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## ***ACCESS DISPUTE RESOLUTION COMMITTEE***

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### **MINUTES of MEETING No. 64** held at Kings Cross on 10 December 2003

#### **Present:**

Sir Anthony Holland, Chairman  
Tim Clarke (Anglia Railways)  
Bill Davidson (Network Rail)  
Tony Deighan (Eurostar (U.K.))  
Julia Glenn (Network Rail)  
Ian Osborne (Freightliner)  
Niel Wilson (North Western Trains)

#### **In attendance:**

Chris Blackman (Secretary)  
Martin Shrubsole (Clerk)

#### **Apologies:**

Bil McGregor (ScotRail Railways)  
Nigel Oatway (English Welsh & Scottish Railway)

#### **64/1 Minutes of meeting no.63**

The minutes of meeting no.63 held on 15 October 2003 were approved without modification. The Chairman signed a copy of the minutes as a true record of the proceedings.

#### **64/2 Matters arising from the minutes of the previous meeting**

There were no matters arising other than those listed on the agenda.

#### **64/3 Changes in Membership**

The Secretary reported on the results of elections that had taken place earlier in the day at the Annual Class Meetings. Members noted that the changes would be formally published before they take effect in April 2004.

In the meantime the Train Operators would receive early notification regarding the results of elections held in their respective Classes.

#### **64/4 Budget outturn for 2003/04 and Preliminary budget for 2004/05**

Members noted the Committee's expenditure for the current year was satisfactorily within budget, and that the outturn for 2003/04 indicated a surplus of income against expenditure. Members also endorsed in principle the preliminary budget for 2004/05; this will be subject to formal review at the next quarterly meeting, when further emerging data would also be taken into account.

**64/5 Dispute Resolution – the impact of Model Clauses**

Members noted the paper prepared by the Clerk. Whilst it was noted that the adoption of Model Clauses should lead to a reduction in the matters of substance being referred to the Committee, Members considered that there could be an increase in workload arising in the aftermath of the introduction of the proposed Part L of the Access Conditions during 2004. Due account should be taken of these factors when finalising the budget for 2004/05.

Action: Committee Secretary

**64/6 Outstanding Appeals referred to the Rail Regulator**

Members noted that the full decision of the Rail Regulator, in his consideration of an appeal against the Network and Vehicle Change Committee's determination NV33, was still awaited.

**64/7 Outstanding approval by the Regulator of Proposals for Change to the Access Dispute Resolution Rules**

Members noted that the Rail Regulator had not yet approved the Changes to the Access Dispute Resolution Rules, which had been sent to him in early February 2003. The Secretary has a meeting arranged to discuss this issue with the Regulator's representatives on 17 December.

**64/8 Update on References**

The parties to reference AD31, Great Eastern Railway, Anglia Railways and Network Rail, are seeking guidance from the Delay Attribution Board.

**64/9 Dates for meetings in 2004**

The Committee agreed a programme of dates for quarterly meetings in 2004 as follows:

Thursday 11 March  
Wednesday 9 June  
Wednesday 15 September  
Wednesday 8 December

The Committee then agreed a programme of dates 'ear-marked' for hearings in 2004 as follows:

Wednesday 21 January	Wednesday 11 February
Wednesday 17 March	Wednesday 21 April
Wednesday 19 May	Wednesday 16 June
Wednesday 14 July	Wednesday 18 August
Wednesday 29 September	Wednesday 13 October
Wednesday 10 November	Tuesday 14 December

**64/10 Renewal of contracts**

The Committee agreed that it would roll forward its contracts with the Chairman, and Vice-Chairman for a further two-year period.

The Chairman advised the Committee that he wished to reappoint the Clerk. The Committee agreed that it would roll forward its contract with the Clerk for a further two-year period.

The Chairman advised the Committee that he wished to reappoint the Secretary. Members noted that the Secretary had indicated that he would be retiring from Network Rail in June 2004, and they agreed that the Committee should, from that date, hold a contract with Chris Blackman for his services as Secretary. It was agreed that the Deputy Chairman would negotiate the contract on behalf of the Committee.

The Committee agreed that Chris Blackman should continue as Disputes Secretary, subject to the approval of the Rail Regulator.

Action: Committee Secretary

**64/11 A question of Jurisdiction to hear reference NV53**

Members noted the paper from the Clerk and agreed that the Network and Vehicle Change Committee had locus, through the mechanisms prescribed in Conditions D2.2.4(a), D2.2.5 and G6.1, to hear a dispute about any matter concerning the procedure in Condition D2.2; furthermore, that a dispute about whether or not a programme of works constituted a Major Project could be construed as a matter concerning adherence, or non-adherence, to a procedure prescribed in Condition D2.2.

The Committee considered that some redrafting of the text in Part G of the Track Access Conditions would be beneficial, in order to provide explicitly for a Train Operator to refer to the Network and Vehicle Change Committee a dispute as to whether or not a programme of works constituted a Network Change, and/or a Major Project, as the case may be. Accordingly the matter should be referred to the Class Representative Committee for consideration.

Action: Committee Secretary

**64/12 Date of next meeting**

This was earmarked for Wednesday 21 January 2004.