
NETWORK and VEHICLE CHANGE COMMITTEE

Determination NV33

Hearing held at Kings Cross on 14th 15th 23rd and 28th November 2001

[Note: previous published Determination was no. 26 to 31]

1. The Committee was asked by Great North Eastern Railway Ltd (GNER) to find that some of the costs and losses that had fallen to be borne by GNER, in relation to the circumstances surrounding the accident at Hatfield on 17th October 2000, and the large scale disruption to GNER's services, which followed over many months, arose because Railtrack had carried out Network Changes, and that it followed that those costs and losses could be recovered by GNER from Railtrack as part of a claim for compensation determined under Track Access Condition G2.2.
2. GNER had served on Railtrack FOUR separate notices of Network Change, pursuant to Clause 2.1(b) of Track Access Condition G, alleging respectively that Railtrack had
 - 2.1. changed its maintenance and operational practices in the time before the accident, and that those changes resulted in the Network becoming unsafe, and contributed to the broken rail that ultimately caused the derailment, and constituted a Network Change (First notice: 2nd February 2001);
 - 2.2. after the accident, introduced new instructions, the Permanent Way Special Instructions (PWSIs) 1 to 3 dealing with inspection of rails for Gauge Corner Cracking, and the actions required to be taken where such Gauge Corner Cracking was detected; that such instructions, because they constituted a change of format of operational documents, were in themselves a "Network Change", in terms of Condition G definition (i)(b); and that the actions that Railtrack had taken to implement the PWSIs had had such a material effect on the operation of trains on the Network, that the results of those actions constituted a Network Change (Second Notice: 8th March 2001);
 - 2.3. instituted a major programme of replacing rails and switches to address safety concerns following the accident, and that that wholly exceptional National Recovery Programme, which had had a material effect on the operation of trains on the Network, constituted a "Network Change", in terms of Condition G definition (i)(a), and should therefore give rise to compensation because of the provisions of Track Access Condition G1.9 (Third Notice: 19th April 2001); and
 - 2.4. put in place the exceptional series of speed restrictions to meet the implementation of the National Recovery Programme, which had continued to have an impact on the operation of trains on the Network for many months, and therefore constituted a "Network Change", in terms of Condition G definition (iii) (Fourth Notice: also 19th April 2001).

3. In bringing its appeal, GNER asked the Committee to address four issues, expressed as

“Issue 1A: between 1996 and 17th October 2000, Railtrack made changes to its policies and practices for maintaining, renewing, monitoring and inspecting the infrastructure which gave rise to changes to the Network. These changes were likely materially to affect the operation of the Network, or of trains operated by GNER on the Network. This constitutes a Network Change under definition G(i)(a) of the TAC. The First Notice refers.

or

Issue 1B: these changes were changes to the operation of the Network or a series of such changes which have lasted for more than 6 months and which are likely materially to affect the operation of trains by GNER on the Network pursuant to definition G(iii) of TAC. The First Notice refers.

and/or

Issue 2: the changes introduced by Railtrack since 17th October 2000 under Permanent Way Special Instructions (“PWSIs”) numbered 1 to 3 (which relate to the ultrasonic testing of track and to track inspection) amount to Network Changes under definitions G(i)(a), and/or G(iii) of the TAC. The Second Notice refers.

and/or

Issue 3: Railtrack has implemented a Network Change within the meaning of definition G(iii) in that a series of speed restrictions has been in place for more than 6 months which has materially affected the operation of trains by GNER on the Network. The Fourth Notice refers.

and/or

Issue 4: since 17th October 2000, Railtrack has introduced Network Changes within the meaning of paragraph G(i) of the TAC for safety reasons pursuant to clause 1.9 of Part G of the TAC and that such Network Changes have been in place for a period in excess of 3 months. These changes have materially affected the operation of the Network and/or of trains operated on the Network. The Third Notice refers. ”

4. In asking the Committee to reject GNER’s contentions, Railtrack alleged

4.1. that GNER was seeking to make improper use of Track Access Condition G as the means to obtain a level of compensation for the impact of the Hatfield accident which the structure of the Track Access Agreement, and the Track Access Conditions, does not otherwise permit; and that such a use, particularly in relation to consequential losses, was never envisaged by the drafters of those agreements who intended that compensation for service disruption should generally be determined by the due operation of clause 8 and Schedule 8 of the Train Operator’s Track Access Agreement;

