

# South Western Railway

South Western Railway  
4<sup>th</sup> Floor, South Bank Central  
30 Stamford Street  
London  
SE1 9LQ

11<sup>th</sup> February 2020

Clive Fletcher-Wood  
c/o Access Disputes Committee  
Floor 8  
1 Eversholt Street  
London  
NW1 2DN

## TTP1625 – South Western Railway response to Directions requested

Dear Clive,

Please find below in red a response from SWR to the Directions requested in relation to TTP1625:

2. In para 5.1.3 SWR refers to the Wessex Timetable Change Risk Assessment Group (TCRAG); going on in para 5.1.4 to distinguish this from 'An *additional non-mandatory Strategic TCRAG*'. **Will SWR please explain as soon as possible how it interprets the difference between the TCRAG and a 'non-mandatory Strategic TCRAG'. TCRAG is a milestone in the timetable production process as it appears in the Calendar of Milestone Dates published by D-73. Network Code D2.1.7 requires NR to publish this document on an annual basis. The Strategic TCRAG does not appear in the Calendar of Milestone Dates but is done to give an early review into the risks associated with proposed changes ahead of Priority Date at D-40. The purpose of the informal, non-contractual Strategic TCRAG meeting is to provide guidance to Timetable Participants towards a submission of an acceptable PDNS.**

3. At para 5.1.8 of its SRD SWR refers its receiving the New Working Timetable at D-26, then at 5.1.11 SWR refers to a revised New Working Timetable being received on 3rd January 2020. **Will SWR please confirm as soon as possible whether it is accepting the revised New Working Timetable received on 3rd January 2020 as the relevant New Working Timetable. SWR has accepted the revised New Working Timetable received on 3rd January with the exception of the paths contained within the dispute.**

4. Para 6.2 explains that one remedy sought by SWR is compensation, and why (in 6.2.2) it is not seeking re-instatement of the December 2019 paths. In 6.2 and 6.3, however, SWR is asking for an order 'to *challenge Network Rail to propose a set of measures to avoid a repeat occurrence at such timescales*'. **Due to the timescales involved, and**

# South Western Railway

**associated failure to meet Informed Traveller timescales for the industry, an alternative remedy is sought to put passengers first which would allow for compliance to Informed Traveller obligations.**

5. If the TTP were to decide in SWR's favour in respect of compensation, then it will in effect have determined that NR failed to follow the Part D procedures and, in all likelihood, that Southern Region and Capacity Planning had not worked together effectively. But the Hearing Chair is not immediately persuaded that a TTP has the power to make broad orders on the lines requested by SWR. A TTP is required to give Observations and Guidance when determining a Dispute, and it seems very likely that if determining this Dispute in SWR's favour the TTP would comment on these issues in its Observation and Guidance, but that is a different matter. **In the light of these comments will SWR please confirm as soon as possible, to assist NR in drafting its SRD, whether it wishes to pursue the remedies sought in 6.3 and 6.4, or whether it will be content to rely on the TTP's Observations and Guidance on these issues if this Dispute were to be decided in SWR's favour. SWR is content to rely on the TTP's Observations and Guidance on these issues if this Dispute were to be decided in SWR's favour.**

6. As SWR will appreciate from the authority of the ORR's Determination of the Appeal relating to TTP1520, a TTP can only award compensation under D5.7.1 if NR has acted in bad faith or unreasonably. Either limb is sufficient, but an allegation of bad faith should be specifically pleaded and supported by evidence. **Will SWR please confirm as soon as possible, not least to assist NR in drafting its SRD, whether it is alleging bad faith on the part of NR, or merely unreasonableness. SWR is not alleging bad faith in this dispute. The assertion is that Network Rail has acted unreasonably in that Capacity Planning has failed to take cognisance of the directions from the Managing Director of the Southern Region, with which SWR has complied. These directions are set out in the letter dated 25<sup>th</sup> October 2019 and can be found in Appendix 2 of the SWR Sole Reference Document. The outcome of this is that SWR has ended up with a timetable offer for the paths in dispute which have extended journey times and associated revenue loss against the current December 2019 timetable.**

Yours sincerely,



Andy Roberts  
Train Planning Manager  
South Western Railway