
Guidance No: DAB50

Attribution of Responsibility for Service Recovery affected by points being out of use.

1. Introduction

The Delay Attribution Board (the Board) received a Request for Guidance in connection with the attribution of various TRUST incidents involving additional delays caused by a set of points being out of use and hindering service recovery

- 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 is 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 To provide guidance from the Board in relation to additional delays caused by a set of points being out of use that hindered service recovery.
 - 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 Incidents that form this Request for Guidance are: -

- 132414 2G23 Unit Failure Wimbledon on 22nd June 2018
- 188908 1D45 Driver Wimbledon on 12th July 2018
- 508283 2H59 Ill Passenger Wimbledon on 29th October 2018

2.1 The above 3 incidents are 'duplicate incidents' and contain ONLY the disputed reactionary delays from the original Prime Cause incidents (which have been accepted by SWR).

2.2 The disputes relate to the unavailability of 722 points at the London end of Wimbledon station due to the points being plain-lined and out of use.

2.3 In all three incidents the prime train involved was standing in Wimbledon station in Platform 8 on the Down Main Slow. 722 points would have enabled a train, in rear, at W183 to cross over to the Down Main Fast and pass through Wimbledon on the Down Main Fast line crossing back to the Down Main Slow at Wimbledon West Jn on the country side of Wimbledon station.

2.4 Between London Waterloo and Wimbledon the only other set of points available to cross trains from the Down Main Slow to Down Main Fast is at the London side of Vauxhall station so the impact to the train service is to "trap" trains on the Down Main Slow between Vauxhall and Wimbledon with services having to wait for the primary train to move from Platform 8 at Wimbledon.

2.5 The points are not required to be used for the planned service and no alteration to the plan of the day was required as a result of 722 points being plain lined. The points had been out of use since 14th February 2018 with no impact to the planned train service.

2.6 The parties believe there is no clear guidance in DAPR to aid resolution of these incidents.

3. Requirement of the Board

- 3.1 The Delay Attribution Board was asked to review the specific circumstances relating to these incidents and provide guidance as to which party they believe is responsible for the additional delays caused by a set of points being out of use and hindering service recovery.
- 3.2 SWR believed that this should be considered a new Prime Cause and the attribution should reflect 722 points being out of use and attributed to IB/IQCX
- 3.3 Network Rail Wessex Route believe the current attribution is correct and the incidents should remain code-matched to the original Prime Cause as the 722 points had not failed and their unavailability had been reflected within the Plan of the Day.
- 3.4 Both Parties also request DAB to provide guidance on whether it believes attribution would be different in circumstances where infrastructure is out of use and did require an amendment to the plan of the day (which was actioned) but a new Prime Cause incident would again have the impact mitigated if this infrastructure was available for use.

4. South Western Railway's View

- 4.1 SWR believe that the delays caused by 722 points being unavailable should be considered a new Prime Cause incident and attributed to the infrastructure being out of use, in this instance 722 points, as this hindered recovery and exacerbated the impact to the trains trapped between Vauxhall and Wimbledon.
- 4.2 There is no specific guidance in the DAPR regarding infrastructure being unavailable but having no impact on the Plan of the Day.
- 4.3 If 722 points had failed on the day when being used to cross trains to the Down Main Fast a new prime cause would have been created and attributed to IB/IQCX as per DAPR.
- 4.4 No Network Change had been applied for and the points should be available as per the Sectional Appendix. This impacts incident 508283 on 29th October 2018 as it was over 6 months since 722 points had been taken out of use

5 Network Rail's View

- 5.1 Network Rail believes that the incidents should remain with the initial incidents rather than a new Prime Cause for 722pts. This is due to the fact that the points had been plain lined since the 14th Feb 2018 and require no change to plan of the day (i.e. the plan of the day reflects that 722 points are not planned to be used).
- 5.2 Network Rail therefore believes that the plan of the day reflecting 722 points being out of use constitutes a 'planned' event. Attribution (as governed by Schedule 8 of the Track Access Contracts) is applicable to (and payable for) unplanned events.
- 5.3 Network Rail maintains that without the SWR incidents occurring no delay would have occurred due to the unavailability of 722 points (as above, the plan of the day reflected their non-availability).
- 5.4 In response to SWR 3.4 only the last incident 508283 is over the 6-month timeline for a Network Change to be applied. However, the unavailability of 722 points had no impact on the base timetable and the intention was always to fix 722 points which was completed in Week 34 (November 2018)
- 5.5 Network Rail believe that the Prime Cause of Delay is the SWR incidents / events (train failure, driver issue and passenger ill as set out in Section 2). Without these events no delay would have occurred irrespective of 722 points being out of use.