4.2. that the Network Change procedure in Track Access Condition G is intended to act as “a mechanism for ensuring that where Railtrack ...proposes alterations to the network the affected party or parties have the opportunity for any adverse impact on their operations likely to be caused by the alteration to be assessed, and the related costs or compensation taken into account in the project plan and costs:” (Railtrack’s submission, but quoting in part, but without attribution, from NV1) ;

- 4.3. that the *“Track Access Conditions do not contemplate that a Network Change would encompass a change:
--- which was an unintended consequence or merely an effect (intended or not) of conduct on the part of Railtrack; and
--- which, not being deliberate, Railtrack could not realistically have made the subject of a proposal under Part G1.1”* (Railtrack’s submission);
- 4.4. that "Network Change", in terms of Condition G definition (i)(a), relates only to a change to the Network itself, and not to Railtrack’s operations or maintenance policies.
- 4.5. that, in relation to claims made in respect of changes qualifying as "Network Change", in terms of Condition G definition (iii), as this definition only relates to *“the operation of the Network”*, matters that relate only to the maintenance of the Network do not fall within the scope of this definition.
5. The Committee reviewed its jurisdiction in this case, and concluded that the matters in relation to the dispute as to whether there had actually been circumstances giving rise to Network Change, in the terms of Track Access Condition G, was properly a matter for its attention. It noted that
 - 5.1. it had previously encouraged parties to treat the provisions of Track Access Condition G as a facilitational process. That said, the invoking of the procedure by either party does not immediately imply that a mooted change IS a Network Change. Similarly, should it be determined (either by the parties, or by reference to this Committee) that the change in question does fulfil a definition of Network Change, there must be a presumption that, even so, the scale of compensation that one party may be required to pay to another is also subject to tests of materiality and reasonableness.
 - 5.2. Railtrack, in formulating its counter-argument, had sought to rely solely on the question of principle that its view was that the changes that it had wrought in maintenance of the Network were not Network Changes, and therefore did not require to be handled in accordance with Track Access Condition G. The Committee was of the view that the serving by GNER of the four Network Change notices made the matter subject to the Network Change procedures; and
 - 5.3. it had been necessary to seek supplementary information from Railtrack relating to the specifics of this case.
6. The Committee reminded the parties that its role was to determine the merits of the specific case. This might require it to adduce certain general propositions, but only insofar as they related to the circumstances of the specific case. In this context, the Committee acknowledged that
 - 6.1. there was no question but that, both as a direct result of the accident at Hatfield, and of the diversions, speed restrictions and other measures taken since the accident, GNER had experienced extreme disruption to its services; however
 - 6.2. it did not necessarily follow that that level of disruption could be attributed to the Network having changed in any way that fulfilled the other criteria within Track Access Condition G;

- 6.3. the particular interest of GNER in getting some or all of the circumstances surrounding the accident at Hatfield determined to be Network Changes, lay in the fact that the Track Access Condition G provisions for compensation (Condition G2.2 and 2.3) permit consequential losses to be a part of the recompense; none of the other provisions of the Track Access Agreement (e.g. clause 8 or Schedules 8) admit any obligations in respect of consequential losses (e.g. to passenger revenues);
- 6.4. it was not the job of the Committee, at this stage, to be concerned with issues of quantum of compensation, except insofar as they followed as necessary consequences of any determination as to what had, or had not, fulfilled any of the definitions of Network Change.
7. That said, the Committee considered that any determination whether or not any of the circumstances relating to the accident at Hatfield, or the serious disruption to GNER's services that followed could, or should, be acknowledged as Network Change, would have to be justified by reference to the terms of Track Access Condition G definitions of "Network Change" (i)(a), (i)(b) and (iii). This would require it to be clear, relative to the conflicting views advanced by the parties, and the specific circumstances of this case, as to the meanings (and applicability of those meanings) of
 - 7.1. "*Network*";
 - 7.2. "*any change...to ..any part of the Network*";
 - 7.3. "*the operation of the Network*"; and
 - 7.4. "*which is likely materially to affect the operation of the Network, or of trains operated by that operator on the Network*".
8. The Committee considered that it should first of all address those arguments from Railtrack that this case had nothing whatever to do with Network Change, but, to the extent that GNER had suffered hurt, that hurt should only be handled by reference to clause 8 (and Schedule 8) of its Track Access Agreement. The Committee took this argument into account, and also that its own jurisdiction does not extend beyond the due operation of the relevant parts of Track Access Conditions G, F, and D2, and does not empower it to determine matters related to Track Access Agreement clause 8 and Schedule 8. However it had to recognise that
 - 8.1. it had previously, in Determination NV1, opined that "*a Train Operator was not precluded from obtaining compensation under Access Condition G because they were also beneficiaries of a Performance Regime*", and that a similar observation could be made in respect of the relationship between Track Access Condition G and clause 8 of the Track Access Agreement; however
 - 8.2. this does not mean that any award for compensation under Track Access Condition G can be assessed on any other basis than that that is prescribed by that Condition, and then only in circumstances where it is evident that there has in fact been a change that qualifies as a Network Change.
9. The Committee noted that, in support of its argument that remedy for GNER's hurt was adequately catered for in other contractual provisions, Railtrack referred to this overall structure as "*the product of long and detailed discussions by the relevant bodies responsible for the privatisation of British Rail*". The implication was that a structure so devised should

