
Guidance No: DAB49

Attribution of Responsibility for Rolling Stock provision after previous day displacement

1. Introduction

The Delay Attribution Board (the Board) received a Request for Guidance in connection with the attribution of delays and cancellations due to rolling stock provision as a result of its displacement due to an incident the previous day.

- 1.1. The Board received the Joint Request for Guidance from First MTR South Western Railway (South Western Railway) and Network Rail; Wessex Route on the 21st October 2019.
- 1.2. Summary of the submission:
 - 1.2.1. Guidance from the Board was sought for the resolution of an issue which has been progressed through the relevant process but for which no resolution has been achieved.
 - 1.2.2 For the Board to provide guidance in relation to delays and cancellations caused by rolling stock shortages as a result of displacement from an incident the previous day.
 - 1.2.3 For the Board to provide guidance on whether the responsibility for the incidents should be allocated to Network Rail or to South Western Railway.

2 Factual Background to the Incidents

- 2.1 TRUST Incident (651554) was created on 12th December 2017 for stock shortages which the result of stock displacement following disruption caused by an impedance bond explosion on 11th December 2017 at Waterloo.
- 2.2 The impedance bond incident occurred at 0850 on the 11th December as 2M16 pulled away from W2 signal at Waterloo.
- 2.3 At 11.25 the agreed service reduction plan cancelled 8 paths per hour in each direction between Waterloo and Clapham Jn, mainline cancelled 2 paths per hour plus ad-hoc interventions where crew or congestion allowed. 2 platforms were opened at Waterloo WIT.
- 2.4 At 15.30 it was agreed that Train Service reduction plan will remain in place.
- 2.5 At 17.33 normal working resumed (except Platform 1)
- 2.6 At 18.15 a Service Recovery Time Out was held and it was agreed to maintain the current service interventions.
- 2.7 At 20.00 concerns were raised over stock displacement (logged in CCIL at 2051).

“Real concerns about stock displacement, we have got the option of delaying possessions but there is no guarantee there will the train crew resource in place to do any additional moves. “
- 2.9 Service Recovery completed at 02.00 (close of service) on 12th December 2017
- 2.10 Stock displacement timeout held at 01.30 on 12th December 2017
- 2.11 TRUST Incident 651554 was created for stock shortages created at 07.52 on morning of 12th December 2017

Note: Relevant Control Log entries were attached for reference but are not included in this Guidance Note.

3. Requirement of the Board

- 3.1 The Delay Attribution Board was asked to review the specific circumstances relating to this incident and provide guidance as to which party they believe is responsible for the delays and cancellations caused by stock shortages as a result of stock displacement from a previous day's incident.
- 3.2 South Western Railway contested that the incident should be code matched to the previous day's incident - TIN 648892 the impedance bond failure at Waterloo.
- 3.3 Network Rail Wessex Route believed the existing attribution to South Western Railway is correctly allocated as MS/MHYA for failure to provide stock to deliver the agreed plan of the day service.

4. South Western Railway's View

- 4.1 Exception L2.3a of the DAPR should apply in this case as the agreed mitigation plan put in place on the 11th December meant the impact of the incident continued to the end of service with an SRCT end time of 02.00 (on the 12th).
- 4.2 The DAPR is not clear on the definition of an incident ending. The service mitigations were agreed to carry on long past the normal working time until the end of service.
- 4.3 The “normal working” time of 17.33 is 1 hour and 33 minutes into the evening peak train service meaning that 290 vehicles were “trapped” at Clapham Yard and Wimbledon depot as the trains had been cancelled to protect PPM and reduce the lateness across the network. This left SWR 50 vehicles short for the AM peak the next day affecting 17 trains.
- 4.4 The train crew for these services were utilised on their booked next workings in order to mitigate further delays to the train service on the 11th December.
- 4.5 The 20.00 timeout was too late to formulate a recovery plan as the available traincrew resources were working next booked services.
- 4.6 A plan of the day amendment was not agreed. Network Rail Wessex Route did not push to agree an amendment for the next day. The stock displacement time out was held at 01.30 on Thursday 12th December and was too late to amend the plan of the day.
- 4.7 Stock moves were not requested from the evidence provided in the log despite Network Rail's offer to hold off possessions as no crew resources available as they had been used to maintain the existing train service.
- 4.8 Service Recovery had not been completed by 22.00 and no advice in log that possessions were planned to be cancelled or taken later. At 22.30 21 trains were 20+ late, 21 trains were 10-19 late and no clear plan to balance stock agreed in log.
- 4.9 SWR request that this incident is code matched to TIN 648892, the Impedance Bond failure at Waterloo, as the incident was still impacting the train service past 22.00 and NR Wessex Route did not push to agree stock balancing or amendments to Plan of the Day on 12th December 2017.

