
ACCESS DISPUTE RESOLUTION COMMITTEE

**MINUTES OF MEETING No. 10
HELD ON 13.12.95**

Present:

Terry Worrall (Chairman)
Bob Urie (Regional Railways North East)
Philip O'Donnell (Railtrack)
Lloyd Rodgers (Gatwick Express)
Geraint James (Railfreight Distribution)
Michael Woods (European Passenger Services)
Keith Hasted (Railtrack)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Alternate Secretary)

Apologies

Ian Braybrook (Loadhaul)
Glen Kennedy (Central Trains)

10/1 Minutes of Meeting No. 8

Members approved the minutes of the meeting held on 18th October 1995; The Chairman signed a copy as being a true record for retention on file.

10/2 Hearing of Reference No. AD3

The Committee formally heard Reference no. AD3 which was a joint submission from North West Regional Railways and Railtrack North West Zone. After due deliberation and receiving verbal submissions from the parties the Committee deferred conclusion on the dispute whilst it gathered further information.

The record of proceedings until the point of adjournment is attached.

10/3 Appointment of New Chairman and Other Personnel

The Chairman introduced this matter by referring to the discussions which had taken place in the late summer with a recognised firm of head hunters and also to two papers which had been tabled by the Secretary alerting members to the need for urgent progress in making the appointment of a Chairman from 1st April 1996.

The Secretariat reminded members that the process for making such appointment needs to be visible and independent to ensure that there is no ground for future challenge. In the case of the RIDR Committee, which has a wider basis, it was deemed appropriate that the independence should be provided by the Department acting as agent to facilitate the process. For the ADRC it was considered that there was merit in running the process in parallel under the auspices of the department. Accordingly, on the 13th October, it had been proposed to the department that they should sponsor the head hunting process, and also act as guarantor for bank accounts, particularly for the RIDR, but desirably for both Committees.

The Chairman and Committee members took the view that any further delay cannot be tolerated. It must deploy a process that will lead to an early appointment and any consultants engaged must be briefed that it is essential to have the Chairman in position by 1st April 1996. It is unacceptable to run the risk of a second period of time without a Chairman as had occurred during October 1995.

Michael Woods and other members supported a proposal that the matter be raised through a meeting of the BRB and Railtrack with the Department on 15th December. Apart from acting as sponsor and guarantor the Committee considered that the Department need take no other part in the process.

10/3.1 Design Process for Appointment of Chairman

The structure of the secretary's paper on the "Design" process was agreed in principle, but members were emphatic that the timescales need to be condensed to ensure completion of the appointment processes by 1st April 1996. The Committee, noting that the number of candidates may be relatively small, agreed that with careful handling Stages 2 and 3 could be merged yielding a time saving without losing robustness in the process. It was therefore agreed that Saturday 10th February or 17th February 1996 should be the target dates for the final interviews (Stage 3); Members will arrange to be available on either date to form a quorate Appointments Committee. The Secretariat was instructed to proceed with arrangements on this basis and expenditure of £25,000 was agreed by the Committee for this purpose.

Action: Secretariat

The Committee agreed that the final selection should be ratified by the full Committee at a meeting on 21st February.

10/3.2 Financial Package Options for the Chairman

The Committee considered the paper tabled by the Secretary on options for construction of a fee package for the Chairman.

The shape of the package, which is seen as being based between options 3A and 3B of the paper, will need to be discussed further with consultants. There should be an allowance in the budget process for 1996/97 for a measure of expenses, travel and hotel accommodation as part of the package. However it would be made clear to candidates at the interview that the work would be located primarily

in the London area and any reasonable travel expenses would be fixed in relation to this. The Secretariat was further instructed to liaise with personnel managers within BRB and Railtrack to facilitate the process. **Action:** Secretariat

10/4 Committee Budget

The Secretariat advised members about the contingency plan for setting up a dedicated Midland Bank account within the Railtrack overall account to act as the Committee's bank account; it would have appropriate safeguards to provide independence, and to ensure that disbursements from the account were made solely under the proper authorisation by delegated members of the Committee, Secretariat, or Chairman, as the Committee shall decide. The Committee agreed that the preferred option was to open a commercially separate bank account with the Department acting as guarantor; if this could not be achieved, then the alternative of an independent account within the Railtrack account was acceptable. The Secretariat was instructed to proceed on this basis.

Action: Secretariat

10/4.1 Secretariat Costs

The Committee noted the paper that had been tabled from the Secretariat highlighting the workload and the time incurred since October by the Secretary and Alternate Secretary. Members, aware that the Chairman has the right as prescribed within the Access Conditions to appoint the Secretary, nevertheless agreed that for the immediate future they wished to follow the option of contracting for the services of one or two individuals within the industry at an agreed rate per hour. In particular they wished to retain the present Secretary, on contract from Railtrack, (current commitment approximately 35%), and the present Alternate Secretary on a contract from BRB with an anticipated workload of approximately 25 days per annum.

10/5 Review of the Committee's First Year

The Committee welcomed the draft paper received from the Secretariat. It wished to see any comments made to the Secretariat by the beginning of January on both the content and the style of presentation, and furthermore the inclusion of a section of comments on what helps or hinders the process of applying the Access Conditions and the Dispute procedures. In particular the Committee wishes to stress to the Industry that, whilst a reference may normally be made to the Committee or any of its Sub-Committees with the costs of a hearing covered by the levy imposed annually on all parties, it nevertheless has the power in exceptional circumstances if it considers that a reference or response is frivolous, vexatious or without substance, to impose the cost of a particular hearing on one, other or both parties. Such costs could run to several thousand pounds.

Action: Members to comment to Secretary

- 10/6** The Committee noted the papers tabled by the Secretariat concerning two matters which had arisen from the Hearing of References AD1/AD2. It deferred further discussion and asked the Secretariat to obtain legal advice on both the items, so there could be a full discussion leading to a decision at the next meeting.

Action: Secretariat

10/7 Dates of future meetings

9th January 1996 at 14.00 in Room 216, Railtrack HQ, 40 Bernard Street.
21st February 1996; time, venue to be advised.