not be tampered with. However, the Committee was not prepared to believe that, in those “long and detailed discussions”, any of the contributors had in mind such a far-reaching, and unprecedented, collapse of the railway system, as had occurred in the weeks and months following the accident at Hatfield.

10. In respect of the definition of the Network, the Committee noted Railtrack’s reference to the definition of “network” in the 1993 Railways Act (section 83), and the fact that Network in the Track Access Conditions is defined as that “network of which Railtrack is the owner”. The Committee noted that the definition of “network” in the 1993 Railways Act (section 83), identifies “railway line”, and “installations”, “...together constituting a system of track and other installations which is used for and in connection with the support, guidance and operation of trains”.
11. With regard to “a change to the Network” the Committee took particular account of the fact that there is no presumption in the definition that the change itself is anything major; indeed, the notes supporting the Regulator’s decisions in respect of the re-issue of the Track Access Conditions in 1995 state “we have deleted the word “material” the first time it appears: the key point is whether the effect is material, not the change itself”.
12. With regard to “the operation of the Network” the Committee noted that the Railways Act, 1993 section 6 (2) gives the definition “ ‘operator’, in relation to any railway asset, means the person having the management of that railway asset for the time being”.
13. With regard to “which is likely materially to affect the operation of the Network, or of trains operated by that operator on the Network”, the Committee concluded that this should be regarded as a test of significance, with straightforward practical impacts. In other words
 - 13.1. Railtrack is accountable for carrying out the management of the Network in order to assure that the Network has the necessary capability for the “support, guidance and operation of trains”;
 - 13.2. Railtrack is entitled to vary or modify the way in which it manages the Network, and, provided this does not modify or compromise the capability for the “support, guidance and operation of trains” (i.e. is NOT “likely materially to affect the operation of the Network, or of trains operated by that operator on the Network”) then such variations or modifications do not constitute a Network Change. However, Railtrack’s entitlement in this respect must, by definition, carry with it the accountability for the consequences of its actions, and therefore
 - 13.3. if the effect of any such changes is to modify or compromise the capability for the “support, guidance and operation of trains” (i.e. IS likely materially to affect the operation of the Network, or of trains operated by that operator on the Network) then this would appear to fulfil "Network Change", in terms of Condition G definition (i)(a).
14. In relation therefore to all these considerations, the Committee offered the following summary of its position in relation to "Network Change", in terms of Condition G definition (i)(a):
 - 14.1. the Network is that which Railtrack supplies to Train Operators to allow them to operate services in fulfilment of their rights (including Firm Contractual Rights) expressed in their Track Access Agreements;

