



Delay Attribution Board

To: Gerry Leighton,
Head of Stations & Depots and
Network Code
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

From: Lee Amass
DAB Secretary
Delay Attribution Board
Floor 8
One Eversholt Street
London
NW1 2DN

cc: Stuart Freer
Executive, Stations & Depots and
Network Code
John Rhodes
Chairman,
Delay Attribution Board.

Tel: 07920 856643
Email: Lee.amass@networkrail.co.uk

Date: 29th January 2013

Submission of proposals for change to September 2012 Delay Attribution Guide (DAG)

Dear Gerry,

I am writing seeking approval for proposed changes to the Delay Attribution Guide in accordance with Track Access Condition B2.7.2.

Please find appended to this letter details of the following Proposals for Change:

- DAB/P018 – Guidance where no fault found (technical equipment) – rewording.

The details for each proposal consist of the following information:

- 1 The Proposal for Change from the sponsor.
- 2 A list of the industry responses to the Proposal for Change.
- 3 The DAB decision and consideration of the responses from the industry.
- 4 A 'tracked-change' copy of the relevant parts of the DAG.

The proposals for amendment to the Delay Attribution Guide were put out to Industry Parties for formal consultation in accordance with Track Access Condition B2.5.2. The consultation for proposals closed on the 11th January 2013. A number of Industry Parties responded to the consultation process and these responses are included in this submission.

All decisions made by the Board have been unanimous. A copy of the minutes of the meetings where the proposed amendment was agreed will be available should you require them.

DAB

Delay Attribution Board

I await your advice on whether you approve the amendment proposed. Finally, in accordance with Track Access Condition B2.7.1, the Board has agreed that any changes approved by the Regulator should come into effect on 1st April 2013

Should you wish to discuss any aspect of this submission or the proposals further then please do not hesitate to contact me as detailed above.

Best Regards,

Lee Amass

DAB

Delay Attribution Board

Industry Responses to Proposed Amendments to the Delay Attribution Guide.

Consultation closed 11th January 2013

Ref:	Proposed Changes to the September 2012 Delay Attribution Guide
DAB/P018	Guidance where no fault found (technical equipment) – rewording.

Responses received from

- Arriva Trains Wales
- Cross Country
- First Capital Connect
- First Transpennine Express
- Freightliner Heavy Haul
- Grand Central
- London Overground
- Network Rail
- Northern Rail
- Southern
- South West Trains
- Virgin Trains

Originators Reference Code / N^o	DAB/P018- Guidance where No Fault Found (technical equipment)
Name of the original sponsoring organisation(s)	DAB
Exact details of the change proposed	<p>Amend DAG Section 4.25 <u>from</u>:</p> <p>4.25 Guidance where No Fault Found (technical equipment)</p> <p>Where parties have made all reasonable efforts to investigate the cause of a delay resulting from the perceived failure of equipment in Table 4.25.4 (including the use of OTMR, voice recordings, and other technical data) and no fault has been identified, the following principles shall apply.</p> <p>To:</p> <p>“4.25 Guidance where No Fault Found (technical equipment)</p> <p>This Section is only applicable where parties have agreed that all reasonable efforts had been made to investigate the cause of delay resulting from the perceived failure of equipment in Table 4.25.4 (including the use of OTMR, voice recordings, and other technical data). If there is no agreement that all reasonable efforts have been undertaken this would not constitute No Fault Found. The guidance given in this Section is not a substitute for a lack of investigation. Where parties have agreed that all reasonable efforts to investigate have been undertaken, the following principles shall apply.”</p>
Reason for the change	<p>Responses to proposed changes to the DAG regarding NFF have been reviewed by the DAB. An emerging theme in those responses has been the expectation that full investigation is undertaken before any conclusion is reached that NFF guidance is applicable.</p> <p>The Secretary was asked to draft a proposed amendment to paragraph 4.25 to emphasise the importance of prior investigation.</p>

1. Do you perceive that this proposal will have a wider impact (including commercial impact) on your business or the business of any other industry parties?

If yes;

For Network Rail – Please provide an impact assessment indicating the impact of the proposal on all affected industry parties.

For Train Operator – Please provide an impact assessment on your own business.

No. This change is intended to clarify when NFF guidance that is given in the DAG is applicable. There is no commercial impact.

2. If you have provided an impact assessment as per question 1 above, please provide a proposed solution to neutralise any financial effect of the proposal.

N/A.

