

## **Delay Attribution Board Meeting of 9<sup>th</sup> April 2019**

### **Summary of Meeting**

#### **Delay Code Usage**

As an output from the ORR Attribution Workshop the Chairman had requested an up to date list of Delay Code usage which was provided to the Board at its March meeting.

It was further requested that the total minutes allocated to each Delay Code also be provided as some Delay Codes may be little used (in terms of incidents) but those incidents could be significant in impact.

A revised set of Delay Code data was provided to the Board covering number of incidents and total attributed delay for review and consideration.

The Board was advised that freight representatives had been reviewing the freight related Delay Codes and will provide the Board with initial thoughts at the next meeting for review.

#### **Flow Diagram Review**

Following a request at the March Board meeting the Board was provided with a paper setting out the sections of the DAPR (and Process Guides) that are currently supplemented with a flow diagram and a list of Sections or Process Guides that could be enhanced by the creation of a supporting flow diagram.

The Board was asked to review and consider which flow diagrams could be improved and which sections of the DAPR, or Process Guides, would be appropriate to have flow diagrams included.

Initial suggestions for new flow diagrams included Train Regulation and Unexplained Delay.

It was proposed that members ask their teams and operators they represent for views on what improvements could be made to current flow diagrams or for areas of attribution that would be well suited to be supported by the introduction of a flow diagram.

It was suggested that the flow diagrams are collated into a separate Process Guide Document (PGD) but still remain in the relevant sections of the DAPR for ease of reference.

## **DAPR Definitions**

As part of the Board's objectives relating to DAPR improvements there is an action to review the Definitions in Section B7.

The Board was provided with a paper setting out the definitions currently covered in the DAPR with suggestions as to improvements and or additional definitions that could be developed.

Primary Delay was discussed at length and it was concluded that it would be more appropriate to introduce a definition for Direct Delay (currently not defined but widely used) and encompass Primary Delay into that definition.

It was also proposed and agreed to develop definitions for Causal Train, Responsible Train and Cumulative Delay – all terms used in the DAPR and Process Documents and regularly cited in attribution forums.

## **KPI Data Review**

At its February meeting the Board considered what it felt is required to better monitor its KPIs to identify issues, concerns or good practice.

The Secretary was requested to formulate a matrix of the proposed KPIs for review at the March meeting which was duly provided.

For each Metric, the Board agreed: -

- How each metric will be shown and what data is provided
- What each of the metrics actually tells the Board
- What, if anything, can the Board do as a result?

The matrix had been further updated to reflect the above information and was presented to the Board for review and information.

Network Rail representatives had been working to further develop the KPI pack from the metrics and matrix produced and it is hoped to have some draft outputs in time for the May meeting.

It was asked as to whether the KPI Report could be shared with Operators outside the DAB.

It was advised that Network Rail's intention is for the KPI report to be developed in such a way that it can be utilised for the Board but also internally to Network Rail and as such will certainly be useful and able to be shared with all operators.

Relevant explanations and caveats will need to be included to ensure all reviewers understand what the data is showing.

### **Recovered Time**

At its March meeting the Board was provided with a paper covering two examples of recovered time and subsequent attribution of reactionary delay.

The paper provided at that meeting set out two examples of recovered time that were developments of the current examples already in PGD2 so as to provide consistency in what the Board distributes.

A concern was raised that the examples did not reflect the application on LNE and LNW Routes and post meeting the Secretary was contacted and requested that the Board consider further scenarios to ensure the wider application is fully understood before anything is published.

The Secretary developed further examples for the Board to consider at this meeting.

It was accepted by the Board that there are inconsistencies in the application of recovered time and there was full agreement that there needs to be an agreed position.

It was highlighted that this is particularly important in relation to the future development of automated attribution as such the Board should ensure the principles agreed can be 'hard coded'. If not, any automation may latterly dictate what the rules are.

The Secretary agreed to provide further, more detailed examples, based on the same principles and to also show the 'alternative' application for comparison.

