
ACCESS DISPUTES COMMITTEE

MINUTES of MEETING No. 45
held in London on 28 July 2016

Present:

Nigel Oatway (DB Cargo Rail (UK)) (Committee Chair)
Dean Warner (Abellio Greater Anglia)
Andy Wylie (Hull Trains)
Ian Kapur (GB Railfreight)
Peter Craig (Network Rail)

In attendance:

Tony Skilton (Secretary)

Apologies for absence:

John Czyrko (First Greater Western)
Helen Cavanagh (Arriva Rail North)
Paul Thomas (Network Rail)

It was noted that the meeting was quorate.

45/1 Approval of Minutes of Meeting no.44

The Minutes of Meeting no.44, held on 17 March 2016, were approved. The Chair signed a copy of the Minutes as a true record of the proceedings.

45/2 Matters arising from the Minutes of the previous Meeting

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

44/3 (previous 43/2, 42/2, 41/2 and 40/8) Seminar for Hearing Chairs

The intended seminar had taken place on 11 May 2016 and the Committee greatly appreciated representation from ORR for discussion of a wide range of topics related to the dispute resolution processes.

The voracity of witness evidence had arisen as a practical issue impacting upon timely hearing conduct and it was considered appropriate that the documentation templates on the Committee's website be amended to seek improved attention to this aspect of hearing material.

The Hearing Chairs had indicated that the few seminars which had taken place had provided useful opportunity for exchange of views on matters arising in the course of dispute hearings and for delivering consistency of approach amongst the Chairs, such that it would be worthwhile to hold a seminar annually. The Committee decided that annual gatherings should now be planned.

44/8 Outturn for 2015/16

All levy payments invoiced issued for 2015/16 financial year had been received by Year End.

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

The Secretary reported that the new directors appointed by the Committee had duly taken up their appointments.

45/3 Matters determined in correspondence

It was noted that approval had been given in correspondence for the current Allocation Chair, Hearing Chairs and Industry Advisors to all be invited to renew their consultancy contracts with the Committee when existing contracts fall to terminate over the course of the summer, with authority delegated to the Committee Chair and the Secretary to determine the terms to be applied.

The Secretary reported that the renewal process was well in hand.

45/4 Financial matters

45/4.1 Accounts for 2015/16

The auditors had indicated satisfaction with the accounts for 2015/16 and the Committee accordingly gave approval to the Chair formally signing the Income & Expenditure Statement. The Balance Sheet as at 31 March 2016 was also approved and signed.

45/4.2 Current financial position

The Committee noted a report from the Secretary regarding the financial position as at 21 July 2016 and the Secretary reported verbally regarding subsequent movements.

Sixteen Resolution Service Parties were yet to pay their levy for 2016/17.

The financial position was satisfactory for the present point in the Financial Year.

45/4.3 CAHA Registrar's Accounts for 2015/16

As required by paragraph 7 of Schedule 2 to the Claims Allocation and Handling Agreement, the Registrar had provided a certificate from its auditors as to the costs and expenses incurred by the Registrar during 2015/16 and properly recoverable through the levy arrangements, together with a statement regarding the expenditures. These documents the Committee noted, together with the sum to be rebated to CAHA members.

45/5 Internal check arrangements

Paul Thomas had tabled a report regarding internal check activity which he had carried out since the 17 March 2016 meeting and this was noted.

The checking process had identified long standing practice for certain recurring fees to be paid by Standing Order, which invariably meant that payment was made before receipt of the associated invoice. The Committee appreciated that such an arrangement held some administrative convenience but considered the practice to be undesirable and wished that payments should in future be deferred until after an invoice has been rendered.

The Committee was pleased that the recent internal check visit had enabled Peter Craig to be familiarised with the internal check concept and it was agreed that Peter would undertake internal check until the next meeting. Subject to mutual availability, Peter agreed to take the opportunity to give some introduction to internal check processes to Ian Kapur, who had not previously had experience in the activity.

45/6 Bank accounts

45/6.1 Account signatories

The Committee recognised that following the departure of John Beer it was appropriate to review the authorised signatories to the Committee's various bank accounts and it was agreed that Andy Wylie should become an authorised signatory to the two accounts with Cambridge & Counties Bank.

45/6.2 Account holdings

Notice had been received from National Westminster Bank of forthcoming changes to charging arrangements effective from 19 September 2016. Whilst noting that the changes would result in an increase in bank charges, the Committee decided that it would probably not be a worthwhile exercise to explore moving from NatWest for the time being as other banks would in all likelihood to follow suit over the coming months.

45/7 Position on references

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

The determination of Timetabling Disputes TTP625, TTP685, TTP733 and TTP872 had observed that where a dispute relates to the Timetable Planning Rules, there is realistically little time in the timetable development process to allow protracted discussion between the relevant operator(s) and Network Rail concerning a decision document before the next stage in the process arises. As a consequence, the Working Timetable to which the dispute relates and subsequent iterations - amended further to reflect evolving operational circumstances - could be considered to be legally flawed, whilst attempting to address issues retrospectively creates difficulties due to the involvement of many parties. The ADR Rules expected disputes to be resolved in a timely manner and these were clearly reasons for so doing. Accordingly, the determination had recommended that the Secretary should make arrangements for future Timetabling Disputes relating to the Timetable Planning Rules to be heard promptly following their registration. The Committee endorsed this recommendation, considering the Timetable Planning Rules to be the bedrock for future timetable planning.

Timetabling Disputes

The Committee welcomed a report from Paul Thomas, who had previously been asked by Network Rail to present updates to the Committee on its efforts to address the reasons for the volume of Timetabling Disputes being registered; this further work was much appreciated as it was helpful towards focussing minds on the issues.

Arising from considerable debate, it was considered sensible to seek to pay attention to the high number of disputes being regarded by those involved as "holding disputes" and to gain some clarity as to the underlying reasons for the disputes not being settled yet or being pressed for hearing by a Timetabling Panel. There was some thought that many cases reflected unresolved issues surrounding Network Change proposals. It was agreed that Paul should be asked to look, if possible, into categorising the reasons for "holding disputes" to assist understanding.

45/8 Update on the website

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

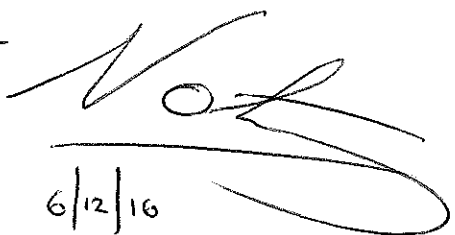
45/9 Appointments

Recognising his considerable experience in the industry, the Committee asked the Secretary to invite John Beer to accept appointment as an Industry Advisor on a consultancy basis, the terms to be agreed by the Committee Chair and the Secretary.

It was noted that the post of Assistant Secretary required review.

45/10 Election of Committee Chair

ADR Rule J19 required election of a Committee Chair at the first meeting after 1 April in each year. The members present decided unanimously to elect Nigel Oatway as Committee Chair for the coming year.

Chair 
6/12/16