





# **ANNEX**

## **CVL Access Dispute Resolution Rules**

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### EXPLANATORY NOTE

*This Explanatory Note does not form part of the CVL Network Code.*

*This Explanatory Note provides a brief overview of the purpose and structure of the CVL Access Dispute Resolution Rules (CVL ADRR).*

*The CVL ADRR themselves are intended to be a readable single point of reference for parties involved in a dispute (and other access parties or potential access parties). However, further background, and the templates required for use in connection with the CVL ADRR are available at the access disputes website: <http://www.accessdisputesrail.org/>.*

#### **Overview**

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

#### **Structure**

***Chapter A** of the CVL ADRR sets out principles which should be applied throughout the determination procedure by the parties, Chairs, arbitrators, experts and others involved. Those using the Rules are expected to respect the principles and have regard to them at all stages in the determination procedure. Failure to do so is intended to carry penalties including potential adverse costs awards.*

**Chapter B** provides the mechanism by which a dispute will be initiated and allocated to the agreed or most appropriate forum.

**Chapter C** describes the mechanism by which issues of wider industry concern and issues of a regulatory nature (including those which come within the scope of the Rail Regulations 2016 (as defined in the "Definitions and Interpretation" section of these Rules)) can be referred to the industry Regulator at any stage of the process.

**Chapters D-I** set out the Rules applicable to each of the dispute resolution processes provided for in the Rules. These include facilitative and determinative processes which may be conducted in parallel (particularly in the case of mediation in parallel with a determinative process) or by way of offering a means of appeal from a first instance decision.

**Chapter J** contains the constitutional, governance and administrative arrangements required to provide the services contained within the Rules.

In addition it is envisaged that it will be possible in certain cases to refer cases outside these Rules to ORR under the Rail Regulations 2016 (as defined in the "Definitions and Interpretation" section of these Rules) or to court on particular issues for which a commercial jurisdiction is most beneficial. The following diagram illustrates how allocation can take place:



## DEFINITIONS AND INTERPRETATION

1. In these Rules, unless the context otherwise requires, the following words and phrases where capitalised shall mean:

<b>Term</b>	<b>Definition</b>
Access Conditions	in relation to an Access Contract, whichever of the CVL Network Code, the CVL Station Access Conditions (as defined in the CVL Network Code) or any depot access conditions (or any successor documents of any of these documents) or any other document carrying out a similar purpose which is incorporated by reference in that Access Contract;
Access Contract	means in respect of a railway facility, an agreement which has the CVL IM as a party to it and which incorporates by reference the Access Conditions applicable to that railway facility;
Act	the Railways Act 1993 as amended from time to time and/or such other legislation taking effect in Great Britain in respect of the same subject matter as that act;
ADA	Access Disputes Adjudication in accordance with Chapter G;
Allocation Chair	the individual appointed by the Committee pursuant to Rule J2, or, where the context so allows, another individual appointed as a substitute by the Secretary to discharge the role of the Allocation Chair in respect of a specific dispute;
Applicable Laws	has the meaning given to it in the CVL Network Code;
Arbitration Acts	means those acts in force from time to time governing arbitration proceedings in England and Wales (including the Arbitration Act 1996);
Arbitrator	an arbitrator;
CAHA	the Claims Allocation and Handling Agreement dated 1 April 1994 (as may be amended from time to time);

CAHA Registrar	the Registrar appointed in accordance with CAHA;
Case Summary	is as defined by Rule D6(a) in respect of a mediation and Rule E5(a) in respect of an ENE;
Committee	the Access Disputes Committee constituted under Rule J2 of the NR ADRR;
Committee Chair	a Committee Member appointed as Committee Chair pursuant to Rule J19 of the NR ADRR;
Committee Member	a person appointed to the Committee pursuant to Rule J6 of the NR ADRR;
Conflict of Interest	includes bias or an appearance of bias, a potential conflict of interest and any circumstances in which a reasonable third party may consider that there is a real risk of a conflict of interest existing or arising in the future;
Costs	professional and other costs and expenses which would be recoverable following a judgment in Court proceedings in England and Wales;
CVL	has the meaning given to it in Part A of the CVL Network Code;
CVL IM	means Seilwaith Amey Cymru / Amey Infrastructure Wales Limited, a company registered in England and Wales under registered number 11389544;
CVL Network Code	the document entitled "CVL Network Code" published and maintained by the CVL IM (as amended from time to time);
Delay Attribution Board	the Delay Attribution Board constituted in accordance with Condition B6.2 of the Network Rail Network Code;
Dispute Party	an Involved Party which is likely to be materially affected by the outcome of the dispute and is putting its position to the Forum and/or requesting a determination from a Forum;
Document	hard copy or electronic data of any kind and in any format including internal or external



