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## **ACCESS DISPUTES COMMITTEE**

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### **Annual Report for 2015**

#### Key messages -

- Following abolition of the Rail Industry Disputes Resolution Committee, this Committee is now responsible for the element of residual work associated with oversight of the CAHA Registrar. The updated RIDR Rules are now to be found on this Committee's website
- 141 Timetabling Disputes registered in the year is, in the Committee's view, an unsatisfactory number
- The Committee's premises on floor 8 of 1 Eversholt Street may be found to offer an acceptable and less costly alternative to booking meeting rooms in Central London
- The Committee does not expect to increase its overall funding call when issuing levy invoices for 2016/17

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## **ACCESS DISPUTES COMMITTEE**

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### **REPORT FOR 2015**

Access Dispute Resolution Rule J3(g) requires the Committee to “monitor and report at least annually to the Resolution Service Parties upon the work of the Committee”. The Committee is pleased to issue its report for the calendar year 2015.

#### **Communications**

The Committee's report for 2015 follows the format adopted for the past seven years. In the absence of any adverse feedback regarding the previous reports, the Committee again invites comments regarding the adequacy of content of this one.

The Committee's website ([www.accessdisputesrail.org](http://www.accessdisputesrail.org)) provides a ready source of reference material whilst also containing downloadable templates for use in connection with dispute procedures. The use of some of the templates is mandatory under the ADR Rules. The website is updated promptly following a change in any item or any new information becoming available.

Comments regarding the website and Committee matters in general will always be welcomed and may be passed to the Committee Secretary, Tony Skilton (e-mail: [sec.adc@btconnect.com](mailto:sec.adc@btconnect.com), tel: 020 7554 0601). Alternatively, a channel of communication is available through the Committee members who have been elected or appointed on behalf of areas of the industry; the current Committee members are listed at the back of this report along with details of the operators in the respective voting Classes/Bands as at December 2015.

The Committee is happy to provide briefing sessions to enhance familiarity of Resolution Service Party staff with the ADR Rules and associated processes. Request should be made to the Committee Secretary.

#### **Administration**

No changes took place in Committee membership during 2015.

The Committee met 3 times in 2015.

The Committee members elect the Committee Chair from amongst their number and John Beer remains the Chair.

Following abolition of the Rail Industry Disputes Resolution Committee and Council effective from 1 November 2015, this Committee is now responsible for oversight of the CAHA Registrar and the Committee Secretary is deemed to act also as RIDR Secretary in any circumstances where that may become necessary. Appropriate amendments have been made to the ADR Rules and the updated RIDR Rules can now be found on this Committee's website.

### Dispute references - national network

Details of all dispute references received can be found on the Committee's website, together with any associated Timetabling Panel or (subject to the confidentiality provisions) Access Dispute Adjudication ("ADA") determination and any ORR appeal decision. In accordance with the ADR Rules, Timetabling Panel determinations are also issued direct to a nominated person in each operating company.

The position regarding dispute references handled in relation to the national network during 2015 can be summarised as follows:-

#### For a Timetabling Panel

Unheard references on hand at 31 December 2014	73	
New references received in 2015	141	
References withdrawn in 2015	130	
Hearings held in 2015	3	
Determinations issued in 2015	3	(covering 4 dispute references)
Appeals submitted in 2015	2	(No appeal decisions awaited)
Pending hearing at 31 December 2015	80	
Hearings arranged for 2016	0	

#### For an Access Dispute Adjudication ("ADA")

Unheard references on hand at 31 December 2014	2	
New references received in 2015	7	
References withdrawn in 2015	5	
Hearings held in 2015	2	
Determinations issued in 2015	2	
Appeals submitted in 2015	1	(No appeal decisions awaited)
Pending hearing at 31 December 2015	2	
Hearings arranged for 2016	2	

No allocation hearings took place during the year. One dispute each has been referred for Arbitration, Expert Determination and Mediation. No other matters have been submitted to any other dispute resolution forum covered by the ADR Rules.

The process of preparing to participate in a hearing concentrates minds and can often lead to a satisfactory solution being identified without needing to have the case heard. For those disputes where a hearing has been arranged, the Hearing Chairs are committed to combining the application of the ADR Rules with recognised legal practice in order to provide efficient case management; in some cases, directions from the Chair or a request for information to amplify a submission document have helped parties to recognise a way forward and settle their differences.

Two ADA hearings took place in the year, one covering a single issue and the other to cover 2 related disputes (one of which was withdrawn before the hearing). Three ADA hearings, each covering a single issue, were cancelled due to the parties settling their issues beforehand.

