

---

## **ACCESS DISPUTES COMMITTEE**

---

### **Annual Report for 2007**

"... the proportion of references being settled between parties without need for a Panel hearing .... continues to rise, leaving the more complex and contentious matters for consideration by a Panel. Increasingly, the determinations of the few Panel hearings which do take place are being appealed to ORR ...."

"With precedents already established for guiding resolution of the more straightforward situations ...., the continuing fitness of purpose of the Access Dispute Resolution Rules for dealing with the complexity and value of present-day disputes becomes a matter for consideration."

---

## **ACCESS DISPUTES COMMITTEE**

---

### **REPORT FOR 2007**

The Committee is pleased to issue its report for the calendar year 2007.

#### Communications

Reports of our predecessor, the Access Disputes Resolution Committee, tended to provide a digest of the work of the Committee and its Panels, together with commentary regarding appeal determinations issued by the Office of Rail Regulation ("ORR"). Re-launch of the Committee's website ([www.accessdisputesrail.org](http://www.accessdisputesrail.org)) in July this year has facilitated ready access to this detailed information for those requiring it and our report can consequently be much abbreviated.

The website is updated promptly following a change in any area of information.

The Committee will welcome observations regarding its activities, the usefulness of its website and the adequacy of this report. Comments should be passed via the Secretary (e-mail: [sec.adc@btconnect.com](mailto:sec.adc@btconnect.com), tel: 020 7554 0601).

#### Dispute references

The position regarding dispute references can be summarised as follows:-

##### For an Access Dispute Panel

References on hand at 31.12.06	1
New references received in 2007	9
References withdrawn in 2007	6
Determinations issued in 2007	2
Determinations not yet finalised	0
Pending at 31.12.07	2
Appeals submitted to ORR in 2007	2

##### For a Timetabling Panel

References on hand at 31.12.06	21
New references received in 2007	81
References withdrawn in 2007	53
Determinations issued in 2007	0
Determinations not yet finalised	0
Pending at 31.12.07	49
Appeals submitted to ORR in 2007	0

The volume of engineering work on the national infrastructure is clearly influencing the number of Timetabling Panel matters; 22 of the Timetabling references remaining on hand at 31 December 2007 relate to West Coast Route Modernisation works over the period to December 2010.

Continued....

The laid down timescales for submitting dispute references are stringent and even where there is every expectation that an issue between Access parties will be resolved through discussions, it is important for the dispute to be registered with the Committee within timescale in order to protect the interests of the disputing party. The process of preparing to attend a Panel hearing is one that creates the climate in which the dispute parties can well find that their points at difference are actually much closer than initially thought: the proportion of references being settled between parties without need for a Panel hearing therefore continues to rise, leaving the more complex and contentious matters for consideration by a Panel. Increasingly, the determinations of the few Panel hearings which do take place are being appealed to ORR: it is believed that this is as much due to exercise of fiduciary obligations by "losing" parties as disagreement with the Panels' determinations, which we note ORR is generally upholding whilst issuing decisions which additionally provide helpful guidance to the industry for dealing with any similar issues which might arise in the future.

With precedents already established for guiding resolution of the more straightforward situations which lead parties into dispute, the continuing fitness of purpose of the Access Dispute Resolution Rules for dealing with the complexity and value of present-day disputes becomes a matter for consideration. It is understood that the industry will have opportunity in the coming year to make comment during a consultation by ORR aimed at updating the Rules.

#### Finance

Expenditure in the financial year to 31 March 2007 was £281,079 against a budget of £364,000; the excess, which included contingency provisions, was returned to Access parties through the rebate arrangement. The Income & Expenditure Statement and the Balance Sheet were issued to Access parties with their invoices for the 2007/08 levy.

The expenditure outturn for the current year (2007/08) is £232,700 against a budget of £332,300; this largely reflects the reduced number of Panel hearings and the unlikely requirement to call upon contingency provisions.

2006/07 and 2007/08 have been unusual years, with uncertainties over costs due to removal from offices at Kings Cross station into new premises and additional expenditure for work on the website. The Committee is mindful of the stewardship expectations which apply to its funding as provided through the annual levy and it is anticipated that "good housekeeping" initiatives will enable the expenditure budget for 2008/09 to be set in the region of £318,730 inclusive of contingency provisions.

Two Access parties have yet to pay their levy for 2006/07: these are Carillion Construction and Cotswold Rail Ltd. We have not yet received settlement of the 2007/08 levy invoices sent to five Access parties, including those two still outstanding for last year.

#### Personnel

After a long and distinguished Operations career in the industry then having served as Secretary to the Committee since rail privatisation, Chris Blackman decided that he had worked for long enough and he was succeeded by Tony Skilton (formerly Company Secretary of South West Trains) in July. The Committee records its deepest appreciation to Chris for his sterling work in setting up and managing the processes by which the Committee delivers its service to the industry and, during his final year, for completing the major task of updating the website. We wish him a long and happy retirement.

On behalf of the Committee

[SIGNATURE REDACTED]