
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 52 held in London on 12 September 2001

Present:

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

Apologies:

David Franks (North Western Trains)
Mike Price (ScotRail Railways)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Clerk)

52/1 Minutes of meeting No.51

The minutes of meeting no.51 held on 13 June 2001 were approved. The Chairman signed a copy of the minutes as a true record of the proceedings.

52/2 Matters arising from the minutes of the previous meeting

Minute 51/2 [50/4]: Procedural issues relating to references nv5 and AD25

The Committee noted that the Network and Vehicle Change Sub-Committee had met on 12 July 2001, and had issued a determination in respect of reference nv5.

52/3 Annual Report (Handbook and 6th Annual Review)

In welcoming the final draft of the annual report for 2000/01, Members commented that it was greatly improved as to accessibility and now constituted recommended reading for all personnel involved in access matters. Some minor amendments and adjustments were agreed for incorporation into the final document which would also feature an index with cross-referencing to page numbers.

One hard copy of the report will be sent to each Industry Party with the distinct sections highlighted by the use of different colour paper. An additional electronic copy will also be sent to each Industry Party.

52/4 Process for appointment of Chairman from April 2002

The Chairman withdrew and the chair was taken by the Deputy Chairman, Tim Clark, who briefed members regarding the recent discussion with the Rail Regulator. There was a general feeling expressed in the ensuing discussion that, whilst it might be desirable to have a lawyer as chairman, the Committee should not deny itself the opportunity to consider a strong candidate who, though not legally qualified, might have considerable expertise in the commercial contract field. For this reason members concluded that the job should be advertised in the general market place and a search firm be engaged to consider potential applicants from a wider commercial spectrum as well as those with a legal qualification.

Members, recalling that the Committee had been well served by the search firm Korn/Ferry International during the process of appointing a Chairman in 1996, instructed the Secretary to conduct initial discussions with that company.

Members tabled some detailed points regarding the job specification and also agreed to submit any further items to the Secretary in writing. This will then form the basis for preparation of a suitable job advert.

The Committee agreed to set up a sub-committee to conduct interviewing of suitable candidates; its recommendation as to selection of a suitable candidate would require to go before the full Committee for ratification.

The Committee asked the Secretary to notify all members and alternates as to the position reached and, provisionally, that the subcommittee or interviewing panel will be crewed by Tim Clark (Deputy Chairman), Tony Deighan, Nigel Oatway and Julia Glenn.

Noting that the Chairman has the power to appoint a clerk, it was agreed that the issue of the clerk's contract should be placed on the agenda for the next quarterly meeting in December.

52/5 Review of the role and appointment of an Independent Vice Chairman

Members noted that provision was made in the Access Conditions for the appointment of a Vice-Chairman. In view of the increasing workload facing the Committee it now appeared to be prudent to consider making such an appointment, as, in the absence of a Chairman, the Committee's work could be impeded particularly insofar as the handling of cases which might lead to the necessity for a Chairman's ruling to be made.

Accordingly the Committee agreed that any advert for the post of Chairman should also include information to the effect that the Committee may appoint a Vice-Chairman whose duties would be broadly comparable to those of the Chairman, albeit less onerous and probably at a commensurately lower level of financial remuneration.

52/6 Process and timescales for the parties to produce formal submissions

When the Chairman resumed his chair, Members noted the paper from the Secretariat and endorsed the general principles of specifying timescales for the preparation and submission of papers. They agreed that the Secretariat should be provided with power to vary these timescales - within limits to be prescribed - on receiving due cause in writing from the party or parties concerned.

The Committee wishes the Access Dispute Resolution Rules to provide for accessibility, reasonableness and flexibility but it is recognised that some additional back stop markers require to be included. In this respect the powers provided in Rule A5.8 are acknowledged as helpful.

The Committee was also of the view that it might be pertinent to specify that a 'notice of submission' would only be permitted to lie on the register for a specified maximum period, such as 3 or 6 months; in other words if parties failed to furnish any further papers there would be provision for the matter to formally fall or be withdrawn.

52/7 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.

52/8 Member's Retirement

The Chairman noted that Geoff Knight would be retiring at the end of September and that he was thus attending his last meeting as a member of the Committee. The Chairman on behalf of all members and alternates of the Committee thanked Geoff for his valuable contribution over a number of years, recalling that he is one of the longest serving Committee members, and wished him a long and happy retirement.

52/9 Date of next meeting

The meeting provisionally arranged for Wednesday 26 September was cancelled, as there was no reference pending for a hearing.

12 December 2001 – Quarterly meeting