
ACCESS DISPUTES COMMITTEE

MINUTES of MEETING No. 44
held in London on 17 March 2016

Present:

John Beer (Govia Thameslink Railway) (Committee Chair)
Dean Warner (Abellio Greater Anglia)
John Czyrko (First Greater Western)
Andy Wylie (Hull Trains)
Nigel Oatway (DB Cargo (UK))
Robin Nelson (Freightliner Heavy Haul)
Peter Craig (Network Rail)
Paul Thomas (Network Rail)

In attendance:

Helen Cavanagh (Northern Rail)
Tony Skilton (Secretary)

It was noted that the meeting was quorate.

44/1 2016/17 Committee and Timetabling Pool membership

The Committee noted the results of recent elections and Helen Cavanagh was welcomed to the meeting as an observer preparatory to replacing John Beer as a Committee Member on 1 April. Ian Kapur, who would be replacing Robin Nelson on 1 April, was not available to observe this meeting.

The Committee members expressed appreciation of the contributions which John and Robin had made to its work and for their participation in the former Access Dispute Panels.

The Committee additionally recognised John's significant involvement in the introduction of the revised ADR Rules in 2010 and his period of office as Committee Chair since that time. John was wished well for his forthcoming retirement.

It was noted that Robin would continue to be a member of the Timetabling Pool.

Under the provisions of ADR Rule J19, the Committee elected Nigel Oatway to replace John Beer as Committee Chair with effect from the close of this meeting until the first meeting after 1 April 2016.

It was noted that three changes would take effect in the Timetabling Pool on 1 April 2016.

44/2 Approval of Minutes of Meeting no.43

The Minutes of Meeting no.43, held on 10 December 2015, were approved. The Chair signed a copy of the Minutes as a true record of the proceedings.

44/3 Matters arising from the Minutes of the previous Meeting

All matters arising from the Minutes were listed as agenda items except:-

43/2 (previous 42/2, 41/2 and 40/8) Seminar for Hearing Chairs

The Secretary reported that arrangements were in hand for the intended seminar to take place on 11 May 2016, this date having proved convenient for all the Chairs.

In view of his role in appointing the Chairs and chairing their gatherings during his years as Committee Chair, it was agreed appropriate that John Beer would, if available attend the seminar to provide continuity.

43/2 (previous 42/9) Abolition of the Rail Industry Dispute Resolution Committee and Rail Industry Dispute Resolution Council

The Secretary reported that the residual funds held by the Rail Industry Dispute Resolution Committee ("RIDRC") at its winding up had been transferred into this Committee's care during December 2015; it had previously been agreed that these funds would be utilised to offset rent over the remaining committed period of the office lease. Due to web hosting issues and the associated ongoing expense of maintaining the dedicated RIDRC website, the site had been taken down during February 2016 and the new version of the Rail Industry Dispute Resolution Rules was now published on this Committee's website.

43/7 Preliminary budget for 2016/17

The Secretary reported that the Committee's views regarding the sharing of the office costs following the abolition of the RIDRC had been put to the Delay Attribution Board and the equitable arrangement reached was reflected in the final budget proposal tabled to this meeting.

43/9 Annual Report for 2015

The Secretary reported that the Annual Report had been issued on 17 February 2016. The delay had arisen due to the need to resolve the web hosting issues for the former RIDRC site in order to be able to include details of the place to locate the published Rail Industry Dispute Resolution Rules.

44/4 Matters determined in correspondence

No matters had been determined in correspondence since Meeting no. 43.

44/5 Position on references

The Committee noted a report from the Secretary setting out the current position regarding dispute references.

Timetabling Disputes

The Committee had previously engaged with Network Rail regarding the volume of Timetabling Disputes being registered. The Committee had been concerned to exercise its management responsibility of the Timetabling Disputes process to deliver better value for the industry and, following consideration of the report of an investigation conducted on behalf of the Committee, Network Rail had agreed to provide feedback as to how it was pursuing improvement in the various areas of the timetable planning process. Paul Thomas had been asked by Network Rail to present an update to this meeting.

Paul reported that the data was indicating the incidence of disputes about the Timetable Planning Rules to be increasing whilst the trend of disputes concerning Engineering Access Statements or Confirmed Period Possession Plans ("C PPPs") to be reducing slightly. Network Rail was now tracking the progression of all disputed matters and looking to be proactive in securing resolution.