	correspondence, emails or other communications, documents, spreadsheets and databases;
ENE	Early Neutral Evaluation in accordance with Chapter E;
Evaluation Documents	is as defined in Rule E5(b);
Existing Resolution Service Parties	is as defined in Rule J37;
Forum	each Hearing Chair of an ADA or Timetabling Panel, evaluator, mediator, arbitrator and determining expert appointed under these Rules;
Hearing Chair	an individual appointed by the Secretary to determine a dispute referred to TTP or ADA in accordance with these Rules;
Human Rights Act	the Human Rights Act 1998 as amended from time to time and/or such other legislation taking effect in Great Britain in respect of the same subject matter as that act;
Industry Advisor	an individual appointed as such in accordance with Rule J11;
Infrastructure Manager	has the meaning given to it in the Rail Regulations 2016;
Involved Party	in relation to a dispute, dispute procedure or dispute resolution process means a party directly involved in the dispute including the Secretary, all Dispute Parties, and the Forum;
Mediation Documents	are those defined in Rule D6(b);
Network Rail	means Network Rail Infrastructure Limited, a company registered in England and Wales under registered number 2904587 having its registered office at 1 Eversholt Street, London NW1 2DN;
Network Rail Network Code	means the document commonly known as the "Network Code" published by Network Rail which applies to the operation of railway vehicles on the NR Network;

Notice of Dispute	a notice issued by a Resolution Service Party wishing to refer a dispute to resolution in accordance with these Rules;
NR ADRR	means the industry standard set of rules known as the "Access Dispute Resolution Rules", which govern the resolution of disputes on the conventional rail network, as annexed to the Network Rail Network Code;
NR Network	means the network in respect of which Network Rail is the facility owner and which is situated in England, Wales and Scotland;
ODP	means Keolis Amey Wales Cymru Limited, whose registered office is at C/O Amey Rail Maindee Depot, Off Caerleon Road, Newport, United Kingdom NP19 9DZ;
ORR	Office of Rail and Road (and where relevant the former Rail Regulator) or any successor body or regulator;
Panel Member	in respect of a dispute to be resolved by TTP or ADA, each individual member of the panel appointed from time to time in respect of that dispute;
Principles	the principles set out in Rules A5-A10;
Procedure Agreement	is as defined in Rule B11;
Rail Regulations 2016	the Railways (Access, Management and Licensing of Railway Undertaking) Regulations 2016 (SI no. 645 of 2016), as may be amended from time to time (including by The Railways (Access, Management and Licensing of Railway Undertakings) (Amendment) Regulations 2019) and/or such other relevant legislation taking effect in Great Britain in respect of the same subject matter;
Railway Safety Levy	has the meaning ascribed to railway safety levy in Regulation 2 of the Railway Safety Levy Regulations 2006;
Reference	in respect of a reference to ORR, is as defined in Rule C6;

Referring Party	is as defined in Rule C2;
Regulatory Issue	<p>a principle, issue or process connected with the railway industry (and any interactions between such principles, issues and processes) which</p> <ul style="list-style-type: none"> <li>(a) concerns the regulated structure of the industry as a whole or a material part of it, or</li> <li>(b) relates to or is closely aligned with a matter on which ORR has regulatory oversight (from time to time); or</li> <li>(c) is connected with ORR's duties, functions or powers as a regulator including without limitation under the Railways Act 1993 s4;</li> </ul>
Related Dispute	a dispute which in the reasonable opinion of the Allocation Chair raises similar or connected factual or legal issues;
Resolution Service Party	a party entitled to use the dispute resolution service described in these Rules, in accordance with regulated Access Contracts, agreements with the Committee or otherwise, having made payments to the Committee in accordance with Chapter J;
RIDR Rules	the Rail Industry Dispute Resolution Rules;
Secretariat	individuals appointed as such in accordance with Rules J21 and J22;
Secretary	the individual appointed as such in accordance with Rule J16;
Statement of Case	any of the initial submissions setting out a Dispute Party's case including a statement of claim, reference, statement of defence, reply, answers and response and such other Documents as a Hearing Chair, arbitrator or determining expert shall identify as such;
TfW	means Transport for Wales, whose registered office is at Qed Centre Main Avenue, Treforest Industrial Estate, Pontypridd, Rhondda Cynon Taff, United Kingdom CF37 5YR;



