

Chao Jack

From: Schutte Sarah
Sent: 15 March 2010 15:17
To: 'Tony Skilton'
Cc: Stewart.Smith@londonunderground.co.uk
Subject: RE: ADP50 - Station Access Dispute - Wembley Central

Dear Chairman

On Friday 12 March LUL's Lance Ramsay made contact by telephone with Stewart Smith of RES further to LUL's letter of 11 March.

RES has confirmed it has no particular concerns with the proposed checklist, or with attending planning sessions for events, and, therefore, the parties have to all intents and purposes a sensible working arrangement. However, RES has now said that if the majority of the checklist can be completed in advance of any access request then access should be granted automatically, and without the need to attend any planning sessions, even though it acknowledges that certain checklist information is determined by event-specific factors.

We further understand that RES is intent on proceeding with the hearing irrespective of whether the checklist can be agreed. LUL's view remains that this is unnecessary and will continue attempts to resolve the matter until the hearing date (24 March). In the meantime, I will file LUL's submission tomorrow (Tuesday 16 March 2010) as directed.

We would be grateful for any further guidance you may have.

Yours sincerely,

Sarah Schütte | Senior Associate Solicitor

London Underground | Legal Services, 8th Floor | 55 Broadway | London SW1H 0BD

sarah.schutte@londonunderground.co.uk | Tel: 020 7618 2250 | Auto: 020 7618 2250 | Fax: 020 7618 2250 | Auto: 020 7618 2250

This email is sent from the office of Jane Mee, Solicitor - Director of Legal, London Underground Limited, 8th Floor, 55 Broadway London SW1H 0BD. Visit the LUL website: www.tfl.gov.uk/tube.

Please consider the environment before printing this email.

From: Tony Skilton [mailto:tony.skilton@londonunderground.co.uk]
Sent: 11 March 2010 16:01
To: Schutte Sarah
Cc: Stewart.Smith@londonunderground.co.uk
Subject: ADP50 - Station Access Dispute - Wembley Central

Dear Ms Schutte

The Panel Chairman has considered your e-mail of today (11 March 2010) and noted your general concerns and, in particular, your remarks regarding jurisdiction. Sir Anthony has asked me to reply as follows -

"This matter arises in connection with the operation of specific contractual arrangements contained in the Station Access Agreement between LUL and RES. Whilst accepting that LUL may perhaps not have categorically "refused" access, the response of LUL to the approach from RES did not enable RES to make sensible commercial arrangements for running a Charter train on 28 February. Clearly the opportunity for Charter traffics to a football stadium for a cup match only arises when the teams are known so the decision processes applied by all concerned must therefore be capable of responding in limited timeframes. Without pre-judging the issue, I believe that RES is probably entitled to consider itself as having been denied the opportunity to bid to Network Rail for Track Access because of a lack of clear commitment from LUL to honour the Station Access Agreement for Wembley Central station and therefore having effectively been refused access. I am consequently satisfied that it is appropriate for the reference from RES to be heard by an Access Disputes Panel, which may well decide on the day that there is, in fact, no basis for "dispute".

Further, the documentation received from RES indicates that LUL has shown concerns regarding crowd management outside the station. I fully accept the right - indeed, the obligation - of LUL to satisfy itself regarding the safe working of its premises and it may well be that in making any determination, the Panel will be minded to take into account any implications for public order outside of the defined Station area. However, regulatory guidance over the years has been to the effect that Panels should confine their deliberations to the legal rights of parties under the contract between them and not seek to devise/broker solutions or to find objections relating to operational or other problems, no matter how compelling it may be to attempt to do so.

The Access Dispute Resolution Rules authorise me to make an order for costs if, in this instance, the case is concluded as being so lacking in merit that the reference should not have been made by RES or defended by LUL, also if the conduct of either party is such as to justify an award against it. Rest assured that I will not shrink from making such an order if I believe it appropriate."

As you will see, I am copying this e-mail to Stewart Smith at RES.

I now look forward to receiving LUL's submission to the Panel (by 15 00 on 16 March).