Improved monitoring within Network Rail of the C PPP position, coupled with having a nominated lead for each C PPP dispute, was starting to show improvement when compared to the recent trend. Network Rail was appreciating that the practice of leaving operators' concerns raised during development of the Engineering Access Statement until the C PPP stage is a significant process issue which requires attention. Network Rail had also recognised that C PPP documents were of varying quality across its organisation so where disputes arise, there is now particular focus on taking ownership of the issue and giving attention to operators' reasons for concern.

Regarding disputes about Engineering Access Statements, within the current list of 61 there were only 13 upon which there was active engagement between Network Rail and the relevant operator; in these cases, Network Rail had nominated a lead individual and an action plan had been developed with the operator for working towards resolution. There were 25 disputes which Network Rail thought both parties were regarding as being settled but which the operator had not withdrawn; and there were 23 "holding disputes" regarding which there was tacit understanding with the operator that Network Rail did not need to expedite any attention.

The Network Rail view was that it is too early for making any suggestions as to how Part D of the Network Code might be amended to improve the contractual timetable planning process as greater experience is needed of using the current arrangements more effectively, with quality and consistency throughout.

In discussion, the Committee agreed that it would be appropriate for the records held by the Secretary and Network Rail in relation to "holding disputes" to be reviewed in about 2 months' time to enable data to be compiled which will enable Band/Class representatives on the Committee to explore the reasons with their respective operators and help to gain greater insight into this aspect. Paul Thomas undertook to lead in giving attention to this.

The Committee thanked Paul for providing the feedback from Network Rail and for giving leadership in seeking to address the volumes of Timetabling Disputes.

44/6 Update on the website

The Secretary reported that the website (including the Directory) was up to date.

44/7 Internal check arrangements

Robin Nelson had tabled a report regarding internal check activity which he had carried out since the 10 December 2015 meeting and this was noted.

It was agreed that Paul Thomas would undertake internal check until the next meeting. Subject to their availability, Paul agreed take the opportunity to give some introduction to internal check processes to those Committee members who had not previously had experience in the activity.

44/8 Outturn for 2015/16 and budget and levy for 2016/17

The Committee noted a report from the Secretary setting out the final outturn projections against the current year budget, together with the final budget proposal for 2016/17. It was anticipated that 2015/16 income would comfortably exceed expenditure.

One Resolution Service Party had yet to pay its levy contribution for 2015/16 but this had only recently been invoiced.

The net expenditure budget proposal for 2016/17 was approved, noting costs sharing contributions expected from the Delay Attribution Board and the CAHA Registrar towards office expenses. However, with the total anticipated for net 2016/17 expenditure emerging above the net expenditure outturn for 2015/16, the Committee decided that it should reduce the impact on the industry by applying accumulated surplus to enable setting the overall levy demand upon Resolution Service Parties for 2016/17 in line with the 2015/16 expenditure outturn. In adopting this strategy, the Committee was satisfied that its position as an ongoing concern would nevertheless remain protected.

The levy charges for 2016/17 were discussed in the context of the arrangements set out in the ADR Rules and, together with other funding aspects, determined.

44/9 Meeting room furniture

At its meeting on 11 December 2014 the Committee had decided that it would be opportune upon abolition of the RIDRC to replace the main conference room furniture to enable flexibility of layout and attract greater use. In view of increasing costs of the necessary furniture and the shorter period now remaining on the office lease consequent upon the delayed RIDRC closure, the Committee decided that it would no longer be appropriate to proceed with the scheme. It was recognised that financial provision made in the 2014/15 accounts would now be released.


44/10 CAHA Registrar's budget for 2016/17

The recently amended Claims Allocation and Handling Agreement requires the Registrar to obtain approval of the Access Disputes Committee for its costs and expenses for each financial year. Lesley Stephenson of CAHA Registrar Ltd attended for this agenda item to discuss the Registrar's budget for 2016/17, which the Committee approved.

44/11 Directors of Access Disputes Resolution (GB) Ltd

The Committee noted that apart from the Secretary (who is a director ex officio), ADR Rules J46 and J47 provide that only Members of the Committee may be directors of the Agency Company, Access Disputes Resolution (GB) Ltd. John Beer was currently a director but the imminent termination of his Committee membership would automatically terminate his directorship, leaving the company with only one director (Nigel Oatway) besides the Secretary. This situation was not entirely satisfactory as the company could encounter difficulty in the event of any urgent business arising which requires two signatures but either director not being available.

Following discussion, the Committee decided to appoint Andy Wylie and Paul Thomas to be directors of Access Disputes Resolution (GB) Ltd subject to gaining any necessary authority from their employers.


28/7/16