
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 74 held in London on 9 March 2005

Present:

Tony Holland, Chairman
Mark Causebrook (Thameslink Rail)
Bill Davidson (Network Rail)
Tony Deighan (Eurostar (U.K.))
Mike Scott (Network Rail)
Nigel Oatway (English Welsh & Scottish Railway) (*present from 74/5*)
Stewart Palmer (South Western Trains)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Clerk)

Apologies:

Ian Osborne (Freightliner)
Mike Price (First ScotRail)

74/1 Minutes of meeting no.73

The minutes of meeting no.73 held on 15 February 2005 were approved subject to minor modification. The Chairman signed a copy of the minutes, as modified, as a true record of the proceedings.

74/2 Matters arising from the minutes of the previous meeting

There were no matters arising.

74/3 Budget for 2005/06 (and final Outturn for 2004/05)

Members accepted the budget proposals for 2005/06 and agreed that suitable provision had to be made for accommodation when the lease at Kings Cross expires at the end of the current year.

Members noted with satisfaction that the outturn for 2004/05 indicated that expenditure was significantly less than budget. However, Members were less pleased to hear that certain companies had not yet paid the levy for 2004/05. Interest is payable in accordance with the Access Dispute Resolution Rules.

74/4 Preparation of the Annual Report

Members directed the Secretariat to prepare the 10th Annual Report, in respect of the year from 1st April to 31st March, in accordance with the practice adopted in recent years. Members also agreed that the usual format should be used, although they acknowledged that this format would need to be reviewed during the next 12 months in the light of the significant changes to the Committee, both its structures and its procedures, set out in the forthcoming changes to the Access Dispute Resolution Rules.

74/5 Proposals for Change to the Access Dispute Resolution Rules

Tony Deighan made a presentation to the Committee outlining the proposed structure and changes to the procedures of the Committee and its sub-Committees. It is expected that the changes will be approved by the Office of Rail Regulation (ORR) in the next few days, ready for implementation in May 2005.

Members expressed concern that, following approval by the ORR, there may be insufficient time to run elections for Members of the Committee and of the Panels, in accordance with the provisions of Part C of the Network Code, before 15 May at which date it was anticipated that the changes would take effect. Members suggested that, as an interim measure, all Members and Alternates could be deemed to be part of the pool from which a Panel would be selected; this would need a suitable form of authority from the ORR.

74/6 Update on References

AD31 The parties, Great Eastern Railway, Anglia Railways and Network Rail, have resolved the issue following receipt of guidance from the Delay Attribution Board; formal confirmation of withdrawal is awaited.

AD35 The parties, Great Eastern Railway and Network Rail, were previously remitted to take the issue to mediation; the mediation is due to take place on 15 March.

AD36 Mediation between Thames Trains and Network Rail: it is reported that this was successfully concluded, but this has not yet been confirmed.

AD37 The parties, Thames Trains and Network Rail, will prepare a joint submission informed by the outcome of the mediation on reference AD36.

AD38 from Arriva Trains Wales and Network Rail regarding allocation of delays; the Delay Attribution Board, at its meeting on 8 March, has given advice to the parties.

AD41 from Central Trains on the issue of Local Output Commitments; the Secretary has written to the referrer asking whether or not, in the light of the publication of Determination AD40, it wishes now to proceed to a hearing of its dispute.

AD42 from Wessex Trains on the issue of Local Output Commitments; the Secretary has written to the referrer asking whether or not, in the light of the publication of Determination AD40, it wishes now to proceed to a hearing of its dispute.

AD43 from Thameslink Rail on an issue arising from Schedule 4 of its contract with Network Rail; a hearing is arranged for 24 March 2005.

74/7 Date of next meeting

Thursday 24 March to hear reference AD43.

74/8 Introduction of the revised Dispute Resolution Rules

The Chairman and Clerk both withdrew, and Nigel Oatway, Deputy Chairman, took the chair.

The Members present agreed that, following the introduction of the prospective changes to the Dispute Resolution Rules, the Committee would wish to retain the services of Sir Anthony Holland as Chairman, and furthermore would be recommending to the Chairman that he appoint the Clerk and the Secretary to the new Secretariat.

These decisions will require to be formally ratified by the new Committee when reconstituted.

Further clarity is required from the Office of Rail Regulation as to when the procedures will come into force, and any necessary interim arrangements for continuity of the dispute resolution processes whilst members are elected to the reconstituted Committee and Panels. Members instructed the Secretary to write to the ORR drawing his attention to this matter, and the concerns of the Committee as set out in minute 74/5 above.