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## *TIMETABLING SUB-COMMITTEE*

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### MINUTES OF FIRST MEETING HELD AT EUSTON HOUSE ON 1ST DECEMBER 1994

Present: Terry Worrall, Chairman  
Geoff Appleby  
Robert Watson  
Philip O'Donnell  
Nigel Fulford  
Simon Taylor  
Tony Crabtree  
Martin Idale  
Mike Hodson

In attendance:  
Martin Shrubsole  
Chris Blackman

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1. The Chairman, Terry Worrall opened the meeting and effected the necessary introductions.  
  
Apologies had been received from Graham Laycock.
2. It was noted that, for the first part of the meeting, members and alternates would be present for discussion on the processes and procedures. For the second item of the agenda, the hearing of Reference No.1, the meeting would be formally constituted, but alternates would remain as observers taking no part in that item on the agenda.
3. **Processes and procedures for the working of the Sub-Committee**
  - 3.1 Terry Worrall outlined the background to the development of the processes and procedures. These had been tabled at a meeting with the Regulator who had acknowledged that the Access Disputes Resolution Committee was empowered to formulate the procedures for the working of the Sub-Committee.

- 3.2 Chris Blackman then highlighted the main features of **Procedures Draft No.3** and clarified the position that the members and alternates of Timetabling Committee had been nominated by members of Access Disputes Resolution Committee who had themselves been elected.
- 3.3 Referring to Section 2.11 it was agreed that the basis of the Chairman's discretion needed to be properly documented.  
**Action:** Martin Shrubsole and Chris Blackman
- 3.4 It was further agreed that all documentation and papers on the processes and procedures would be sent to all members and alternates of both the Access Disputes Resolution Committee and the Timetabling Sub-Committee. It was noted that any changes to Draft 3 would be clearly referenced and dated as a subsequent Draft before circulating to all members/alternates.  
**Action:** Martin Shrubsole and Chris Blackman
- 3.5 Chris Blackman clarified the position regarding voting by the Committee for which a majority of 75% was decreed in the Access Conditions, except for the determination of the resolution of a referral from a train operating company which required unanimity.
- 3.6 Martin Shrubsole explained to the Committee how references might be made for their consideration, and what decisions they were empowered to reach. He referred them to the precise wording of Access Condition D5, and to the difference between the powers of the Timetabling Committee, and the ultimate powers of the Regulator.

The Committee was asked to note in particular that:

- the process assumes that Railtrack is responsible for managing the Timetable, and is therefore in a position to exercise its will without reference to other authorities
- only Train Operators, or other Access Right Holders, can make a reference to the Timetabling Committee, which is, in effect, a challenge to Railtrack's actions
- when the Committee has heard a reference by an operator the Committee has a choice of decisions (as described in D5.5.3) namely
  - i) "to direct Railtrack to comply with directions which specify the result to be achieved but not the means by which it shall be achieved ("general directions"); or

- ii) to direct the parties to accept any submissions made by Railtrack as to any train slots;”
  - any decision taken by the Timetabling Committee is “a final determination”; it cannot be modified, and can only be amplified, in the case of a “general direction”, if Railtrack ask for further guidance on the intention of that direction (D5.5.4)
  - if any party (“Bidder”) affected by a Timetable Committee decision wishes to challenge that decision further then they must make a reference to the Regulator.
  - the Regulators powers are greater than those of the Timetabling Committee in that:
    - i) he may give an interim determination, followed by a final determination, and
    - ii) he can give Railtrack very specific directions, which might require some of the Timetable to be unpicked.
- 3.7 Geoff Appleby queried what was meant by the phrase ‘general direction’; it was confirmed that in paragraph 5.5.4 it refers to clarification on “what did the committee mean” rather than “how to do it”.
- 3.8 Simon Taylor was concerned with the timescales for making appeals and whether this would permit sufficient time to enable the results of appeals to be input to TSDB. The timescales would permit this to be done at the Manual Edit stage; the Regulator has been advised and understands the attendant risks.
- 3.9 Consideration had been given to the issue of ‘parties to an appeal’, and the possibility that a general direction from the committee or the Regulator might affect a third party. The committee will need to guide the Secretariat as how this should be handled.
- 3.10 Nigel Fulford stressed there was a need to encourage early references to the Timetabling Committee which Robert Watson endorsed, saying there should be some incentive. For example, it may emerge that late references could result in general directions for implementation being made at a subsequent change date.

3.11 Terry Worrall asked the committee to consider and advise on the limits of circulation for the documents that are generated by the Committee. It was agreed that Draft 3 would be developed into a formal document attached to a foreword and circulated to all parties, but this process would be complemented by the staging of a number of seminars. It was suggested that presentations should be made to standing bodies such as the Track Access Managers Group, Freight Resource Managers and others within Railtrack, BRB, European Passenger Services, London Underground Limited, and Freight Shippers who have access rights but are not themselves operators.

**Action:** Martin Shrubsole and Chris Blackman

3.12 It was agreed that the secretary would keep a definitive list of the potentially interested players including access right holders and access option holders. Procedural papers should go to all parties, and the committee will need to consider to decide who would be circulated with notes of the meetings.

**Action:** Chris Blackman

3.13 Robert Watson asked what the process should be for the committee in debating the issues that had been presented to them. It was noted that nothing was laid down and indeed this was intentional to be non-prescriptive. The committee must be clear what the issues are on which it is to make a judgement, and will need to judge on the facts made available rather than interpretation of the perceived underlying issues. The Secretariat will keep a record of determinations which will effectively build up a case law, and will advise the committee of precedence and the application of criteria in previous cases which had come to notice. Essentially this will be in the form of a build-up of information on the interpretation of the criteria in Access Conditions D4 and the attribution of weightings of the eleven different criteria in practice.

3.14 The Committee approved the paper entitled 'Procedure on the Day', version 1 – 29/11/94 subject to the following amendments. Preceding Item 1 there should be two elements, firstly an opportunity for a brief consideration of the case papers as a committee in open forum and secondly the opportunity for members to declare an interest when appropriate. The secretary will incorporate this into version 2 and renumber the elements.

**Action:** Chris Blackman

- 3.15 The Chairman also suggested that there would be merit in encouraging the parties to consider preparing a joint submission. The Committee endorsed this proposal, but recognised that it was not feasible to make this mandatory, particularly in cases where more than two parties might be involved in a dispute. The option of preparing an individual submission should always be available.

#### 4. Reference No.1

The Committee then formally heard Reference No.1 from Regional Railways (South Wales and West). The Record is attached.

#### 5. Future Workload and Dates of Meetings

- 5.1 The committee agreed that they would hold one further meeting before Christmas on the 15th December 1994; the secretary would write to all train operating companies asking them to ensure that any outstanding references were submitted in time to be heard at this meeting.

**Action:** Chris Blackman

- 5.2 To cater for the references arising from the second iteration offers which had to be made by the 27th January 1995 the committee decided that it would need to be prepared sit for a two and a half week period commencing the 7th February 1995.

**Action:** Members and alternates to arrange availability