- 14.2. Railtrack, as the “*operator of the Network*” must carry out all such tasks as it deems necessary to ensure that the Network is sustained at the level where Train Operators can operate services in fulfilment of the rights (including Firm Contractual Rights) expressed in their Track Access Agreements;
 - 14.3. the manner in which Railtrack carries out, or varies the carrying out of, the “*operation of the Network*” is a matter for its discretion, provided only that it accepts that it is accountable where the exercise of that discretion may have an impact on a Train Operator;
 - 14.4. if, whether at the time of a change or at a later date, the Train Operator is confronted by changed circumstances, such that, for a prolonged period, the Network is no longer sustained at the level where the Train Operator can operate services in fulfilment of the rights (including Firm Contractual Rights) expressed in its Track Access Agreement, then, given that the changed circumstances “*materially ... affect the operation of the Network, or of trains operated by that operator on the Network*”, it is reasonable to conclude that the Train Operator has been the recipient (or victim) of a “Network Change”, in terms of Condition G definition (i)(a).
15. The Committee noted that its attention had been drawn to documents relating to various aspects of Railtrack’s “*operation of the Network*”, prior to the accident at Hatfield, including references to concerns regarding rail/flange lubrication, the incidence of broken rails and gauge corner cracking, and the work that had been undertaken in respect of the preparation of new Line Standards to deal with rail conditions. The Committee does not seek to differentiate between these items, or to attribute to any one or other, any particular significance.
 16. The Committee is however satisfied that each of these items about which concerns had been expressed, had, over time, combined to produce a deterioration to the Network such that, in the aftermath of the accident at Hatfield, Railtrack (the manager of the Network) chose, or was obliged to choose, to curtail the capability of the Network to provide for “*support, guidance and operation of trains*”. The Committee is of the view that it would be unreasonable and illogical not to conclude that a deterioration that merited such a practical response was “*a change to the Network*”. Given that the impact of the curtailment on GNER was a suspension of the normal timetable, and of the timetabling process, and the imposition of speed restrictions and line blockages, without regard to normal operation of the Rules of the Plan/Rules of the Route, all to the frustration of the Firm Contractual Rights of the Train Operator, then, incontrovertibly the result was that the curtailment “*materially ... affect[ed] the operation of the Network, or of trains operated by that operator on the Network*”. Taken together then the only reasonable construction is that, insofar as GNER was concerned, in the months following the accident at Hatfield, the Train Operator was subject to a “Network Change”, in terms of Condition G definition (i)(a).
 17. Having reached this conclusion, the Committee recognised that the parties had asked it to address five other considerations, namely;
 - 17.1. the standing, in relation to Track Access Condition G of the Permanent Way Special Instructions (PWSIs);
 - 17.2. the requirement that Network Change be either deliberate or pre-meditated;

- 17.3. the significance of Track Access Condition G1.9 in relation to the circumstances of the case;
 - 17.4. the possible applicability of Track Access Condition G Definition (iii); and
 - 17.5. a request that the Committee revisit its conclusions in Determination NV1 as to the date from which compensation might be payable in respect of "Network Change", in terms of Condition G definition (iii).
18. As to the nature of the (PWSIs), and the circumstances surrounding their consideration, authorisation and implementation, the Committee noted Railtrack's evidence that
- 18.1. much of the content of the PWSIs had been taken from a draft Line Standard that was in an advanced state of preparation at the time of the accident at Hatfield;
 - 18.2. the force of a Line Standard was that it provided Railtrack's contractors with a yardstick against which to plan and perform their contracted maintenance activities;
 - 18.3. it had been anticipated that introduction of that draft Line Standard would have been achieved in the established way, and that
 - 18.4. such an orderly implementation would not generally have resulted in any major change to the capabilities of the Network, even in the short term;
 - 18.5. in the light of the concerns following from the accident at Hatfield, it was decided to enhance the substance of the proposed revised Line Standard, and then issue it as an executive instruction, requiring immediate action, and in a format not previously used, namely a PWSI authorised at Railtrack Board member level, and that
 - 18.6. by issuing this PWSI in this format, Railtrack had been able to impose immediate Emergency Speed Restrictions at sites known to be at risk and ensure that others were investigated without delay; as compared with what might have been expected following orderly implementation of the draft Line Standard, there was a significant increase in the number of sites being treated simultaneously and a corresponding increase in the number and severity of speed restrictions.
19. The Committee concluded that such instructions are not themselves a Network Change, in fulfilment of either G Definitions (i)(a) or (b), but where they continue in force, to the detriment of the normal "*operation of the Network*",... "*for more than six months*" then, on the issue of a notice in accordance with Track Access Condition G1.8, they may constitute a "Network Change", in terms of Condition G definition (iii).
20. In relation to the suggestion that Network Change could only relate to actions that were pre-meditated and/or permanent in their effects, the Committee was satisfied that, although the main purpose, and predominant use made, of Track Access Condition G relates to the introduction of pre-planned changes that will affect the Network in a permanent form, there is nothing explicit in the Conditions that requires this to be the case. Furthermore, the provisions of both Track Access Condition G1.8 (Changes to the operation of the Network) and G1.9 (Network Change for safety reasons), would be unnecessary if there were not the possibility
- 20.1. of temporary, but not short lived, changes qualifying as Network Change (G1.8), or
 - 20.2. of action required for safety reasons being taken without pre-planning (G1.9).

