

**TTP2783**

### **Directions under ADR Rule H8**

I have been appointed as Hearing Chair, in accordance with the ADR Rules, to make directions in accordance with ADR Rule H8 following NR's objection email, dated 06 March 2026.

I have reviewed the following documents:

1. FL's Notice of Dispute, and attachments, dated 23 February 2026;
2. The Secretary's registration email, dated 04 March 2026;
3. NR's response, dated 06 March 2026;
4. The Secretary's holding response to both Parties, dated 10 March 2026.

While the Notice of Dispute does not use the words 'Timetabling Dispute', FL's reference to ADR B5 makes it clear that it regards this Dispute as a Timetabling Dispute.

The definition of a Timetabling Dispute, which can be resolved in accordance with Chapter H, is helpfully set out in ADR Rule H1:

*"The purpose of a Timetabling Panel is to determine disputes referred to it by parties to an access agreement which incorporates Part D of the Network Code which arise out of or in connection with issues of timetabling, timetable change and the allocation of capacity including restrictions of use and train slots..."*

NR objects to the matter being registered or progressed as a TTP. My understanding of the Rules is that the Secretary has no option but to register a Dispute, so while I cannot agree with NR's first point, my powers clearly enable me to deal with the question of whether it should be progressed as a TTP.

Here I do agree with NR's submission: objection to a future possession because of a dispute concerning Schedule 4 compensation relating to a possession that took place in 2025 quite clearly falls outside the H1 definition and cannot therefore proceed as a TTP.

In my view this is sufficiently clear that I do not need submissions from FL on this point.

FL's assertion that Schedule 4 compensation has not been paid has not been addressed by NR; which was not required in its response.

While neither a Hearing Chair nor the Secretary may give legal advice to the Parties in any Dispute, Rule B10 requires the Secretary to assist Parties '*...to reach an agreement regarding the most appropriate determination procedure and whether any issues can or should be*

*referred to the ORR or to the courts*'. These Directions include that assistance from the Secretary.

There is no mandatory forum for resolving disputes relating to unpaid compensation due under the terms of the Track Access Contract. The Explanatory Note to the Rules says under the heading 'Overview':

*'The purpose of the ADRR is to provide a clear, coherent and effective structure for dealing with those rail disputes arising under access agreements.....that should be dealt with under access-specific processes.'*

While I have determined that this is not a Timetabling Dispute, it does flow from a claim of unpaid compensation due under an Access Agreement. There is no mandatory forum for such a dispute. It could be referred (in the allocation process) to Early Neutral Evaluation or to an ADA. In an ADA the Hearing Chair's powers under Part G would entitle him/her to sit without Industry Advisers (as I did in ADA20), and with the agreement of the Parties to determine the Dispute on the basis of written representations only (Rule G14). This appears to be the most economical way of reaching a determination of any dispute over Schedule 4 payments, as opposed to the guidance which an ENE would give.

While B10 refers to recourse to the courts, a dispute over Schedule 4 compensation is clearly much more suited to determination using railway expertise (possessed by Hearing Chairs) under the ADRR, if agreement cannot be reached between the Parties.

I **direct** that the Secretary should not regard TTP2783 as a Timetabling Dispute.

By **1200 on Wednesday, 25 March 2026** FL is to advise the Secretary and NR whether it wishes this Dispute to be referred for allocation to a suitable forum; whether it proposes to take the matter to Court; or whether it has settled its claim.

*[Signed on the Original]*

Clive Fletcher-Wood  
Hearing Chair TTP2783