- (e) any agreement, instrument, licence, standard, timetable, code or other document referred to in these Rules or entered into, approved, authorised, accepted or issued by a person pursuant to this code shall be construed, at the particular time, as a reference to that agreement, instrument, licence, standard, timetable, code or other document, as it may then have been amended, varied, supplemented or novated.
- (f) words and expressions defined in the Interpretation Act 1978 shall have the same meaning in these Rules and the rules of interpretation contained in that Act shall apply to the interpretation of these Rules.
- (g) where in these Rules any obligation of any party is required to be performed within a specified time limit that obligation shall continue after that time limit if the party fails to comply with that obligation within the time limit.
- (h) the words "include" and "includes" are to be construed without limitation.
- (i) references to Rules and Chapters are to Rules and Chapters of these Rules;
- (j) references to the law shall be to the law of England and Wales and shall include all binding legislation (including regulations and statutory instruments) and directly effective European law; and
- (k) the headings in these Rules are used for convenience only and shall not affect the interpretation of the Rules.















with the relevant dispute (including the address of a representative or adviser) in which case service shall be deemed to take place on the day of receipt, or if receipt is after 5pm, the day following receipt. For the purposes of this Rule A22(d) the Secretary will accept documents sent to him at sec.adc@btconnect.com; or

- (e) where a party has no registered address or principal business address within the UK, service may be made in accordance with the above requirements to the Secretary on behalf of that party. The Secretary shall be considered to be the relevant party's agent for service and shall take all reasonable efforts to transmit the documents on to the party at such address as is specified outside the UK.

Provided that, in all cases in which documents are sent to any company or corporate entity, such documents are addressed "Urgent; for the attention of the Company Secretary" or addressed to a person representing the party who has previously confirmed in writing his willingness to receive such documents on behalf of the party.

23. In these Rules, whenever any notice is required to be given in writing, writing shall include email.
24. Any reference to pages is a reference to A4 pages containing reasonably legible typescript at 1.5 line spacing. All documents submitted shall be made in a form compatible with software agreed with the Secretary from time to time and all attachments should be where reasonably possible, in electronic format.
25. All documents, correspondence, communications and other material including spoken statements, submissions and communications shall be in the English language.
26. In the event that any date specified in these Rules for service of documents or any action by any party, Forum, Allocation Chair, Hearing Chair or Secretary or any other date specified would fall between 25 December and 31 December in any year, it shall be extended by seven days. Any such date falling on a public holiday in England and Wales shall be extended to the next working day.



4A A party which has referred a dispute by service Notice of Dispute in accordance with Rule B2 may (without affecting any powers in these Rules to make consequential orders as to costs) discontinue the dispute by serving written notice of withdrawal of the Notice of Dispute on the Secretary and on every other party to the dispute.

4B Rule 4C applies where a party which has served a notice of withdrawal in accordance with Rule 4A seeks to serve a further Notice of Dispute in accordance with Rule B2, in which:

(a) One or more other parties to the dispute referred by the further Notice of Dispute was or were a party to the dispute which has been discontinued in accordance with Rule 4A; and

(b) The dispute referred by the further Notice of Dispute arises out of facts which are, in most part, the same as those relating to the discontinued dispute.

4C In the circumstances described in Rule 4B the dispute identified by the further Notice of Dispute will not be referred as a dispute under these Rules unless and until;

(a) All parties to the dispute have indicated to the Secretary that they agree that the dispute should be referred under these Rules; or

(b) Upon reference to the Allocation Chair by the Secretary and having invited submissions by all affected parties and duly considered these, the Allocation Chair gives permission for the dispute to be referred under these Rules having regard to the circumstances of the withdrawal and the further reference whether those circumstances amount to an abuse of the ADRR process whether the dispute party which is seeking permission has acted oppressively or unreasonably, the terms of any undertaking offered by the dispute party which is seeking permission to be responsible for the costs incurred by the other dispute parties in connection with the withdrawn dispute and the terms of any cost order made upon the withdrawal.

4.

