
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 51 held in London on 13 June 2001

Present:

Bryan Driver, Chairman
Karen Bonner (Freightliner)
Tim Clarke (Anglia Railways)
Geoff Knight (Railtrack)
Bil McGregor (ScotRail Railways)
Nigel Oatway (English Welsh & Scottish Railway)
Tony Deighan (Eurostar (U.K.))

Apologies:

David Franks (North Western Trains)
Julia Glenn (Railtrack)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Clerk)

51/1 Minutes of meeting No.50

The minutes of meeting no.50 held on 23 May 2001 were approved. The Chairman signed a copy of the minutes as a true record of the proceedings.

51/2 Matters arising from the minutes of the previous meeting

Minute 50/4: Procedural issues relating to references nv5 and AD25

The Committee noted that the Network and Vehicle Change Sub-Committee had arranged a meeting to hear reference nv5 on 12 July 2001, and had set time scales for the submission of papers by the parties.

51/3 Accounts for 2000/01

The Committee accepted the paper from the Committee, noted that the accounts for the financial year 2001/02 had been audited, and formally approved the Accounts without any amendment.

Members instructed the Secretary to circulate the Balance Sheet and Income & Expenditure Statement with the invoice for the Annual Levy in July.

Action: Secretary

51/4 Draft Annual Report

The Secretariat presented the first draft of the Annual Report for 2000/01, and sought Members' views on structure and formatting. Tim Clarke reminded other Members that the Annual Report should aim to meet the needs of people in the industry who, on encountering a problem, wish to know what case law is established so far on the issues relating to that problem. The information needs to be readily accessible and clearly expressed so as to minimise any possible misinterpretation.

Members agreed that they wished to see included in the document:

- (a) a summary of principal highlights of the year in a free-standing section, separate from those sections that provide a cumulative synopsis of case law in a format that lists items by reference to the Access Conditions.
- (b) a brief reference to the fact that it had sought legal advice about the implications of the Woolf Report and the Arbitration Act for the work of the Committee.
- (c) a paragraph, in the section concerning the activities of the Committee during the year, to mention that, as part of its stewardship of the process, the Committee had asked Industry Parties for their views on the laid down processes, and the manner in which ADRC and its sub-Committees had discharged its responsibilities.
- (d) a summary of procedural improvements already accepted, namely that:
 - (i) where no joint submission is forthcoming, then there is a procedure for parties to submit their cases separately; and
 - (ii) the Committee has already taken steps to have access to legal advice readily available during cases heard by ADRC and many cases heard by Network and Vehicle Change Committee.

In conclusion the Committee asked the Clerk to reshape the report along the lines discussed and circulate a second draft by the end of July for comments by mid-August in sufficient time to be incorporated in a final draft ready for approval at the September meeting.

51/5 The Woolf Reforms and Civil Procedure Rules 1999

The Committee noted the paper prepared by the Clerk, and in particular that the objective of these two measures were broadly consistent with the Committee's procedures.

Members emphasised the necessity to adhere to prescribed procedures, and recognised that some strengthening of the Rules for general case management would be beneficial and give support to the Secretary. It therefore wished a proposal for revision of the procedures to be drawn up taking into account the recent debate concerning timescales and the involvement of the secretariat in preparation of documentation.

On the issue of speed of response some Members counselled caution as the desire for a “quick and speedy” process could deny the opportunity for a defendant to properly prepare his case. The comments and objectives of the Woolf Report are pertinent in this respect.

51/6 Update on References

The Secretary advised members that the position on the two outstanding references was:

- AD25 Noted that this is stayed pending a hearing of reference nv5;
- AD26 Confirmation is still awaited from the Silverlink Train Services that it has withdrawn its reference following agreement with Railtrack on the outstanding issues.

51/7 Any Other Business

The Chairman withdrew and Tim Clarke, the Deputy Chairman, took the chair. He explained that it had been the intention, when seeking a successor to the Chairman (whose current contract expires in Spring 2002), to take account of any changes that might result from the Regulatory review of the Access Dispute Resolution Rules. Bearing in mind that the Committee needed to commence the process of seeking a new chairman during Autumn 2001, it was agreed that the Deputy Chairman and one other member of the Committee plus the secretary should seek a meeting with the Rail Regulator in order to fully inform themselves on behalf of the Committee as to relevant prospective changes to the Rules before the task of preparing a revised job description was undertaken.

The Committee also resolved to review the role and appointment of an Independent Vice Chairman.

51/8 Date of next meeting

The meeting provisionally arranged for Wednesday 20 June was cancelled as there was no reference pending for a hearing.

18 July 2001 - provisional date, earmarked to hear any reference that may be pending at that time.

12 September 2001 – Quarterly meeting