Three Timetabling Panel hearings were held in the year, covering 4 Timetabling Disputes. Five hearings were arranged for Timetabling Disputes but stood down due to late discussions between the parties achieving resolution; the 5 cancelled dates covered 8 disputes.

Regarding the number of Timetabling Dispute references, it is of interest to compare statistics for recent years:-

	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
New disputes registered	141	115	107	96	60	70	64	65
Disputes determined by Panel	4	5	0	5	6	8	3	11

The 141 Timetabling Disputes registered in the year is, in our view, an unsatisfactory number. The Committee has previously reported that in its stewardship role for the dispute resolution process, it has engaged with Network Rail to ensure awareness of the escalation in the number of Timetabling Disputes being notified by operators. Disappointed that the trend has not abated, the Committee has continued to pay attention to this concern during 2015 with an independent report being produced by two of its members, endorsed by the Committee and discussed with Network Rail at a senior level and also discussed by train planning practitioners at Operational Planning Strategy Group.

ADR Rule J3(h) requires the Committee to satisfy itself that the Principles (as set out in Rules A5 – A10) are being observed in the way in which disputes are being managed and determined. Having sought and considered the professional view of the Allocation Chair (Professor Richard Butler) in this regard, together with feedback received by Committee members and their own experiences under the Rules, the Committee is suitably satisfied.

### **Dispute references - HS1**

No disputes have been handled under the HS1 Access Dispute Resolution Rules in 2015.

### **Accommodation**

Resolution Service Parties are again reminded that the Committee's premises on Floor 8 of 1 Eversholt Street may be found to offer an acceptable alternative to booking meeting rooms in Central London – contact the Committee Secretary regarding facilities and availability.

### **Finance**

Audited expenditure in the Financial Year to 31 March 2015 was £157,663 against income of £359,576. The underspend largely reflected the reduced number of dispute hearings held during 2014/15. The balance was used for 2015/16 pre-payments, to meet cashflow requirements pending receipt of levies for the new 2015/16 Financial Year and to facilitate a reduced call on Resolution Service Parties for funding in 2015/16.

Having progressively reduced the overall funding requirement since 2012/13, the Committee now finds itself in a position that it does not expect to increase its overall funding call when issuing the levy invoices for 2016/17. The decision will be made towards 2015/16 Year End and the resultant invoices will be issued in April 2016.

On behalf of the Committee

[SIGNATURE REDACTED]

17 February 2016

**Committee members (as at 31 December 2015)**

<u>Class/Band</u>	<u>Member</u>	<u>Company</u>	<u>Telephone</u>
Franchised Passenger Class, Band 1	John Czyrko	First Greater Western	07771 831001
Franchised Passenger Class, Band 2	Dean Warner	Abellio Greater Anglia	07920 878739
Franchised Passenger Class, Band 3	John Beer	Govia Thameslink Rly	07711 149239
Non-Franchised Passenger Class	Andy Wylie	Hull Trains	07881 510021
Non-Passenger Class, Band 1	Nigel Oatway	DB Schenker Rail (UK)	0130 257 7010
Non-Passenger Class, Band 2	Robin Nelson	Freightliner Heavy Haul	020 7200 3931
Network Rail	Peter Craig	Network Rail	020 3356 9316
	Paul Thomas	Network Rail	07919 128231

**Operators by Class and Band (as at December 2015)**

Franchised Passenger Class, Band 1:- Abellio ScotRail; West Coast Trains; Govia Thameslink Railway

Franchised Passenger Class, Band 2:- East Coast Main Line Co; First Greater Western; Stagecoach South Western Trains; Abellio Greater Anglia; XC Trains; London & Birmingham Railway ("London Midland");

Franchised Passenger Class, Band 3:- ; London & South Eastern Railway ("Southeastern"); East Midlands Trains; Arriva Trains Wales; LOROL; c2c Rail; Chiltern Railway Company; Merseyrail Electrics; First/Keolis TransPennine; Northern Rail; MTR Crossrail

Non-Franchised Passenger Class:- Eurostar International; Hull Trains; Heathrow Express; Grand Central Railway; West Coast Railway Company; North Yorkshire Moors Railway; DB Regio Tyne and Wear; Peak Rail

Non-Passenger Class, Band 1:- DB Schenker Rail (UK); Freightliner; Freightliner Heavy Haul

Non-Passenger Class, Band 2:- GBRf; Direct Rail Services; Rail Express Systems; Babcock Rail; COLAS Rail; Amey Railways; Balfour Beatty Plant & Fleet Services; VolkerRail; Devon & Cornwall Railways; Crossrail; Europorte Channel SAS; Harsco Rail