

ACCESS DISPUTE RESOLUTION RULES

Template format for a Notice of Dispute

Access Dispute Resolution Rule B2 requires a Resolution Service Party wishing to refer a dispute to serve a written Notice of Dispute on the Secretary and a copy on every other party to the dispute. Rule B3 requires that, *unless otherwise advised by the Secretary*, the Notice of Dispute shall normally be in accordance with the template format as set out below and shall do all of the following:

- state the contract and relevant contractual clause under which the reference is made (or such other basis for the reference under the Rules);
- list the other parties concerned whether as a Dispute Party to the dispute or otherwise; - summarise the basis of the claim including a brief list of issues;
- state whether the Dispute Parties have already agreed on a determination procedure, or, if not, specify the referring party's initial preference for a determination procedure, including, if it believes it is a Timetabling Dispute, a statement to this effect; and
- state whether exceptional circumstances exist requiring an expedited hearing or process.

In the case of Timetabling Disputes, disputes regarding Delay Attribution Board guidance (referred under Network Code Condition B2.4.4) and disputes concerning Changes to Access Rights (referred Network Code Part J), Rules B5, B6 and B7 respectively set down the determination procedure and Dispute Parties have no ability to agree any alternative.

The generic template is set out below, annotated with guidance for completion of a Notice of Dispute. This generic template and specific templates for the three dispute situations where one of Rules B5, B6 or B7 applies are available separately on this website in Word format to facilitate downloading for use. The format is designed to be used as an e-mail but may be adjusted into letter format. Text in bold should be considered the essential framework of the generic Notice.

Please note

1. It is most unlikely that any determinative Forum will consider that the requirement to “summarise the basis of the claim including a brief list of issues” is satisfied by a statement such as “there is contractual deviation”. In such a situation, the Notice of Dispute may be declared to be non-compliant with Rule B3(c) and, consequently, invalid.
2. Regarding Rule B3(d), a Notice of Dispute for a matter other than those covered by Rules B5, B6 and B7 will not be compliant if a determination procedure is not indicated and may, accordingly, be declared invalid.

The generic template

[Title] **Notice of Dispute**

On behalf of [*insert legal name and registered company number of party bringing the dispute*] **and**

pursuant to [state name of the contract, relevant contractual clause under which the dispute reference is made (or other basis for referring the dispute)], **I give Notice of Dispute with** [state legal name(s) of other party/ies] **in relation to** [indicate subject matter, e.g. "Decisions on Timetable Planning Rules for 2019, Version 4"].

This dispute is brought on the basis that [summarise the basis for the dispute and give a brief list setting out the issues – this can be attached in the form of an annex if best suiting the situation. Statement such as "There is contractual deviation" does not comply with the requirements].

[Then state one of:-]

(a) **We have agreed with the party/ies detailed above that the determination procedure shall be** [insert the agreed stages, e.g. "Access Dispute Adjudication preceded by Mediation"] **and**
(i) **a completed Procedure Agreement will follow** [or]
(ii) **the Secretary is requested to draw up a Procedure Agreement on the following basis** [insert the agreed stages, e.g. "Access Dispute Adjudication preceded by Mediation"]

(b) **The determination procedure preferred by** [insert name of party bringing the dispute] **is** [insert the preferred stages, e.g. "Access Dispute Adjudication preceded by Mediation"]

(c) [Insert name of party bringing the dispute] **considers this matter to be a Timetabling Dispute.**

(d) **Determination of this matter should proceed in accordance with Access Dispute Resolution Rules B6.**

(e) **Determination of this matter should proceed in accordance with Access Dispute Resolution Rules B7.**

(f) **Determination of this matter should proceed in accordance with Access Dispute Resolution Rules B8.**

[Then state one of:-]

(a) **We are continuing discussions with the other party/ies and do not consider there to be requirement for the dispute resolution process to be expedited**

(b) **We request that the determination process be expedited because** [insert exceptional circumstances or reasons for urgent progression]

[Then state one of:-]

(a) **Parties which might be concerned with this matter other than as a Dispute Party are** [insert]

(b) We are not aware of any other Party which might be concerned with this matter.
Then

[Indicate who will deal with the matter on behalf of the referring party if it is not to be the person signing off the Notice of Dispute]

[Sign off] [Provide name, job title, telephone, fax (optional) and email details of the person submitting the dispute on behalf of the referring party]