### **Queue of Trains**

At the March Board meeting it was suggested that new examples be developed for both Process Guide PGD8 (Entering the Network) and PGD11 (Queue of trains) to clarify attribution of a queue of trains waiting to enter the network when there is an on-network incident.

The Board was provided with and presented a paper that included a proposed explanatory diagram for both PGD8 and PGD11 covering the scenario requested.

It was suggested that for clarity that a caveat is added that only trains that are booked to leave the off-network location at the time the incident is ongoing are considered as direct delay. Trains not ready to depart post the incident being concluded should be considered under the standard principles of late presentation.

Concern was raised that if a train cannot be prepared or marshalled due to congestion caused by the queue of trains in the yard then this should be allocated to the on network incident.

The general consensus of the Board was that if the train was not ready to leave then it is effectively not in the queue and is a new incident. Any train preparation or operations within that location are the responsibility of the train operator.

The Secretary suggested this was a reverse situation of scenario 14 in PGD8 where a train waiting acceptance due to depot congestion (whatever the reason) is allocated to the operator of the train waiting acceptance and not the reason for the congestion.

The latter concern excepted, which was considered outside the principles of the paper provided, the examples were agreed for incorporation into PGD8 and PGD11. Both documents will be updated and brought back for the Board to endorse at the May meeting.

### **Proposal for Amendment**

The Board was presented with the Industry Consultation responses in relation to Proposal for Amendment P318 (Passenger Overcrowding) which had been developed by the Board in reaction to the ADA35 Determination.

The Secretary reminded the Board that the Proposal and Consultation had been an exploratory exercise to ascertain if the Board had captured the principles of ADA35 or could develop the proposal further based on the feedback.

All parties responding had, as the Board expected, rejected the Proposal although some individual aspects had been supported. However, it was clear that Industry is very much divided on this issue.

One aspect of the Proposal utilising the words from the ADA35 determination about transfer locations being 'short, immediate, direct...' which, although made with good intention, is clearly a matter of opinion and can be interpreted differently by all parties.

It was advised that Chiltern Railways still have incidents outstanding following the determination including delays on trains originating from London as well as Birmingham as Network Rail has resolved only those incidents specifically associated with the submission.

A recent example on Western was highlighted that, whilst the transfer of passengers was identified at a common location (Basingstoke), the incident being cited is a fatality on Wessex that had an XC and a VC coded incident created as per the DAPR. GWR have asked the overcrowding delays to be merged to the fatality, but which incident should Network Rail choose?

It was suggested that both the GWR and Chiltern incidents should be progressed through DAB and Access Disputes to further test the interpretation and clarify the intention of ADA35.

It was advised that ORR intend monitoring Network Rail on reactionary delay management in CP6 so allocating passenger overcrowding delays to the Causal Incident needs to be considered, as cited in the Network Rail response, only Operators can mitigate overcrowding delays.

The Secretary suggested it may be worth asking Access Disputes representatives, particularly the Chair of ADA35, to review the Proposal and Industry feedback to see if he would pass

comment or advise accordingly. This was supported by the Board.

The Secretary also suggested that in the interim he will look to review the feedback received to ascertain which aspects the Industry does and doesn't agree to understand if a further Proposal for Amendment could be developed.

It was suggested that if the Proposal is developed further then it needs to be completely clear in its intent and application and, if it was agreed by the Board and progressed to ORR for approval, then recalibration will need to be cited as being required.

### **ADA33 Attribution Explanation**

Following on from the Board developing and distributing an 'Attribution Explanation' in relation to the ADA33 Determination it had been proposed that the same 'advice' needed to be developed into a Proposal for Amendment to the DAPR.

A draft Proposal for Amendment was provided to the Board for review and discussion that was based on the wording previously agreed for the Attribution Explanation document.

The Board suggested some minor amendments to grammar but otherwise agreed for the proposed wording to be developed into a formal Proposal for Amendment and distributed for Industry Consultation.

### **ORR Review of Attribution**

The Chair welcomed a representative from the ORR to the meeting.

The Board was provided with an initial overview of the emerging issues from the ORR consultation into its Review of Attribution.

