe DAG 4.7.2 doesn't apply and why this incident is different to DAB39?

A – The Sleeper service is unique with the provision of Sleeper Car Attendants being different to normal crew working arrangements. Caledonian Sleepers appreciates the intent of DAG 4.7.2 and DAB39 but do not believe they are appropriate in this case.

Q – Could Caledonian Sleepers confirm if the Sleeping Car Attendants are or are not on the same turn of duty as the previous response and prior advice seem to conflict?

A – They are considered to be one turn of duty as the crew are diagrammed to work that specific train to Scotland take rest and work the specific train back to London. Each diagram is worked by one individual out and back. They do book off and on again but are still required to comply with the company's Drugs and Alcohol policy

Q – What do the drivers and guards do in terms of diagramming?

A – GBRf provides the driver for the Sleeper with a driver working from Perth to Inverness and a new driver is provided for the return working. The guard is provided by ScotRail and again a new guard is provided for the return working.

Q – Apart from the late start to the train in question was there any reactionary delay and where did the Sleeper regain its time?

A – There is a 7 minute reactionary at Aviemore and the train had recovered to be on time by Edinburgh.

Continued...

Q – Do Caledonian Sleepers have crew based at Inverness – is it similar to the VTEC situation in DAB39 that it is not economically viable?

A – There are crew are based in Inverness but once they have worked their train to London there will be no crew available or booking on at Inverness. The next day working is the return working for the London crew (as in this incident). Similar to VTEC having spare crew for such an eventuality is not practical or viable as five people would be required in Inverness and London every day.

Q – Given the length of the overall turn (over the 2 day diagrams) are there any crew in Inverness that are effectively 'off duty'?

A – There are crew off duty but not in sufficient numbers to actually work the train – usually only 2 who will be off on any given day.

Q – Do Caledonian Sleepers sanction overtime or Rest Day working to mitigate delays?

A – Caledonian Sleepers will permit both but in terms of the Sleeping Car Attendants five are required and there would not be five available for RD working even if it was agreed so the Service would only be part covered and the five booked crew would potentially be left behind.

Q – Is this scenario a one off or has it happened before – if so how was it attributed?

A – Generally good performance has restricted this situation and previous occurrences have seen it occur when a fresh crew are booking on to commence their 2 day diagramming stint so the late start was effectively mitigated (i.e. the late inward crew had finished their 2 day diagram and were not on a lodge turn at that point).