



# Dispute handling guide for train operating companies (TOCs)

This guide supplements the Dispute Handling Policy provided to you as part of Paragraph 5 of Schedule 6.7 of ERMA or Chapter 2.2 of NRC (the “Operating Agreement”) as applicable. A copy of this Policy is annexed to the Guide.

Paragraph 5 of Schedule 6.7 of ERMA or Chapter 2.2 of NRC specific obligations (as applicable) requires TOCs (Train Operating Companies) who are on ERMA (Emergency Recovery Measures Agreement) or NRC (National Rail Contract) terms to follow a specific approach to the handling of industrial action (IA) disputes.

This Guide is designed to assist in the completion of the initial DHP (Dispute Handling Plan) following receipt of a Notice of Ballot from a Trade Union (TU). The DHP should be a high-level overview of the potential dispute and the proposed plan for mitigation. At this early stage, the overview can be between a page to a page and a half per heading (see example below). Its purpose is to share essential information; it should be submitted to the DfT Market Team within three weekdays of receiving notification from the TU that a ballot has been lodged.

The purpose of this guide is to provide a consistent, simple format for TOCs so that a DHP can be completed quickly and easily.

Please see the below steps in the ‘DHP that TOCs should follow when handling disputes.

Please note reference to days in the table below is to calendar days.

## Dispute Handling Process (as set out in Dispute Handling Policy)

Timeframe	Action	Comment
Day 1: Notice of Ballot received (or IA anticipated)	Train Operating Company (“ <b>TOC</b> ”) to inform DfT Market Team.	As per existing practice
By Day 5 (i.e. 3 weekdays from TOC notifying DfT that IR is likely to occur) <sup>1</sup>	TOC to write to Market Lead / Senior Commercial Manager (“ <b>SCM</b> ”) briefly setting out dispute facts and recommending its high-level Dispute Handling Plan	For simple disputes, the TOC may combine this with step 1 above
By Day 9 – this could be extended, especially if ballot will run for a longer period.	DfT to advise TOC if its high-level handling plan is accepted or not – and, if not, what alternative approach should be adopted.	-
Day 21 / date ballot closes	Assume ballot closes: details shared with DfT.	As per existing practice
Day 25 / 3 days after notice of industrial action served on TOC	TOC to provide Market Lead / SCM with updated DHP, including estimated financial implications of any notified industrial action, in terms of revenue and cost risk.	Calculations based on details set out in notice of industrial action
By Day 28 (within a week of notice of industrial action)	DfT to confirm final “green light” to proceed, based on costs and revised DHP.	Throughout this period TOC and DfT remain in dialogue to ensure alignment (similar to current practice)
By day 31 (within 4 days of any planned industrial action)	TOC Strike Service Plan (“Contingency Plan”) to be served on DfT Market Lead / SCM, aligned with DHP. Throughout the process of developing the Contingency Plan there should be on-going dialogue between the TOC and relevant DfT Market Team.	As per existing practice whereby TOCs set out their train service plans, details around bus replacement services etc for the days of any disruption due to IA

<sup>1</sup> N.B. this day may vary depending on when the notice of ballot was received. This timeline assumes that the notification was made to the DfT on a Monday.