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 incident(s) occurring) 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 Network Change process shouldn't influence attribution although at the same time noting that compensation could still be sought by SWR through the Network Change process outside of attribution.
 - 7.2.2 That whilst Network Rail should be incentivised to repair its infrastructure this can be achieved through other mechanisms (e.g. see Network Change above) and not necessarily attribution and Schedule 8.
 - 7.2.3 That 722 points being out of use should be considered as 'planned' as the points were not planned to be used for any booked movements in the 'Plan of the Day' (no amendments to the plan were required)
 - 7.2.4 That the same principles would apply if the 'Plan of the Day' had been amended to reflect 722 points being out of use (effectively Network Rail would be mitigating the points' impact on services)
 - 7.2.5 That regardless of whether the appropriate notification had been provided to SWR in relation to 722 points being out of use (unconfirmed), the delays that occurred on the days in question would still have been of the same magnitude (i.e. any notification would not have changed what happened on the day)
 - 7.2.6 Whilst 722 points should be an available asset and could be used for contingency reasons, any mitigating crossing moves are ordinarily carried out at Vauxhall.
 - 7.2.7 That 722 points being out of use caused no direct delay on previous days. The delays only occurred as a result of the SWR incidents blocking the Down Slow line at Wimbledon.
 - 7.2.8 That attributing the delay to the 'trapped' trains into a new incident for 722 points would effectively mean the SWR (unplanned) incidents blocking

the Down Slow line would not be allocated any of that delay (when in effect the SWR incidents were the direct cause of that delay)

- 7.2.9 That there would be wider implications if those principles were applied. A delay could then be allocated to the reason a diversion can't be utilised rather than the immediate cause on a train's booked route / line (a reverse situation could occur where delay due to a Network Rail infrastructure incident is then allocated to an Operator incident blocking the diversionary route)
- 7.2.10 In situations such as this (and potentially where two unplanned incidents occur simultaneously) that any direct delay should be allocated to the incident on the affected train's booked line or line of route.

8 Guidance of the Board

- 8.2 Based on the information presented, the Board agreed, unanimously, the following: -
 - 8.1.1 That South Western Railway is responsible for the incidents raised as part of this submission.
 - 8.1.2 That the Delay Code applied to the incidents in this submission should be matched to the original South Western Railway incidents (from which the delays were removed).
- 8.3 In reaching its conclusion the Board also noted the following points:
 - 8.2.1 The Board needs to consider providing further guidance in the DAPR, or its supporting Process Guides, for circumstances to clarify that any parties' planned restrictions or events (factored into the 'Plan of the Day') should not be considered as impacting recovery of any unplanned incident.
 - 8.2.2 The Board also needs to consider providing further guidance in the DAPR, or its supporting Process Guides, for circumstances where two unplanned events occur simultaneously, and each could be considered as impacting recovery of the other by preventing the implementation viable diversions.

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) – It is stated that the incidents in dispute contain the delays that were identified as being as a result of 722 points not being available. Could NR advise if this is the full delay experienced by the train(s) prevented from crossing over at 722 points or a proportion of the delay considered the ‘additional’ impact?

If it is the full delay – was the train not considered as being delayed by the incident ahead?

If it is a proportion of the delay - how was the value ascertained / agreed upon?

Response (NR) – The full delay was removed for the trains delayed behind the prime train that were between Clapham Jn and Wimbledon. It was not possible to identify how much time they would have lost to the prime train only and what time they potentially lost due to not using the points. Historically when an incident occurs at Wimbledon train usually cross to the down fast prior to Vauxhall.

Question 2 – Could the parties advise if they believe 722 points being out of use is a ‘planned’ or ‘unplanned’ event with their rationale provided?

Response (NR) – NR would consider the points being out of use a planned event.

The points were already out of use at 2200 the night before and are not required to operate for the plan of the day as agreed at 2200 the night before.

Response (SWR) – SWR consider it to be unplanned. There was no network change notification made to SWR that the points were out of use. Although no trains are planned to use them in the SX timetable the assumption being they are available for disruption.

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 – Can NR confirm if the delays experienced by the trapped trains has been removed in its entirety or just a proportion?

Response (NR) – All the delay has been removed and is in a separate holding incident that will be recoded as per the DAB Guidance.

Question 2 – So in effect the parties have agreed that if the incident is allocated to NR for the points failure then effectively no delay would have been caused by the SWR incident on the down slow line?

Response (SWR) – The delay in the holding incidents has been agreed so it will all be coded to the responsibility as per the DAB guidance.

Response (NR) – It would be too difficult to ascertain what amount delay would or wouldn't have occurred if 722 points had been available and the trains went onto the down fast line.

Question 3 – Was 722 points listed on the out of use register or similar documentation and how are SWR usually advised of such restrictions?

Response (NR) – Control were unable to confirm where and when it was recorded or advised but highlighted that the points are not used for any WTT services.

Question 4 – So what is the purpose of 722 points?

Response (NR) – They would generally only be used for engineering work and sometimes additional stock moves to from Wimbledon depot.

Question 5 – Are 722 points not used for recovery or mitigation purposes?

Response (NR) – They could be but generally trains are crossed from the slow to the fast at Vauxhall (north of Wimbledon). 722 points are rarely used for mitigation purposes.

Question 6 – Are 722 points in any contingency plans and have they been used in that capacity since repaired?

Response (SWR) - The contingency plan doesn't generally detail specific assets

Response (NR) – Not sure if they have been utilised since as it wouldn't be recorded in the log specifically that they were used.

Question 7 – Why were 722 points being out of use not processed through Network Change?



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Response (NR) – As they were due to be fixed [November 2018] a few weeks after the stipulated 6 month time period for Network Change.