Yours sincerely

Tony Skilton
Secretary
Access Disputes Committee

Tel: [REDACTED]

Fax: [REDACTED]

Chao Jack

Attachments: Charter Access Letter 11.03.10.pdf

From: Schutte Sarah
Sent: 11 March 2010 13:25
To: 'Tony Skilton'
Cc: Stewart.Smith@lul.co.uk
Subject: RE: ADP50 - Station Access Dispute - Wembley Central

Dear Chairman

Thank you for your email of 9 March.

This is a matter which LUL and RES are fully capable of resolving between themselves without the need for a hearing.

All that is required is for LUL and RES to agree what information RES will supply to LUL so that LUL can be satisfied that suitable arrangements are in place to avoid undue impact from the charter train visit and to ensure that the LUL station can operate safely. LUL has satisfactory and amicable arrangements in place with other TOCs.

The General Manager, Bakerloo Line has sent a letter to RES following up the meeting which LUL arranged with RES on 24 February to get agreement on this point. I attach a copy of that letter. None of the information sought is unreasonable or onerous. If RES has any concerns or comments, LUL is willing to discuss further.

This is not a matter which needs trouble the Panel members in LUL's view.

If however RES continue to pursue the reference, LUL does have "jurisdictional" concerns. They arise in as much as anything out of wanting to understand what it is that RES want or expect the Panel to decide. RES' submissions do not explain these issues.

1. Paragraph H5 of the NSAC requires a "dispute" or "claim" as a precondition to applying to the Panel for a determination. Given that RES withdrew the request for the 28 February access, there is no dispute or claim.
2. Further, LUL did not actually make a decision to refuse the request for access. There is no "refusal" for the Panel to enquire into.

In summary the facts are that the request was made on Tuesday 19 January, LUL telephoned RES on Wednesday 20 January, discussed what was needed and why (given previous experiences with RES charter trains in April and May 2009), arranged the meeting with RES on Friday 29 January to which RES were asked to bring suggestions as to what they could offer, RES then failed to provide anything satisfactory at that meeting but on the following Wednesday 3 February referred the matter to the Panel.

3. The Panel does not appear to have a general discretion to issue guidelines for use in future access requests.

In answer to points 2 and 3 of your email, LUL's submissions will provide further detail but there has not been unreasonable delay on LUL's part. As soon as a request for a specific day was made LUL has been keen to resolve matters with RES.

LUL felt it was not possible to file a joint submission for 2 main reasons: (1) we did not receive the draft from RES 4 days before it was due to be filed (25 February), which did not give LUL sufficient time to respond to it and address its own concerns; and (2) RES were not prepared to acknowledge the concerns as to jurisdiction. I see that the effect of getting only RES's perspective on the matter may have had the effect of creating unfavourable impressions of LUL. I do not think they are justified.

LUL is committed to getting to an amicable resolution here and any further advice or suggestions on this in advance of the current hearing date would be welcome.

Yours sincerely.

Sarah Schütte | Senior Associate Solicitor
London Underground | Legal Services, 8th Floor | 55 Broadway | London SW1H 0BD

Please consider the environment before printing this email.

From: Tony Skilton [mailto:[REDACTED]]
Sent: 09 March 2010 15:43
To: Schutte Sarah; Stewart.Smith [REDACTED]
Subject: ADP50 - Station Access Dispute - Wembley Central

The Panel Chairman, Sir Anthony Holland, has read the submission provided by Rail Express Systems and has asked me to raise the following concerns with London Underground Limited:-

1. In an e-mail sent by LUL (Sarah Schutte) to RES (Stewart Smith) at 15 04 on 1 March 2010, mention is made of LUL having "raised certain jurisdictional matters" about the referral to the Access Disputes Panel. If LUL still has an issue in this area, it is appropriate that it is made known to the Chairman (via myself) in advance of the hearing in order to avoid all concerned wasting their time if the hearing is not able to proceed. The Chairman wishes LUL to expand on its concerns - if they still exist - in separate correspondence urgently, please, and in any case before 15 00 on this coming Thursday, 11 March. If there is no longer a concern, may I please be informed quickly.
2. The submission from RES indicates some delay on the part of LUL in responding to the initial enquiry from RES regarding the operation of Charter trains. Bearing in mind that in the current economic climate all business opportunities are to be encouraged, the Chairman asks that LUL comments regarding this apparent delay within its own submission.
3. The e-mails annexed to the RES submission create the impression that an overly legalistic approach has perhaps been adopted by LUL and that this has precluded seeking ways forward to enable Charter trains to serve key events at Wembley. Clearly the Chairman has only thus far seen the RES side of the matter and he hopes that LUL's submission document will serve to eradicate any false impression which might be gained by the Panel members. The opportunity for such impressions to arise tends to be lessened by collaboration upon providing a joint submission document to the Panel.

