
ACCESS DISPUTES COMMITTEE

MINUTES of MEETING No. 24 held in London on 18 March 2010

Present:

Sir Anthony Holland, Chairman
John Beer (First Capital Connect)
Bill Davidson (Network Rail)
Tony Deighan (Eurostar International)
Nigel Oatway (DB Schenker Rail (UK))
Gabrielle Ormandy (Network Rail)

In attendance:

Martin Shrubsole (Clerk to the Panels)
Tony Skilton (Secretary)

24/1 Approval of Minutes of Meeting no.23

The Minutes of Meeting no.23, held on 2 December 2009, were approved. The Chairman signed a copy of the Minutes as a true record of the proceedings.

24/2 Matters arising from the Minutes of the previous Meeting

23/2 (22/6) Website hit monitoring

The Secretary reported that the elementary hit monitoring on the Committee's website continued to show steady use of the facility from a range of sources.

23/2 (22/8) Access dispute resolution process for HS1 Ltd

It had very recently emerged that HS1 had reconsidered its arrangements and it could now be anticipated that the Committee would receive a request to provide an Access disputes resolution service based on the arrangements set out in the new Access Disputes Resolution Rules but applicable to the HS1 matrix of contracts.

The Committee appointed J Beer, N Oatway and the Disputes Chairman to consider the emerging situation and to empower the Secretary to act in the event of arrangements with HS1 needing to be taken forward urgently and without time for consideration by all the Committee members.

23/7 Resources

Sir Anthony Holland, George Renwick and Martin Shrubsole had all agreed to extension of their respective contracts with the Committee until 31 July 2010.

23/8 Banking arrangements

The forms necessary for changing signatories on the type of account held by the Committee with NatWest were not held in branch and the bank's business centre had proved dilatory in responding to requests; fortunately, time had not proved to be of the essence.

In view of previous unsatisfactory service on the part of NatWest, the Secretary was asked to explore other available banking providers with a view to transfer of the account around the time of implementing the new ADR Rules. It was anticipated that any new arrangements should be "future-proofed" to facilitate on-line banking, which was expected to call for single-signature operation of the account; development of an internal control procedure was regarded as a sensible measure to ensure integrity of the Committee's financial position between annual audits.

23/10 Annual Report for 2009

The Annual Report had been issued early in January, with appropriate updating where changes to factual information had occurred since review of the draft by the Committee on 2 December.

No feedback had been received concerning the Report.

24/3 Matters determined in correspondence

No matters had been determined in correspondence since Meeting no. 23.

24/4 Position on references

The Committee noted a report on the current position regarding references on hand.

24/5 Update on the website

It was reported that apart from one recent determination regarding which the Directory entry was awaiting any appeal notification, the website was up to date.

24/6 Implementation of the new Access Disputes Resolution Rules

Since the meeting of 2 December 2009, the proposals for the new Rules had been approved by the Class Representative Committee and subsequently by ORR. Committee members had been meeting in Steering Group mode to progress the implementation arrangements and progress was reported.

A website and e-mail addresses had been set up for the recruitment campaign; the new roles had been advertised in appropriate selected publications and applications were currently being received with a closing date of 1 April. Provided there were sufficient suitable candidates, the Committee was satisfied that there was adequate time for carrying out selection and induction in readiness for implementation of the new Rules on 1 August 2010.

The new Rules had been reviewed by the Committee's solicitors and a report received. The need for some minor corrections had been identified and the necessary adjustments were being sponsored through the amendment process by Network Rail.

Work was actively in hand upon preparation of template contracts to be used for engaging the new consultants. The contracts would include terms aimed at avoiding issues of legal privilege from arising, at eliminating any potential intellectual property difficulties regarding outputs from any dispute forum and at providing uniformity in areas not addressed by the new Rules, such as the desirable format of written determinations and the use of the Committee's solicitors for any legal advice required by the Allocation Chair or a Hearing Chair.

Work was actively in hand for setting up a company limited by guarantee which would provide services to the Committee and to Access parties. The Committee noted this development.

Bryan Driver had indicated that he would now be available to continue as a Panel Chairman until 31 July 2010 if required. The Steering Group had decided that this offer should be accepted in order to give greater assurance of maintaining capability to resource Panel hearings. The Committee endorsed this contract extension.

Further meetings of the Committee members in Steering Group mode were planned.

24/7 Financial matters

The Committee received a report setting out the 2009/10 outturn forecast and the final 2010/11 budget proposition. The Secretary additionally reported that all levy payments had been received by the end of December 2009.

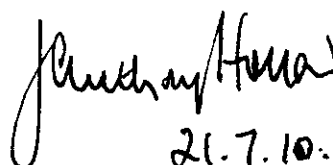
In considering the forecast income and expenditure position for the current year, the Committee decided that no rebating exercise should be undertaken in respect of 2009/10 when preparing the 2010/11 levy invoices for issue at the end of the current month. This outcome was primarily a reflection of costs associated with the move of premises in Summer 2009. It was noted that the cashflow position would be constrained until the 2010/11 levy income stream began to flow.

The proposed expenditure budget for 2010/11 was reviewed. Being satisfied that sufficient provision was included for the implementation of the new Rules during the course of the year, the expenditure budget was approved at £482,300.

The Committee provided guidance to the Secretary regarding the amount of levy to be sought from parties where the railway safety levy arrangement did not apply.

24/8 Committee and Pool membership

The Committee noted changes in the membership of the Committee, the Access Disputes Pool and the Timetabling Pool which would take effect on 1 April 2010.


21.7.10.