It was clarified that any changes to the Schedule 8 mechanism itself would have to wait until the PR-23 Review but changes to the attribution principles or processes in line with the current Schedule 8 could be implemented during CP7 with appropriate recalibration.

The Board was advised there were 22 written responses from Industry as well as the feedback received during the workshop in March.

The issues raised by Industry have been categorised into either Governance, Principles and Rules, Process and Systems or Incentives and Behaviours.

For each of the categories the issues that have been captured under each were set out with proposed solutions. Joel wished to make clear that both the issues captured, and the solutions proposed are direct lifts from the responses received and not ORR comments or views).

Initial observations and points raised by the Board included: -

- Inconsistencies within Routes are sometimes driven by requirements of the operators, not always Network Rail derived.
- The comment relating to Network Rail bias on DAB was factually incorrect. The voting protocol of DAB as set out in the Network Code prevents any Network Rail bias – i.e. nothing can be passed without two votes from the ‘opposite side of the table’.
- There are obvious conflicts in issues raised by and or requested from industry – e.g. simplification of attribution and reduction in delay codes versus better analytical capability for cause identification (perceived to be more delay codes)
- There are many interdependencies so to deliver on one aspect, other issues need to be addressed (e.g. attribution of more sub threshold will require wider system changes).
- From a Network Rail perspective, being that it is being cited by Andrew Haines, is that there needs to be a focus on making attribution more efficient and cost effective.

It was pleasing to note that there was overwhelming support from the respondents for delay attribution, that it is a necessary and beneficial process and that the associated processes generally work well.

Many respondents were concerned that the ORR seemed to imply that it would not be involved in the work stream post recommendations and leave the actions for Industry to deliver. The Board collectively reiterated that the ORR need to lead any work streams as there will likely be issues of contention either between Network and Operators or potentially practitioners and down-stream users of the data (i.e. agreeing something for analytical or reporting purposes that can’t feasibly be delivered by the practitioners)

It was suggested that the ORR verify and validate some of the issues (and suggested solutions) taken from the responses prior to publishing its conclusions.

ORR representatives will return to the Board, most likely in early June, to share and discuss the draft conclusions which would then enable any final amendments to be made before publication at the end of June.

In the meantime, ORR representatives will be talking to stakeholders on specific issues raised and welcomed any further feedback, from either individuals or the Board collectively, on the points highlighted in the slides

## **Dispute Protocol**

A concern was raised on behalf of a Network Rail Route relating to dispute protocol and asked for the Board's initial response to the following questions: -

- 1) What is the Board's view on Level 3 or Level 4 representatives by-passing the laid down escalation processes?
- 2) What is the Board's view on disputes being registered outside the contractual timescales?
- 3) What is the Board's view on disputes relating to 'failure to mitigate' issues being raised in hindsight?

In terms of 1) this concern was also echoed by members who are either advised to reallocate or dispute an incident and or are in receipt of said actions.

From a Board perspective it is expected (as set out in the Request for Guidance template) that both parties have abided by the laid down escalation processes and progressed disputes through Level 2 and Level 3. Without doing so it is likely that key information or facts that may be required to resolve the incident will not be investigated or ascertained.

In terms of 2) the Board felt that the contracts were clear in terms of disputes being registered within two days of the advice of that incident being allocated and any disputes outside the contractual timeframes should not be entertained. Potentially this could be a contractual issue for Access Disputes rather than an attribution issue for DAB.

In terms of 3) the DAPR includes a section on failure to mitigate which was introduced to address cases of 'hindsight' disputes or reattribution that were being highlighted. It is thought the DAPR entry is quite clear that attribution by Network Rail and or disputes by Operators relating to failure to mitigate should be made based on observations, requests or challenges made and recorded on the day of the incident and not subsequently. Even then, the specific dispute should still be registered in the contractual timescales as per 2) above.

It was agreed that regulation disputes did not fall under the auspices of failure to mitigate principles.

The official minutes will be available to Industry after sign-off at the 14<sup>th</sup> May meeting

### **Mark Southon**

Secretary to the Delay Attribution Board