5 Network Rail's View

- 5.1 Network Rail believe that DAPR Section L2 applies.
- 5.2 DAPR L2.2 states that *"it is the responsibility of the train operator to provide the diagrammed rolling stock as per the agreed plan of the day 22:00, the day prior to operation"*
- 5.3 SWR state that L2.3(a) applies in this incident which NR do not agree with. The incident occurred at 08:50 on 11th December and concluded pre 22:00. There was also no request from SWR and therefore no agreement between NR and SWR to amend the train plan the next day.
- 5.4 In response to SWR point 3.1, Network Rail do not believe the principles of DAPR L2.3(a) relate to ongoing service recovery but the infrastructure restriction itself. The 02.00 SRCT time is often utilised as the default as being in line with the close of service.
- 5.5 DAPR L2.3(b) exception does not apply as no mitigation request was made by the operator to amend plan of the day and NR did offer to take possession late to enable stock movement which was not taken up by SWR.
- 5.6 In response to SWR 3.6 above there would be no reason for Network Rail to insist on or push for the operator to amend their plan of the day as Network Rail are not in a position to understand the operator's stock situation unless advised by SWR.
- 5.7 There was no restriction on the network on 12th December that would require Network Rail to request SWR to amend the plan
- 5.8 If possessions had been taken late as a result of this incident then any overruns would have been coded as possession overrun, I5, as per DAPR regardless of the reason for possession being taken late and not to the impedance bond incident
- 5.9 DAPR L2.3c and d exceptions do not apply as no revised plan was agreed or put in place
- 5.10 As none of the DAPR L2.3 exceptions apply then L2.2 must apply and thus the incident should remain coded to SWR as not having the stock to resource the agreed plan of the day.

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 Party regarding how incidents of this nature should be attributed, this guidance was not binding on either Party involved. 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 was 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 would not be 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 Principles and Rules should be proposed to improve clarity.

7 Consideration of the Issues

- 7.1 The Board at its meeting on 19th November 2019 considered the Request for Guidance and took account of the following:
 - 7.1.1 The facts provided by South Western Railway and Network Rail in connection with the incidents disputed and the Joint Request for Guidance submission paper.
 - 7.1.2 The additional information provided by South Western Railway and Network Rail in response to questions raised by the Board prior to the Hearing (Set out in Appendix A).
 - 7.1.3 The additional information provided by South Western Railway and Network Rail in response to questions raised by the Board at the Hearing (Set out in Appendix B).
 - 7.1.4 The guidance provided within the Delay Attribution Principles and Rules (as was in place at the time of the incidents) and any other related DAB Guidance documentation.

- 7.2 The Board regarded the following points as particularly relevant during discussion of the incidents:
- 7.2.1 That South Western Railway is responsible for the provision of rolling stock.
 - 7.2.2 That Network Rail did offer South Western Railway the opportunity to balance stock (to delay taking possessions if required) but was not taken up by South Western Railway.
 - 7.2.3 That the incident concluded at 17.33 (line clear) and not at the end of service recovery at 02.00.
 - 7.2.4 That South Western Railway concentrated on running and recovering the service on the previous day utilising all available stock and crew.
 - 7.2.5 That South Western Railway SWR did not consider the next day's service plan as part of the service recovery plan on the previous day.
 - 7.2.6 That Joint Controls (where in place) are deemed to be working on behalf of both parties and should not be cited as being one party or another (staff are effectively acting as an agent to the other party when decisions are made, or actions taken)
 - 7.2.7 That Network Rail will only initiate a revision to the next day's train plan if there is an infrastructure restriction. It is for South Western Railway to initiate any plan amendments relating to stock or train crew (often necessitating compliance with DfT Franchise conditions)
 - 7.2.8 There was no request made by South Western Railway to amend the next day's service plan to reflect any stock shortages due to displacement of stock.
 - 7.2.9 Linking next day stock shortages to the previous day incidents (whoever was responsible) would remove the incentive for South Western Railway to mitigate the ongoing impact.
 - 7.2.10 That DAPR L2.2 applies to the circumstances set out in this submission
 - 7.2.11 That no exceptions under DAPR L2.3 are applicable in this instance.

8 Guidance of the Board

- 8.1 Based on the information presented, the Board agreed, unanimously, the following: -
 - 8.1.1 That South Western Railway is responsible for the incident relating to stock provision due to displacement as a result of a previous day’s incident.
 - 8.1.2 That Delay Code MS applies in this scenario as presented to the Board.

- 8.2 In reaching its conclusion the Board also noted the following points:
 - 8.2.1 The DAPR needs to be amended to clearly stipulate that for attribution purposes the end of the incident is deemed to be when normal working resumes (i.e. the event itself has ended) and is not related to either the agreed SRCT time and or any ongoing reactionary delay or train service disruption continuing.

This guidance was approved by the Delay Attribution Board on 17 th December 2019	Jim Pepper (Deputy Chair)
Signature:	

APPENDIX A

Additional information provided by SWR and Network Rail in response to questions by Board members prior to the 19th November 2019 Hearing.

Question 1 – In relation to Factual Background point 2.1 – In the facts it is stated that platform 1 was not back in use after the failure was rectified. Could Network Rail advise at what time the availability of platform 1 was regained and as to whether the continued loss of platform 1 impacted service recovery?

