
ACCESS DISPUTES COMMITTEE

MINUTES of MEETING No. 59 held via videoconference on 18 March 2021

Present:

Nigel Oatway (Committee Chair)
Andy Wylie
Richard Wall
Richard Parsons
Ian Kapur
Andrew Danson
Raj Patel

In attendance:

Tamzin Cloke (Secretary)

It was noted that the meeting was quorate.

59/1 Approval of the minutes of the 58th Meeting, held on 10 December 2020

These were approved and a signed copy will shortly be available on the Committee's website.

59/2 Matters arising from the minutes of the 58th meeting

It was noted that the HAL levy matter was now closed and that no comments had been received regarding the 2020 Annual Report, which is available on the Committee's website.

59/3 Matters determined in correspondence

No matters had been determined in correspondence since the last meeting.

59/4 Position on references

The Committee noted a report from the Secretary setting out the current position regarding dispute references. The high number of CPPP disputes was again noted and the industry CPPP Code of Practice was raised. It was noted that this was unlikely to be adopted due to a lack of appetite in Network Rail Regions, combined with pressure to take late notice access during the pandemic recovery period. Participants were thanked for the time they had put into the project so far.

The Committee noted a recent trend towards references being escalated to a hearing, due to short notice timescales, and then cancelled at late notice when the Parties were able to settle.

The Committee noted recent discussions about legal entitlements of the Parties in various industry fora and remitted the Secretary to write a short note for circulation to Resolution Service Parties, reminding them of ADR Rule A5.

59/5 Update on website

The Secretary provided an update on the website, which is up to date. The project to overhaul the Directory of Precedents is halfway towards completion - all sections apart from Network Code Part D have been transposed. The live website would be updated in one go once this work was complete. Suggestions for any new cases that should be in the Directory would be welcomed.

59/6 Financial matters

a) Final outturn for 2020/21 and budget proposal for 2021/22

The Committee noted a report from the Secretary setting out the final outturn projections against the current year budget, together with the final budget proposal for 2021/22. No 2020/21 levy contributions were outstanding.

The budget proposal for 2021/22 was approved, noting costs sharing contributions to be requested from the Delay Attribution Board, which together with application of accumulated surplus would enable the overall levy demand upon Resolution Service Parties for 2021/22 to remain the same as in 2020/21. In adopting this strategy, the Committee was satisfied that its position as an ongoing concern will remain protected.

b) Approval of 2021/22 budget proposal for CAHA Registrar Ltd.

The Committee noted the CAHA budget proposal and requested that the Secretary seek more information from the CAHA Registrar so the proposal could be approved in correspondence following the meeting.

c) Proposal to switch the Committee's bank accounts

The Committee approved a proposal from the Secretary to change the Committee's main bank account, following poor service from NatWest, to Starling and authorised the Secretary to move the Committee's reserve funds into an account setup that provided as much FSCS protection to it as possible. It was agreed to keep the current account with NatWest until the 2021/22 levy payments had arrived.

59/7 Recommendations arising from Determinations - update

A separate spreadsheet refers. Only two items remained outstanding. One is due to be discussed at the Chairs' meeting in September 2021. The other included a paper of options from the Allocation Chair as to how to resolve the problem of circular appeals arising from an ADA. The Committee preferred Option 2 and remitted the Secretary to ask the Allocation Chair to draft a proposal to amend the relevant ADR Rules, to bring back to the next meeting, that could be taken forward by a Committee Member via a Proposal for Change.

59/8 Proposed contract with Rail for London Infrastructure

The Committee approved a paper from the Secretary proposing a contract with Rail for London Infrastructure to provide dispute resolution services, in a similar manner to HS1, HAL etc. Approval was subject to confirmation that the required amendments to RfL(I)'s ADRR had been formally approved.

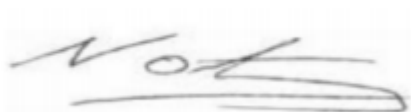
59/9 ADC consultancy contracts

The Committee noted a paper from the Secretary, following IR35 legal advice, about the likely tax status of the Allocation Chair, Secretary and Office Administrator. The Committee remitted the Secretary to secure further advice, including on employment law, and bring a paper to the July

meeting outlining possible next steps. The 2021/22 approved budget (Item 6a) was amended slightly to take into account this additional cost.

59/10 Appointment of Committee Secretary

The Committee noted that the consultancy contract with Tamzin Cloke as Committee Secretary would shortly be terminating and authorised renewal of the contract for two years on terms to be decided by the Committee Chair, having due regard to the budget.

A handwritten signature in black ink, appearing to be 'V. O. K.', written over a horizontal line.

Approved at Meeting #60, signed via email.