
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 33 held in London on 9th December 1998

Present:

Bryan Driver, Chairman
Tim Clarke (Anglia Railways)
Graham Cooper (Railtrack)
Tony Deighan (Eurostar (U.K.))
Geoff Knight (Railtrack)
Graham Laycock (English Welsh & Scottish Railway)
Ian Osborne (Freightliner)
Mike Price (ScotRail Railways)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (clerk)

33/1 Introduction

The Chairman welcomed Mike Price to his first meeting of the Committee since his election as Member for Franchised Passenger Class, Band I. It was noted that Graham Cooper had been appointed by Railtrack as a member of the Committee.

33/2 Committee Membership Changes

The Secretary reported that Graham Cooper had been appointed by Railtrack as a Member of the Committee. Furthermore, at the Annual Class Elections held earlier that day, no candidate had been nominated to succeed Nigel Fulford and, in accordance with Condition C.1.7.5, the Managing Director of South West Trains had been declared as elected.

33/3 Minutes of meeting No.32

The minutes of meeting no.32 held on 8th September 1998 were approved. The Chairman signed a copy of the minutes as a true record of the proceedings.

33/4 Matters arising from the minutes of the previous meeting

Minute 32/7 [31/7]: Options for imaging the archives

The Secretary reported that he was pursuing the option of holding the archives on a CD-ROM. The Committee agreed that it would be appropriate to enlist support from the IT specialists who currently act for the BRB, and therefore have requisite knowledge and expertise, to create a discrete electronic archive for the ADRC.

A further meeting with the BRB is to be arranged in the New Year to take the matter forward.

Minute 32/4: The 3rd Annual Report of the Committee - feedback from customers

Members were pleased to note that the secretariat had received complimentary comments about the 3rd Annual Report, including one in writing from OPRAF.

Minute 32/6: Jurisdiction of dispute about Station Information VDU Systems

It was noted that, following further dialogue between the parties and the Secretariats of both ADRC and RIDR, the parties concerned had referred the matter to the RIDR.

33/5 Operation of the Committee's Bank Account

Members noted the paper from the Secretary and were pleased to learn that the additional interest bearing 'deposit' account is now operational.

Authorisation of expenditure

Members agreed that Ian Osborne should replace Nigel Fulford as one of the four signatories able to authorize expenditure on the Committee's account. The other three signatories are the Chairman, Tim Clarke, and the Secretary. Two signatures are required to authorize any item of expenditure.

Action: Secretary

33/6 Audit of the Committee's Accounts for 1997/98

The Committee noted that a report had now been received from the auditors Deloitte Touche confirming that a satisfactory audit of the Committee's accounts had been carried out in November 1998.

33/7 Budget Outturn

The Committee noted the paper from the Secretariat which showed that total expenditure in the current year was running well below Budget. Members acknowledged that the principal difficulty in accurately assessing the budget lay in estimating the number of meetings that were likely to be held. Although it had originally been predicted that the industry would prove to be fairly disputatious, with a large number of Dispute Committee meetings per year, it was perceived that the industry, after grinding off some rough edges of the relationships between the parties, had generally moved towards greater, more constructive dialogue. Industry Parties had also learnt to follow due process as prescribed in the Access Conditions. Despite the progressing of a number of rolling stock acquisitions, there has as yet been no dispute about Vehicle Change.

The Committee concluded that whilst the expenditure in the last three years had normally been of the order of little more than 50% of the budget forecast, and that this might be considered grounds for reducing the budget forecast substantially, nevertheless wished to provide a contingency against a surge in the current rate of disputes. In particular it is deemed prudent to make adequate provision for legal advice and Secretarial and Chairman's costs related to the level of disputes.

The Timetabling Committee had dealt with an initial spate of disputes in 1994-1996 which had established case law on a number of aspects. Since then there had been a marked reduction in workload, although the Secretariat had been actively

involved in dialogue and giving positive advice to disputants which in some cases had assisted them in reaching “out of court” settlements.

The Secretary was asked to produce for the next meeting a firm budget reflecting these points, and taking the opportunity to fine-tune some of the individual elements of the budget where these could be relatively accurately predicted.

Action: Secretary

33/8 Update on References

The Committee noted that there were no outstanding issues in dispute for the hearing by the ADRC. The Network and Vehicle Change Committee had not met during 1998 and there were no disputes immediately in prospect. The Timetabling Committee had now received a total of 70 references and the proportion of such references subsequently settled by the parties in advance of a hearing is increasing.

Determination AD13, resulting from a reference submitted by Connex South Central, had been referred by Connex to arbitration but had subsequently been settled between the parties before the formal arbitration processes had commenced. The Secretary reported that, as Acting Disputes Secretary, he had had no official notification of this, although it had been reported in the press; there is no procedure in the Access Conditions which prescribes that the parties to an arbitration set up by the Disputes Secretary should provide any further information about progress or the outcome of an issue once an Arbitrator had been appointed by the Disputes Secretary. Members noted that, whilst any Committee determination is published to the Industry, an Arbitrator’s decision is discreet and given privately only to the parties concerned. However, the status of the Committee’s determination as case law is unaffected.

33/9 Proposals for Change to the Access Conditions

The Committee noted the paper from the Secretariat and the significant changes to the Access Conditions, and Part D in particular, that would shortly be the subject of formal Industry consultation.

33/10 Retirement of the Deputy Chairman

Tim Clarke was nominated and duly elected by the Members present to be the Deputy Chairman of the Committee in succession to Bob Urie.

33/11 Role of Sub-Committees

Noting that the Technical Sub-Committee had not yet met, the Committee gave some thought as to whether this sub-committee should cease to be a ‘standing’ Committee. A view was expressed that, if the Network and Vehicle Change Sub-Committee were empowered to bring in appropriate technical expertise, this would obviate the need for a separate Technical Committee; however, such a proposal would require a formal Proposal for Change to the Access Conditions.

Members asked the Secretary to prepare a paper on alternative options for the future role of this Sub-Committee for the Committee to review at its next meeting.

Action: Secretary

33/12 Meetings for 1999

The Committee agreed the following programme of dates for the 'quarterly' meetings in 1999. Approval of the Budget for 1999/2000 will be listed for the agenda of the March meeting and the Accounts for 1998/99 will be considered at the June meeting. The September meeting will be held only if there are significant items of business that cannot be handled at other meetings called for the purpose of hearing a dispute.

Approved programme of meetings for 1999:

Wednesday 10th March 1999	in Room 230, East Side Offices at Kings Cross
Wednesday 9th June 1999	in Room 230, East Side Offices at Kings Cross
Wednesday 8th September 1999	in Room 230, East Side Offices at Kings Cross
Wednesday 8th December 1999	(venue to be decided)

33/13 Date of next Meeting

The next meeting will be on Wednesday 10th March 1999 in Room 230, East Side Offices at Kings Cross.