Response (NR) – Platform 1 was back in use for the start of the next day's service. Final repairs were carried out in a planned possession which was extended to ensure repairs could be made and rectified at 0430

The loss of platform 1 for the remainder of the day did not hamper service recovery as at 1245 Platform 21 & 22 were opened. At the time of this event the timetable was based on using Platforms 1-19 only and the old international platforms were only opened in the case of major disruption.

Question 2 - In relation to Factual Background point 2.9 – Was it an Operational decision / reasoned agreement for Service Recovery not being completed until 02.00 or is it normal practice to continue until close of service?

Response (NR) –According to CCIL it appears this was the agreed time. However, when major disruptive events occur service recovery often continues until close of service.

Question 3 – In relation to SWR Point 3.5 - Did SWR consider stock displacement and resulting stock positioning requirements for the next day as part of the ongoing service recovery or did they consider it separately and or only at close of service?

Response (SWR) – Yes. Stock displacement is considered but the agreed contingency plan for this incident was to keep stock on depots to minimise overall disruption. In the past we've run everything, bought Waterloo to a stand and caused 1000 of mins and cancellations and a significant safety issue.

Question 4 – In relation to SWR Point 3.6 - Why do SWR believe that it was for Network Rail to initiate a change of the plan for the next day when it was related to stock provision (and not infrastructure availability)?

Response (SWR) – As per the Track Access Contract NR should take the lead. NR are accountable for industry PPM. NR did instigate a discussion as per the log entry but no plan was agreed. Section M of the DAPR therefore applies.

APPENDIX B

Additional information provided for clarification purposes by SWR and Network Rail during questioning by Board members at the 19th November Hearing.

Question 1 – SWR state it believes NR should lead the implementation of any recovery plan including the next day service provision – is SWR citing a NR failure to mitigate for not doing so, but why didn't SWR approach NR with a request?

Response (SWR) – At the time it was a Joint NR and SWR Control so under the overall control of the NR RCM so considered that NR should have led the process.

Response (NR) – The log entries confirm a service time out whereby SWR were offered the opportunity to balance its stock by NR taking possessions late to assist but not taken up by SWR.

Question 2 – Why were there cancellations still occurring at 20.00 (on the 12th) – are these linked to the stock issues that morning?

Response (SWR) – Yes, the attribution of those cancellations is agreed with NR as being linked to the stock shortages that morning.

Question 3 – How many trains do SWR run and do SWR think that other TOCs of similar size and operation manage to recover stock for the next day?

Response (SWR) – Circa 1600 trains per day and recovery is through recovery or re-planning, but SWR don't have specific resource available being a joint control.

Question 4 – If SWR has agreed the SRCT completion time as 0200 then surely, by default, any cancellations after that time should be considered a new incident?

Response (SWR) – SWR utilised all available stock and crew to mitigate and manage the service on the 11th so there was little available resource to recover for the next morning.

Question 4 – Network Rail are only responsible for the infrastructure and the timetable itself and not the provision of train crew or train resource. Surely it is for SWR to manage those aspects?

Response (SWR) – Service Recovery is a NR Control led process and it was too late to agree a revised plan for the next day.

Point Recorded – There was no infrastructure restriction on the next day (12th) so why would NR initiate a revised plan.

Question 6 – Within SWR who, if anyone, should be looking at the next day’s plan as part of the service recovery plans? Does SWR have contingency plans that cater for stock recovery as well as service recovery?

Response (SWR) – The incident carried on until 0130 on the 12th so it had continued into the next day.

Question 7 – The log states the incident finished at 1733 but it was the disruption that continued until 0130. At 2051 the log entry stated there was concern raised about the next day’s stock provision so there was awareness, but nothing seems to have been done about it?

Response (SWR) – SWR haven’t got the personnel or train crew resource to look at and mitigate the next day’s service when the current day is so heavily disrupted. All focus goes on providing the train service on that day. With such a complex railway SWR won’t always know where its stock is or where it will end up at close of service.

Question 8 – Would late running trains not end up in the right place but just later?

Response (SWR) – Not necessarily as some trains will be cancelled, terminate short or be diverted as part of the overall recovery of service, so stock and train crew will be displaced from booked workings.

Question 9 – Could NR confirm that had it delayed its possessions to allow for stock balancing, where would NR have attributed any resulting overruns on the 12th

Response (NR) – To a new Prime Cause of possession overrun regardless of the reason for its late start.

Question 10 – Do SWR factor in stock recovery as part of its contingency plans and or have the plans been adjusted since this incident?

Response (SWR) – The contingency plans reflect the service provision and recovery for events where a line of route is blocked but doesn’t consider where specific stock runs or ends up as there are too many variables to factor in.

Question 11 – Are relevant stock or crew restrictions highlighted in the recovery plans?

Response (SWR) – No, it would be too difficult to keep it updated with individual depot route knowledge, service recovery is generally considered on a train by train basis based on the crew’s route knowledge and stock allocation.

Question 12 – Can the parties confirm their exact guidance request in respect of the DAPR entries quoted.

Response (SWR) – SWR believes the incident should be merged (re-coded) to the infrastructure failure on the 11th per DAPR L2.3 exceptions.



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Response (NR) – NR believes the incident should be coded to SWR per DAPR L2.2 as the exceptions in L2.3 don't apply.