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## *ACCESS DISPUTE RESOLUTION COMMITTEE*

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### **MINUTES of MEETING No. 18 Held on 11th December 1996**

#### **Present:**

Bryan Driver (Chairman)  
Nigel Fulford (Great Western Trains)  
Barry Graham (English Welsh & Scottish Railway)  
Keith Hasted (Railtrack)  
Philip O'Donnell (Railtrack)  
Ian Osborne (Freightliner)  
Lloyd Rodgers (Gatwick Express)  
Bob Urie (Regional Railways North East)  
Michael Woods (Eurostar (U.K.))

#### **In attendance:**

Chris Blackman (Secretary)  
Martin Shrubsole (Alternate Secretary)

#### **18/1 Introduction**

Bryan Driver welcomed Barry Graham who was attending his first meeting of the Committee as the newly appointed alternate to Ian Braybrook.

#### **18/2 Minutes of Meeting No. 16**

Members approved the minutes of the meeting held on 4th and 17th October 1996. The Chairman signed a copy of the minutes as a true record of the proceedings.

#### **18/3 Record of the Hearing of Reference No.6**

Members approved the Record of the Hearing of Reference No.6 held on 4th and 17th October 1996. The Chairman signed a copy of the Record as a true record of the proceedings.

#### **18/4 Minutes of Meeting No. 17**

Members approved the minutes of the meeting held on 16th October 1996. The Chairman signed a copy of the minutes as a true record of the proceedings.

#### **18/5 Matters arising from the minutes of previous Meetings**

##### Minute 15/4, last paragraph:

The Secretariat reported that it had been clarified with the house lawyers that, for technical reasons, there would be no formal billing.

## **.18/6 Seeking legal advice**

The Secretariat reported that, of the four firms of solicitors that had been contacted, three had indicated a willingness to participate in further discussions about the possibility of becoming advisors to the Committee.

Members wished that the future legal advisers to the Committee should be of eminent standing, preferably with knowledge of the Railway Industry, but desirably without contacts with the Industry that might lead to a conflict of interest. It was appropriate to consider a sizeable firm, not necessarily in London, or a lawyer who has recently retired and is prepared to give priority and commitment to the Committee. The prime objective is to have ready access to a legal interpretation on issues that arise.

The stature of some of the disputes is such that the Committee needs to be able to call on a firm of repute, but it is particularly desirable to have individuals within such a firm who are identified to deal with Committee issues supported by competent backup.

On this basis the Committee advised the Secretariat to initiate further talks with those three firms already approached, and to take other soundings as appropriate.

## **18/7 Changes to the Access Conditions**

The Class Representative Committee had endorsed proposed changes to Access Condition D5 that would permit a period of fourteen days for a party to consider an appeal in the particular circumstances where Christmas day falls in the normal time period of seven days. This had been subsequently approved by the Regulator and would take effect on Saturday 21st December 1996.

The Committee noted secondly that the amendments which it had itself advocated to Access Dispute Rule C1 would be formally considered by the Class Representative Committee in accordance with Access Condition C7 on Friday 13th December.

## **18/8 Accommodation**

The Secretary reported that discussions were proceeding with Railtrack Property on the proposed tenancy for the two Dispute Committees of five rooms on the second floor of the East Side offices at Kings Cross station; there was to be a further discussion with Railtrack Property and the RIDR on 20th December. The Committee preferred the option of ADRC holding the formal tenancy with Railtrack Property for all five rooms, but with a sub-letting arrangement to the RIDR of two rooms and shared use of the Meeting Room; the Secretariat was advised to evaluate any significant additional costs associated with such an arrangement. It was anticipated that the Committees would move into the new premises on 2nd January 1997.

It was noted that, although Camden Council had indicated that English Heritage would give the necessary approval for partitioning to be installed, this was dependent on the alignment requested for the RIDR's rooms being amended. The alignment proposed for the ADRC in room 226 is acceptable. The Secretary, after consultation with the RIDR Secretary, will revise and resubmit the application.

