
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES OF MEETING No. 6 HELD ON 12th JULY 1995

Present:

Terry Worrall (Chairman)
Glen Kennedy (Regional Railways Central)
Michael Woods (European Passenger Services)
Bob Urie (Regional Railways North East)
Jos Veraart (Railfreight Distribution)
Robert Watson (Railtrack)

In attendance:

Chris Blackman (Secretary)

Apologies

Lloyd Rodgers (Gatwick Express)
Ian Braybrook (Loadhaul)
Philip O'Donnell (Railtrack)

6/1 Introduction

The Chairman welcomed Michael Woods to his first meeting of the Committee.

6/2 Minutes of Meeting No. 5

Members affirmed that the minutes were an accurate record of the meeting held on 13th June 1995; the Chairman signed a copy as being a true record for retention on file.

6/3 Review of Committee Procedures

The Committee noted the 5th Draft which had been prepared incorporating the comments from members at the previous meeting and also those of the Regulator.

Members reviewed the text of a letter from a member of the Timetabling Committee referring to the 4th Draft. Some of the points, including the suggestion that there be a brief description of the role of the Committee and its three Sub-Committees, had already been covered by changes in the 5th Draft. Nevertheless the Committee agreed with the suggestion that the reference to the length of

submissions needed tightening to make it absolutely clear that the total length, including all associated documents, appendices etc., should be no more than 20 pages. Secondly, members endorsed the suggested rewording of the paragraph concerning the making of joint submissions to read: “Parties are strongly advised to produce a joint submission so that the Committee is absolutely clear as to the actual dispute between them”.

The Committee recalled that it had previously recognised [Minute 5/4] that the minimum timescales for providing submissions in the case of a dispute were flawed and would need revisiting. It concurred with the suggestion in a paper from the Secretary that an additional sentence be inserted at the end of the first paragraph of section 4 to the effect that, where a meeting is to be arranged specifically to hear a dispute, this can be expected to take place in 10-14 days from receipt of the reference.

Finally, it was agreed that an additional paragraph was required, either in Section 1 or 4, to describe the process by which a dispute is directed to the appropriate Committee. Members recognised that in some cases this is well defined by the Access Conditions, Parts D5, F5, G6 and H11.9(a) for example, but in other cases it may need determining by the Committee, as provided for in Section A4.7 of the Dispute Rules.

Action: Chris Blackman

6/4 Status of Dispute Resolution Committees

The response received from the BRB and Railtrack solicitors was noted, together with the Secretary’s memorandum recording verbal clarification of certain points.

6/4.1. Ownership of the ADRC

The solicitors had confirmed that the Committee is owned by the Industry parties.

6/4.2. Position of Chairmen/Secretaries

It was noted that the Chairman, and in due course the Secretary, must be self employed, and this would be documented by suitable terms of engagement. The individuals concerned would be responsible for tax and National Insurance contributions and for their own pension arrangements. It was also noted that individuals would also have to finance their own travel and commuting, although travel in the course of carrying out specific duties might be the subject of a legitimate claim for expenses.

6/4.3. Insurance

It was noted that members act as representatives of their own employing companies and are covered accordingly. Although the advice is that it is most unlikely that either the Chairman or the Secretary would be sued, the Committee agreed that it would be prudent to take out appropriate cover, and that this would need to be reflected in the fee package.

The Secretary was instructed to establish with Industry Insurance Advisers more information about the Insurance risk involved and the likely level of premiums payable to indemnify personnel engaged by the Committee.

Action: Secretary

6/4.4. Relationship with RIDR

It was noted that it might be appropriate for the Chairman of ADRC and of the Railway Industry Dispute Resolution Committee (RIDR) to be the same person. It was agreed that the scope for having a shared secretariat needs to be explored, and that the Secretary should convey the views of the Committee to RIDR.

Action: Secretary

6/4.5. Administration and financing procedures

Noted that Linklaters are drafting these for RIDR and they will also be applicable to ADRC. Members asked for a copy of the procedures to be circulated to them as soon as available. They wish to see it cover the outstanding points and mechanisms including operation of bank accounts, enforcing collection of the levy, and liability for VAT in much more detail than the first draft.

Action: Secretary

6/5 Process for appointment of new Chairman

No further comments on the draft job and person specifications had been received. The Committee agreed that, although it needs to be seen that the new independent Chairman is appointed in an open way, and this could be achieved through the medium of advertising in the national press, the person specification indicates that a recently retired person with in-depth knowledge of the Railway Industry is being sought; the field of possible suitable candidates is thus relatively small. Some members had questioned whether the expense of national advertising was justifiable in these circumstances.

It was agreed that a paper should be prepared for Access Implementation Group proposing that the ADRC would invite a number of possible candidates to apply. The Chairman and Secretary would make exploratory soundings regarding the willingness and availability of possible candidates nominated by members of the Committee to be considered.

It was agreed that consideration about appointment of any independent Vice-Chairman would be deferred to a future meeting when it was clearer what the level of availability of the Independent Chairman would be.

Action: Chairman/Secretary

6/6 Draft Budget for the Committee

The Secretary tabled some further estimates of the costs of the Committee based on Low, Median and High assumptions on expenses and frequency of meetings. These were based on a full year and indicated a range of £157k, £211k and £277k per annum.

Jos Veraart expressed concern that legal costs do not adequately provide for preparation time; the budget will be adjusted to reflect this. Members also reiterated that they wished to see sufficient resource budget provision included for an efficient secretariat.

The most difficult variable to estimate is frequency of meetings, and, although this is almost certain to increase in due course to lie within the range depicted, members felt that for the immediate future, and particularly for the six month period from October 1995 to March 1996, the estimate of frequency of meetings of ADRC and Timetabling sub committee should be based on experience to date. Clearly the budget has to be set prudently, and the Committee cannot risk running out of money. Nevertheless a budget for the six month period of approximately £80k, including start-up costs, and £200k for the first full year 1996/7 appears to be feasible; it needs to be finalised as soon as the procedures and financial clarification is received from Linklaters.

Action: Secretary to finalise budget.

The Committee directed that the paper to Access Implementation Group should also intimate that ADRC is preparing to finalise its budget and briefly outline the principal sources of its costs. The Industry Parties involved will shortly be advised the sums that they will be expected to pay by way of levy in accordance with the Access Conditions for the six month period commencing 1st October 1995, and an estimate for the financial year 1996/1997 to enable them to make appropriate budget provision.

Action: Secretary

6/7 Date of next meeting

Thursday 24th August at 14.00 in Room 401 Euston House.