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## ***ACCESS DISPUTES COMMITTEE***

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### **Annual Report for 2009**

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"the expenditure budget for 2010/11 will call for a significantly uplifted levy"

**Access Disputes Committee  
Floor 8  
1 Eversholt Street  
London NW1 2DN**

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## **ACCESS DISPUTES COMMITTEE**

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### **REPORT FOR 2009**

The Committee is pleased to issue its report for the calendar year 2009.

#### Communications

The Committee's report for 2008 was issued in the revised format first adopted for the 2007 report and again invited comments regarding the adequacy of its content. In the absence of any adverse feedback, the 2009 report follows the same simplified format.

The Committee's website ([www.accessdisputesrail.org](http://www.accessdisputesrail.org)) is a ready source of reference whilst also containing guidance and a downloadable template for joint submissions to Panel hearings. The website is updated promptly following a change in any area of information.

Comments regarding the website and Committee matters in general will always be welcomed and should be passed to the Secretary (e-mail: [sec.adc@btconnect.com](mailto:sec.adc@btconnect.com), tel: 020 7554 0601).

#### Dispute references

The position regarding dispute references handled during 2009 can be summarised as follows:-

##### For an Access Disputes Panel

References on hand at 31.12.08	3	
New references received in 2009	15	
References withdrawn in 2009	7	
Determinations issued in 2009	5	(relating to 8 dispute references)
Determinations not yet finalised	0	
Pending at 31.12.09	3	
Appeals submitted to ORR in 2009	2	

##### For a Timetabling Panel

References on hand at 31.12.08	11	(excluding appeals awaiting ORR determination)
New references received in 2009	64	
References withdrawn in 2009	45	
Determinations issued in 2009	3	
Determinations not yet finalised	0	
Pending at 31.12.09	27	
Appeals submitted to ORR in 2009	0	

Panels have already been arranged for hearing 7 dispute references in 2010.

Details of all references received can be found on the Committee's website, together with any associated Panel determination and any ORR appeal decision.

For the purpose of clarifying precedent to be applied in any future similar situations, the Committee continues to await ORR's decision in respect of Network Rail's appeals against the Timetabling Panel's interim determination and final determination of references from 6 operators in relation to Network Rail's Final West Coast Route Modernisation decision document (NAUM-30): the Panel issued its determinations (TTP210) in May 2008 and ORR deferred hearing the appeals until 2009.

The prescribed timescales for submitting dispute references are stringent, so even where there is anticipation that an issue between Access parties will be resolved through discussions, it is important for the dispute to be registered with the Committee within timescale in order to protect the interests of the disputing party. The ensuing process of jointly preparing to attend a Panel hearing is one that creates the climate in which the parties may well find that their points at difference are capable of resolution: this year, 5 arranged hearings did not proceed because the parties found that they were actually able to settle the issues between them.

### The Access Dispute Resolution Rules

The Committee's report for 2007 observed that the continuing fitness of purpose of the Access Dispute Resolution Rules for dealing with the complexity and value of some present-day disputes had become a matter for consideration. Following industry consultation in connection with a review both of the Rules and of Part M of the Network Code, proposals were developed with the intention of putting in place a process which is fit for purpose and which allows disputes or appeals raised by Access parties to be considered and resolved in an appropriate, robust and fair manner. The proposals were approved by the Class Representative Committee on 22 December; if now approved by ORR, the revised ADR Rules are expected to be implemented during 2010, together with associated Network Code amendments.

### Accommodation

In January 2009 a new landlord of the Committee's basement premises at Central House, Upper Woburn Place, exercised a break clause in the lease, effective in July. New premises have been secured on part of floor 8 of 1 Eversholt Street, enabling the Committee to remain based in the Euston area. The improved environment has drawn appreciative comments from visitors attending for hearings and meetings. The Committee appreciates the efforts of the Secretariat team in delivering a successful removal.

The new premises may be found to offer an acceptable and less costly alternative to booking meeting rooms in Central London – contact the Secretary (020 7554 0601) regarding facilities and availability.

### Finance

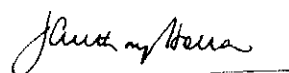
Expenditure in the financial year to 31 March 2009 was £208,150 against a budget of £321,400; the excess, which included contingency provisions, was returned to Access parties through the rebate arrangement.

The expenditure outturn for the current year (2009/10) is some £282,000 against a budget of £318,000; this largely reflects the unlikely requirement to call fully upon provision made for legal services.

No levy payments are outstanding for 2009/10 or prior years.

The Committee is mindful of the stewardship expectations which apply to its funding as provided through the annual levy and there has been a reducing costs trend over the past 3 years. However, assuming that the proposed revision of the Access Dispute Resolution Rules is to be implemented during 2010, the expenditure budget for 2010/11 will call for a significantly uplifted levy, largely because of the need for the Committee to hold sufficient funds to meet the potential fees of the Chairpersons and Industry Experts which the revised Rules will introduce to the dispute hearing process. This likelihood has been made clear during Stakeholder briefing in relation to the revised Rules.

On behalf of the Committee



Sir Anthony Holland  
Chairman

4 January 2010