

---

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

---

### **MINUTES of MEETING No. 69**

held in London on 5 October 2004

#### **Present:**

Tony Holland, Chairman  
Bill Davidson (Network Rail)  
Tony Deighan (Eurostar (U.K.))  
Julia Glenn (Network Rail)  
Mike Price (ScotRail Railways)  
Ian Osborne (Freightliner)

#### **In attendance:**

Chris Blackman (Secretary)  
Martin Shrubsole (Clerk)

#### **Apologies:**

Nigel Oatway (English Welsh & Scottish Railway)  
Alan Wilson (Wessex Trains)  
Niel Wilson (North Western Trains)

#### **69/1 Minutes of meeting no.68**

The minutes of meeting no.68 held on 18 August 2004 were approved subject to a modification. The Chairman signed a copy of the minutes, as modified, as a true record of the proceedings.

#### **69/2 Matters arising from the minutes of the previous meeting**

There were no matters arising.

#### **69/3 Hearing of reference AD39**

The Committee formally heard reference AD39 from Network Rail on the subject of Delay Attribution arising from a fire on rolling stock at Colchester.

The Determination of the Committee is attached.

#### **69/4 Changes to the Dispute Resolution procedures**

Tony Deighan, who is also Chairman of the Class Representative Committee's Working Party, reported on progress in reviewing the Industry's requirements for a future Dispute Resolution Regime. To date there have been three meetings in

which a list of significant issues has been identified and detailed evaluation has commenced. Consideration is being given to issues such as: whether the role of the ADRC is determinative or facilitative; the powers of the Committee (or whatever dispute resolution body is proposed) to give directions; whether or not there should be majority voting; and whether there is a need to retain a Counsel, if the Chairman is legally qualified.

Broadly speaking the Working Party is moving towards amending the current structure rather than adjusting the former Regulator's Condition C8 proposal.

It is anticipated that after the next two meetings an acceptable structure for the future will have emerged. To test overall acceptability, the Working Party intends to run this past stakeholders in early November before commencing drafting of detailed changes.

**69/5 The former Regulator's reasons for his decision on an appeal against determination NV33**

Members, having considered the paper drafted and tabled by the Clerk to the Committee, agreed that it fully addressed the issues and was a useful document for the record, but not one that required to be circulated more widely. Members expressed concern at the time taken by the former Regulator to publish his reasoning, particularly as he had left the matter in limbo for 16 months. It was also irritating to find that the published document contained comment on matters that had not previously been intimated by the former Regulator as the subject of review.

**69/6 Update on References**

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

AD34 West Coast Trains and Network Rail have concluded discussions on the issue of watering facilities at Carlisle, and West Coast Trains has now withdrawn the reference.

AD35 The parties, Great Eastern Railway and Network Rail, have prepared a joint submission; but the matter is temporarily stayed pending the outcome of the mediation of reference AD36.

AD36 As directed by the Committee, Thames Trains and Network Rail have sought a mediation of their dispute. This is now scheduled to take place on Tuesday 12 October. *[Post-meeting note: rescheduled to 25 October]*

AD37 The parties, Thames Trains and Network Rail, will prepare a joint submission informed by outcome of any hearing of reference AD35.

AD38 from Arriva Trains Wales and Network Rail re allocation of delays; this has been referred back to the Delay Attribution Board for further advice.

**69/7 Preparation of the 9<sup>th</sup> Annual Report**

The Secretariat reported that the necessary amendments have been made and the Report is ready for publication. Members agreed that it should now be published.

**Action:** Secretariat

**69/8 Any Other Business**

There was no other business

**69/9 Date of next meeting**

Wednesday 13 October - 'earmarked' date now not required.

Wednesday 8 December