21. The Committee considered the impact of Track Access Condition G1.9 ‘Network Change for safety reasons’ and took the view that the main purpose of this provision is to permit Railtrack, where it sees a need to act promptly for safety reasons, to do so, without waiting to complete consultation under Track Access Condition G. The Committee is of the view that Condition G1.9
 - 21.1. does not modify or expand the scope of the Condition G definitions: any action taken on safety grounds will be a Network Change if it fulfils the tests within "Network Change", in terms of Condition G definition (i)(a) or (b), but will not be a Network Change if it does not;
 - 21.2. does not modify or reduce Railtrack’s obligation ultimately to carry out the consultative, and, where relevant, the compensation, provisions of Track Access Conditions G1 and G2, in relation to any change for safety reasons that fulfils the definition of Network Change;
 - 21.3. does not change the date from which any assessed compensation is payable, which is the date from which the action deemed to be a Network Change was first taken.
22. The Committee considered GNER’s contention that, as a sequel to the accident at Hatfield and the subsequent issuing of the PWSIs, it had suffered from the imposition of a series of speed restrictions, introduced first as Emergency Speed Restrictions (ESRs) and subsequently perpetuated as Temporary Speed Restrictions (TSRs), and that the impact of those ESRs and TSRs had now lasted more than six months. It was GNER’s view that these circumstances, where they did not fulfil "Network Change", in terms of Condition G definition (i) did fulfil "Network Change", in terms of Condition G definition (iii).
 - 22.1. The Committee took the view that the force of the test “*any change... or series of such changes*” in definition (iii) is that it should prevent minor adjustments to the changes being used to conceal that a given stretch of line has felt the ongoing impact of such a change for over six months. The six months criterion can reasonably be said to have been fulfilled when a single TSR, or a combination of TSRs or other changes, have had a recurrent and uninterrupted impact upon the running times of trains, and/or the route capacity over a section of route operated by GNER;
 - 22.2. The Committee was satisfied, therefore, that, in relation to the continuing impact on its services, what GNER had experienced in the way of “*change[s]...(including ...temporary speed restriction[s]) or series of such changes which had lasted more than six months*” was, without question, a "Network Change", in terms of Condition G definition (iii), and that compensation was payable in respect of such Network Change from 18th April 2001.
23. The Committee noted that the last part of GNER’s submission asked that compensation payable in respect of the "Network Change", in terms of Condition G definition (iii) should be paid, not after six months, but from the date of first imposition of those restrictions. This contention required the Committee to re-visit an aspect of its earlier decision NV1, in which it had determined that, “*in relation to G1.8 this implied that the effective date for compensation purposes is that from which the Network Change automatically becomes subject to Access Condition G, in accordance with sub-paragraph (iii) of the definition of Network Change, namely ‘more than six months’*”.

- 23.1. The Committee therefore considered whether there were such differences between the circumstances of the NV1 case, and the current reference, as would warrant any different treatment, and noted that in that case:
 - 23.1.1. the Train Operator was seeking compensation under Track Access Condition G, because a landslip had prevented a scheduled train passing over the Greenford loop, and that more than six months had elapsed without restoration of the route;
 - 23.1.2. actions were in hand to restore the route, but these had not been completed by the date six months after the route had been temporarily closed for repairs, and Railtrack were therefore required, on the issue of a Track Access Condition G1.8 notice, to invoke the Network Change procedure; Railtrack were encouraged to think about invoking the procedure once it was apparent that the six months period might be overrun;
 - 23.1.3. the appellant in NV1 had been prevented, by the landslip, from running a service meeting its Firm Contractual Rights. The Committee had been concerned that the appeal had been brought, in part, because the terms of the Performance Regime between the parties were such that the Train Operator had not received full compensation for the disruption to services occasioned by the line being out of commission;
 - 23.1.4. the Committee had chosen to view the works, and the time necessary for their execution, as normal in the circumstances, and not qualifying as Network Change under any other definition than that in paragraph (iii) of the definitions.
 - 23.2. The Committee decided that, although the changes to which GNER had been subject for more than six months, were very different, in magnitude of impact, to those in NV1, they were not different in kind, and therefore, even were it to determine that there had been "Network Change", in terms of Condition G definition (iii), compensation should only be payable from 18th April 2001. This decision would however have no significance in relation to the date from which any compensation payable in respect of "Network Change", in terms of Condition G definition (i) would be due.
24. Taking all the foregoing into account the Committee therefore determined as follows:
- 24.1. **In relation to "Network Change", in terms of Condition G definition (i)(a):**
 - 24.1.1. whilst changes to the condition of the Network, may be a change to that network, they do not constitute a Network Change, within the terms of Track Access Condition G unless they also "*materially...affect the operation of the Network, or of trains operated by that operator on the Network*". In the circumstances of the present case, up until 17th October 2000, the date of the accident at Hatfield, whatever the changes to the condition of the Network as may have occurred, or been alleged, they had not had any impact upon "*the operation of the Network, or of trains operated by that operator on the Network*". Even introducing the six months criterion from G Definition (iii) does not cause these events on their own to fulfil the criteria for Network Change. It is not therefore appropriate to classify such changes as Network Changes within any of the definitions in Track Access Condition G,