RAILWAY COMPANY/ORGANISATION	COMMENTS:
ARRIVA TRAINS WALES	As per the response given by DAMG
ATOC – DELAY ATTRIBUTION MANAGERS GROUP	Proposal is accepted
C2C Rail	No response provided
CHILTERN RAIL	No response provided
CROSS COUNTRY TRAINS	As per the response given by DAMG
DB SCHENKER RAIL/EWS INT/RAIL EXPRESS SYSTEMS	No response provided
DRS	No response provided
EAST MIDLANDS TRAINS	As per the response given by DAMG
EASTCOAST LTD	No response provided
EUROSTAR	No response provided
FIRST CAPITAL CONNECT	As per the response given by DAMG
FIRST GREAT WESTERN	No response provided
FIRST SCOTRAIL	No response provided
FIRST/KEOLIS TRANSPENNINE LTD	No response provided
FREIGHTLINER/FREIGHTLINER HEAVY HAUL	<p>Rejected – The Rule Book (in case of HABD activation) covers the action to be taken by the Operator. This will supersede what is normal/reasonable action(s) to be taken and is asking for more than is laid down in the Rule Book.</p> <p>Commercial impact As it was not neutralised originally, by changing words, could potentially make the operator more accountable, and is likely to lead to more disputes that don't get resolved. (sic)</p>
GB RAILFREIGHT	No response provided
GRAND CENTRAL RAILWAY	As per the response given by DAMG
HEATHROW EXPRESS	No response provided
HULL TRAINS	No response provided
LONDON & BIRMINGHAM RAILWAY	No response provided
LONDON & SOUTHEASTERN RAILWAY	No response provided
LONDON OVERGROUND RAIL	As per the response given by the DAMG
MERSEY RAIL	No response provided
GREATER ANGLIA	No response provided
NETWORK RAIL INFRASTRUCTURE	Network Rail supports this proposal.
NORTHERN RAIL	As per the response given by the DAMG
SOUTHERN RAILWAY	As per the response given by DAMG
STAGECOACH SOUTH WESTERN TRAINS	As per the response given by the DAMG

WEST COAST TRAINS LTD (VIRGIN)	As per the response given by the DAMG
DAB DECISION (22/01/2013)	<p>The Board considered the proposal and the industry responses received during the consultation period. The Board noted the response provided by the ATOC Delay Attribution Manager’s Group (DAMG) accepting the proposal and that a number of Train Operators indicated that they supported the DAMG response. The Board noted the objection by Freightliner as follows: “The Rule Book (in case of HABD activation) covers the action to be taken by the Operator. This will supersede what is normal/reasonable actions(s) to be taken and is asking for more than is laid down in the Rule Book. “</p> <p>The Board discussed and agreed that the purpose of the proposal was to make DAG section 4.25 more explicit following a number of suggestions that the current wording was allowing parties to default to NFF, without undertaking a full investigation. Since the underlying meaning of section 4.25 remained unchanged as a result of the proposed change the Board did not feel that it would require any more investigation of hot axle box warnings than the rule book prescribed at present.</p> <p>Based on the conclusions of the Board’s discussions, Freightliner withdrew the objection to the change.</p> <p>The Board unanimously agreed that the proposal be sent to the ORR for approval</p> <p>Amend DAG Section 4.25 from:</p> <p>4.25 Guidance where No Fault Found (technical equipment)</p> <p>Where parties have made all reasonable efforts to investigate the cause of a delay resulting from the perceived failure of equipment in Table 4.25.4 (including the use of OTMR, voice recordings, and other technical data) and no fault has been identified, the following principles shall apply.</p> <p>To:</p> <p>“4.25 Guidance where No Fault Found (technical equipment)</p> <p>This Section is only applicable where parties have agreed that all reasonable efforts had been made to investigate the cause of delay resulting from the perceived failure of equipment in Table 4.25.4 (including the use of OTMR,</p>

	<p>voice recordings, and other technical data). If there is no agreement that all reasonable efforts have been undertaken this would not constitute No Fault Found. The guidance given in this Section is not a substitute for a lack of investigation. Where parties have agreed that all reasonable efforts to investigate have been undertaken, the following principles shall apply.”</p>
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The following page refers to the section of the Delay Attribution Guide as it would look within the April 1st 2013 edition.

4.24.3 While signallers are completing the RT3185 or RT3187 forms, the delays to the train involved and any reactionary delays should be attributed to the incident that made the use of the form necessary. Trains delayed as a result of being overlooked whilst completing this process should be attributed as a new incident to the signaller.

4.25 Guidance where No Fault Found (technical equipment)

This Section is only applicable where parties have agreed that all reasonable efforts had been made to investigate the cause of delay resulting from the perceived failure of equipment in Table 4.25.4 (including the use of OTMR, voice recordings, and other technical data). If there is no agreement that all reasonable efforts have been undertaken this would not constitute No Fault Found. The guidance given in this Section is not a substitute for a lack of investigation. Where parties have agreed that all reasonable efforts to investigate have been undertaken, the following principles shall apply.”