I would remind both parties that the Panel process is inquisitorial, not adversarial, and it is hoped that these few points from the Chairman will assist towards reaching an outcome without undue delay.

Finally, the Chairman has asked me to again encourage RES and LUL to continue discussions regarding this matter with a view to resolving the issues between them without needing the Panel to sit. The Panel members are all busy people in their substantive jobs within the industry and if goodwill can bring about resolution of this dispute, they will not mind being stood down.

I now look forward to a response from LUL regarding point 1 above and also to receiving LUL's submission document, both by 15 00 on Thursday.

Tony Skilton
Secretary
Access Disputes Committee

Tel: [REDACTED]
Fax: [REDACTED]



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General Manager
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Phone: [REDACTED]
Mobile: [REDACTED]

11th March 2010

Dear Stewart

ADP50 – Wembley Central

I write further to our meeting on 24 February 2010 and to the ADP Chairman's email of 9 March.

You will recall that we discussed in the meeting what measures should be taken by the parties in order that LUL's safety concerns could reasonably be alleviated. These were all points made previously by LUL following events for which access was granted in 2009 and in the 29 January meeting. Stacey McManus ran through a draft checklist of issues which we proposed the parties adopt as generic guidance for future access requests, although acknowledging that the circumstances of an individual event could change the weighting of particular criteria. My recollection is that you were generally agreeable to them and would consider the issues further. I have not heard from you since the meeting.

I enclose a copy of the draft checklist and await your comments. It is clear to me that the direction from the Chairman is for the parties to try to resolve matters direct, thus avoiding a hearing, and so I look forward to hearing from you.

Yours sincerely


Lance Ramsay

Wembley Central Station - Charter Access Arrangements Checklist

This checklist is not an exhaustive list and will vary in requirement for each event depending on numerous

factors including:

Event Timescale

Expected Attendance

Engineering Works

Other Events

Stakeholder Requirements

Number of access requests

Checklist	Details	BY
Booking Access	Track access request with Network Rail? Detail of track access (train times/ number of trains) request and expected timescale for confirmation? request	
	Station access request to be sent at least 1 month in advance of date access required in line with Schedule 3 of the SAC's	
	SFO Respond to request within 5 days of receipt of access request except in the event further information is required prior to a defined decision being made.	
Event Planning & Strategy	Charter Company Event Plan to address all items listed within checklist would be required. This plan must work in conjunction with London Midland and LUL combined event plan.	
	Will charter company attend relevant event planning meetings like other key stakeholders	
	Train Despatch arrangements	
	LUL do not hold any responsibility for safe operation of charter trains - what additional safety arrangements need to be in place and have these been accounted for by the train operator (short platform working arrangement)	
	Confirmation via Network Rail for access via Slow lines only	
Command Structure & Briefings	Charter Company Staffing arrangements for day	

	Who will be lead contact for Planning? On the event day?		
	Timing for staff to be onsite		
	What training/ familiarisation would charter staff be given and by whom		

Crowd Management	How will the Charter company prevent their passengers going into incorrect queues, blocking retail units in the plaza area or obstructing the station main entrance and evacuation route.		
	What will the charter company put in place for customers to know where to go (signage)		
	How will charter customers be identified where entering station and who will manage this arrangement		
	What will the charter company put in place to hold customers in a particular area (barriers)		
	Will the charter company put in place a holding area post event for Charter customers outside the station		
Communication	Charter company event planning contacts		
	Charter Company Event lead on event day		
	What communication arrangements will the charter company put in place to ensure Customers understand arrangements post event		
	How will charter staff communicate between each other		
	How will charter event staff communicate with station event staff on the event day.		
On the Day Contingencies	How will events going into extra time / penalties be managed? Will trains be re-time and what impact may this have?		
	Charter staff would be required to attend a combined briefing with key event stakeholders onsite.		
	If the charter train can not run on the day for any reason post event - who will manage these customers and what alternative arrangements will be implemented.		