- 24.1.2. However, in the circumstances **following** the accident at Hatfield (i.e. after 17th October 2000), where GNER had only been able to operate trains to considerably extended schedules, to a consequently much reduced frequency, and subject to a succession of emergency timetables, the Committee was satisfied that the “*trains operated by that operator on the Network*” had been “*materially*” affected, and that therefore GNER may be considered to have fulfilled the tests of materiality in relation to the definitions of Network Change.
- 24.1.3. The reason for such disruption to services over the routes served by GNER was that Railtrack decided that the condition of parts of the Network would no longer permit the safe operation of trains to the speeds and journey times applicable before 17th October 2000, and issued instructions accordingly. Assuming that such a decision was not made capriciously, it could only signify that there had been a “*change ..to..the Network*”, as compared with the condition of the Network at that previous time when higher speeds had been permitted.
- 24.1.4. it follows therefore that, for the duration of the period from immediately after the accident at Hatfield, until the re-introduction by GNER of a service pattern comparable as regards journey times, frequencies and utilisation of rolling stock, to that in force before 17th October 2001, GNER had been subject to Network Change in fulfilment of the terms of Track Access Condition G Definition (i)(a).

24.2. In relation to "Network Change", in terms of Condition G definition (iii):

- 24.2.1. to the extent that Railtrack has introduced and operated the PWSIs for more than six months (and that the circumstances surrounding any of those PWSIs are not such as to qualify them as "Network Change", in terms of Condition G definition (i)(a) or (b)), then they do come within the scope of "Network Change", in terms of Condition G definition (iii);
- 24.2.2. to the extent that Railtrack has imposed TSRs for more than six months (and that the circumstances surrounding any of those TSRs are not such as to qualify them as "Network Change", in terms of Condition G definition (i)(a), then they do come within the scope of "Network Change", in terms of Condition G definition (iii); and
- 24.2.3. Railtrack should, belatedly, initiate consultation with regard to compensation in accordance with Track Access Condition G1.8 and G2.2. To this extent the Committee accepts GNER's case in respect of this Condition G definition (iii). However, the Committee does not consider that there are grounds for overturning its previous Determination NV1 in respect of the starting date for such compensation, and directs that compensation should be payable (in respect of the "Network Change", in terms of Condition G definition (iii)) for disruption to “*the operation of [GNER] trains*” from 18th April 2001.

24.3. In relation to Track Access Condition G1.9: actions taken by Railtrack in response to the accident at Hatfield for reasons of safety qualify as Network Change only if they qualify in respect of their fulfilment of "Network Change", in terms of Condition G definition (i)(a) or (b): the force of Track Access Condition G1.9 does not change these definitions.

25. The Committee requires the parties to enter into prompt and meaningful dialogue in respect of compensation payable as a result of its determinations above. For the avoidance of doubt,
- 25.1. the Committee is mindful that GNER suffered disruption to its services during the period in question for causes other than the Network Changes as determined above (e.g. flooding, Leeds First and the accident at Great Heck); this determination has no bearing on the payment of compensation in respect of any of these other hurts, which do not come within the purview of this determination of this Committee. It follows therefore that any assessment of compensation should seek, overtly, to net off these other extraneous factors;
 - 25.2. this determination does not imply that any compensation should be payable to GNER, under the terms of Track Access Condition G, in respect of any of the circumstances, costs or losses, directly associated with the accident at Hatfield on 17th October 2000.

Bryan Driver
Chairman