# Executive summary

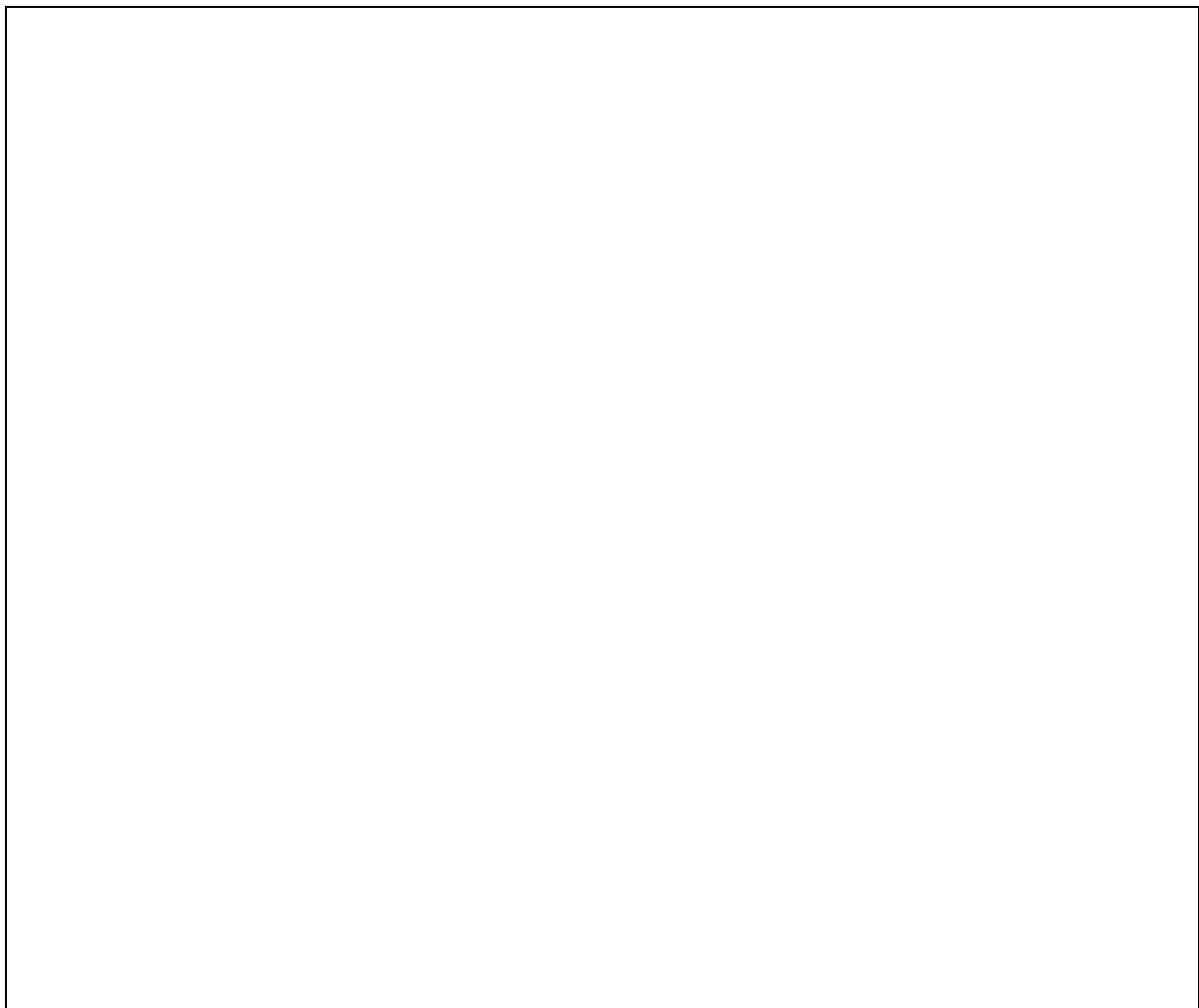
## Introduction

Identify relevant contract provision and if matter is in scope.

Briefly summarise the situation and relevant policies/ issues/potential claims.

Set out the union engagement so far and what their concern(s) are.

Set out how far the issue has progressed, i.e. number and scope of employees, ballot results, date/threat of strike action.

A large empty rectangular box with a thin black border, occupying the lower half of the page. It is intended for the user to input the details of the executive summary as outlined in the instructions above.

## 2. The dispute details

**Please use this section to set out a high-level summary of the cause of the dispute and a chronology of key events only**

Include key facts to be set out: dates; parties; number of employees involved; issue/complaint; relevant policies/procedures; union engagement so far; potential disruption. No personal information should be used (i.e. no employee names or anything that could be used to identify an employee). Please note that care should be taken before disclosing any legal advice to the DfT that may be needed to support this DHP. In the event you consider it necessary to share legal advice on a common interest basis with the DfT, please discuss this with your in-house legal team so they can take the necessary steps needed to preserve privilege over any such advice.

### Exit strategy

**Briefly explain how you intend to confront this risk and conclude it in a manner that is in passengers and taxpayers' long term best interests.**

Include details of: (i) addressing the union risk, and (ii) resolving matters with the employees; and (iii) any internal reviews to prevent issue from reoccurring.

# Communications

Set out the key aims of your communication plans

## 3. Risks and mitigations of industrial action

**Please describe in no more than a few paragraphs the nature of the likely industrial action (IA) risk and initial mitigations at this stage.**

Please consider whether you would need to adjust the timetable for the affected route(s) to eliminate the need for any rest day working or overtime during IA and to enable your contingent workforce to operate for a sustained period.

If you think other TOCs may be affected, mention what these repercussions might be. If there are any wider transport impacts possible, please also include these, e.g., airports. Lastly, mention how you would plan to support passengers. Should notice of IA be received in due course, then further details can be provided at that time)

## 4. Contingency plan

Set out key aspects of your contingency arrangements for staff, public service, costs, revenue – please also complete the appendix spreadsheet of costs.

## 5. Next steps

Insert what information you will provide if Notice of Ballot is served. What immediate mitigations are you planning to resolve the dispute?

**DfT are therefore requested to agree to our DHP as set out above, and to agree in principle that the costs necessary (including those not listed above but as agreed with DfT) for its operation and any Revenue Forgone will be treated as allowable provided that you comply with the terms of your Operating Agreement (including in relation to this DHP (as may be updated from time to time)) and that the necessary costs are Actual Costs (as defined by the Operating Agreement) and are otherwise eligible as allowable costs under the operating agreements (i.e. they do not fall into any of the categories of Disallowable Costs).**

## 6. Appendices

Spreadsheet of costs

Dispute Handling Policy