**Action:** Secretary

### **18/9 Accounts for 1995/96**

The Committee approved the accounts for the six month period 1st October 1995 to 31st March 1996. A copy of the signed document is attached.

Bob Urie stressed that the presentation of accounts needs to be in a customer-friendly format, and in particular there needs to be a short explanation in the annual report for the basis of the charges made on all relevant industry parties.

**Action:** Secretary

### **18/10 Non-compliant bids**

Lloyd Rodgers presented his paper on the practical process of handling non-compliant bids, and highlighted the three options, each of which has, in varying measure, a cost implication and an implication for change to the Access Conditions.

Michael Woods was concerned that the first option would have unacceptable implications for the Informed Traveller project. It was also noted that the Regulator is about to conduct a major review of the Timetabling processes, and in particular has been thinking about how a major timetable re-cast might best be made. There are also potential difficulties connected with the stage two processes of moderation of competition, and it was suggested that the matter should be left for the Class Representative Committee to review 'in the round'. Although the present process is cumbersome there is a risk that, if timescales are truncated, quality will slip.

Nevertheless the Committee agreed that it was right to look for a better way forward which was useful and beneficial to the Railway Industry. In the case of the first option this could be achieved by amending the Access Conditions. The second option in essence requires the application of determinations AD6 and TTC19 which, it was acknowledged, would be instrumental in exposing some problems at the end of the first bidding cycle. In the extreme case it may require a change to the Access Conditions, but this would not be warranted for a small number of such disputes per year. The Committee recognized that a major problem for companies at present is the inability easily to discern where the 'white space' is.

The Committee agreed that they wished to draw the attention of Industry Parties and of the Regulator to these practical difficulties through the medium of the Annual Report currently being prepared.

### **18/11 Committee procedures**

The Committee considered the latest draft of its procedures which incorporated revisions agreed at a previous meeting and the amendments to Appendix B recommended by the Network and Vehicle Change Committee. It approved the document subject to a change of wording in section 3 where, in the first line, the words "A person" should be replaced by "An Industry Party".

The new procedures would be published commensurate with the next issue of the Access Conditions early in 1997.

## **18/12 Membership of the Committees**

The Secretary reported the changes to the membership of the Committee and its Sub-Committees following the elections at the Annual Class Meetings which had been held earlier that day. Members noted that the changes consequent upon the by-elections would all take place by 1st January 1997, but changes stemming from the biennial election process would take effect from 1st April 1997.

Lloyd Rodgers' resignation was to take effect from 1st January 1997; members wished to record their appreciation of the significant contribution he had made to the work of the Committee since its inception in November 1994.

## **18/13 Declaration of interest**

Members agreed that the declarations of interest which they would list and sign would relate to interests which they held personally or interests that were held by their employing company or its constituents. An interest based on a holding of personal shares in a company should be declared regardless of the number of such shares held. The specimen form for declaring interest was agreed as drafted, subject firstly to the insertion of a space in which 'other interests' could be recorded, and secondly to the incorporation of a formal sentence at the end affirming accuracy, attested by a signature and its date.

## **18/14 Annual Report**

Members reviewed the paper by the Secretariat and signified that they preferred the method of setting out the salient points of recent determinations as shown in section 7, but wished the headings to be more user friendly. The focus should be towards an audience of middle managers.

Members recommended that there should be minor re-ordering of paragraphs and the incorporation of a health warning stressing that determinations should be read in detail, even though a simple synopsis is incorporated into the text of the Annual Report. Finally there should be a cover note to the document from the Chairman emphasizing that the Committee considered it had made a good start in its task of providing a speedy, inexpensive method of resolving internal railway industry disputes.

## **18/15 Dates of scheduled meetings in 1997**

The following dates were agreed:

Tuesday 18th March 1997  
Tuesday 10th June 1997  
Tuesday 9th September 1997  
Wednesday 10th December 1997