## **Allocation Process**

5. All Timetabling Disputes shall be referred to a Timetabling Panel in accordance with Chapter H. Following service of a Notice of Dispute relating to such a dispute the process under Chapter H shall commence and the Secretary shall appoint a Timetabling Panel in accordance with Rule H12. If either party raises any objection within 5 working days then the Hearing Chair of the Timetabling Panel shall consider the best way to proceed.



- (d) (unless a Procedure Agreement has already been drawn up or served on him) shall provide initial directions to the parties setting out the following initial timetable (or such variation of the timetable as the Allocation Chair shall approve):
  - (i) fixing a date and time of the allocation hearing, a provisional method by which such allocation hearing shall take place (in writing, in person at a specified location, or by telephone conference or otherwise) and an estimated duration for the allocation hearing;
  - (ii) encouraging the parties to seek to agree a determination procedure between them and in the event of reaching such an agreement immediately to notify him accordingly;
  - (iii) requiring each party to serve upon him and exchange with the other parties a statement, at least seven days before the hearing, containing that party's:
    - (A) assessment of the basis of the claim and a brief list of issues. Alternatively agreement with the basis of the claim and list of issues provided with the Notice of Dispute; and
    - (B) preferences for the Forum and any facilitative stages together with short reasons in support of such process; and
    - (C) assessment of any issues which should be referred to ORR together with the proposed form of words for the reference and short reasons in support of such a reference.

Such statements should each be less than three pages long unless the Allocation Chair directs otherwise.

10. The Secretary shall assist the parties to reach an agreement regarding the most appropriate determination procedure and whether any issues can or should be referred to ORR or to the courts. In doing so the Secretary shall act in a facilitative role impartially between the parties and shall not seek to impose his own assessment or preference upon the parties.
11. If the parties reach agreement upon a determination procedure, they shall confirm their agreement and the terms of that agreement to the Secretary by way of a written procedure agreement (the "**Procedure Agreement**") executed by or confirmed in writing on behalf of all Dispute Parties. The form





- (c) seek to facilitate an agreement between the parties on the most appropriate determination procedure and whether any issues exist which should be referred to ORR;
- (d) having heard each party's full submissions, if no agreement has been reached, state clearly any view he has of the most appropriate determination procedure;
- (e) in the event that any party claims the right to refer a matter or issue directly to ORR under the Rail Regulations 2016 (without the need to first refer the matter to a Timetabling Panel), determine whether it is arguable that such a right exists and if so direct the reference of the matter to ORR;
- (f) in the event that any party claims the right to refer a matter or issue to a Timetabling Panel and subsequently to ORR in accordance with the Rail Regulations 2016, determine whether it is arguable that such a right exists and if so refer the matter to a Timetabling Panel followed by appeal to ORR. There is a presumption that disputes referred to resolution under Condition D5.1.1 of the CVL Network Code shall, unless there are compelling reasons to the contrary relating to subject matter, be allocated to a Timetabling Panel. Consequently the Allocation Chair shall not allocate a dispute ostensibly falling within Condition D5.1.1 other than to a Timetabling Panel without first inviting written representations from the Dispute Parties on his intention to do so (to be provided by the parties within seven days of the request or such other time as he shall specify) and giving proper consideration to any representations made;
- (g) in the event that the parties agree that an issue would be best determined by ORR but are unable to agree to the wording of the necessary reference, determine the wording of the reference and write to ORR (copying the parties) identifying the issue and requesting that the issue be considered in accordance with Chapter C;
- (h) in the event that agreement in principle on the resolution procedure has been reached, but the parties are unable to agree on the timings of each stage (including adjustments to the default timings in these Rules), determine the timings to be applied following consideration of the parties' submissions in that respect;
- (i) in the event that agreement is reached between the parties (including agreement following the exercise by the Allocation



















































arbitration under these Rules unless the act or omission is shown to have been in bad faith.

### **Jurisdiction and governing law**

35. Arbitrations shall take place in England or Wales and be subject to the law of England and Wales.

### **Interim relief granted by the Court**

36. In an appropriate case, a party to a dispute which has been or may be submitted to arbitration may apply to the Court for interim relief (whether negative or positive), notwithstanding that the relief sought may overlap with the interim relief which is, or may be, claimed in the arbitration.









- (ii) the reasons for any disagreement including any further references to provisions of the Underlying Contract or other contract(s) not dealt with in the reference;
- (iii) details of any other related claim;
- (iv) the decision (and, if relevant) any remedy sought from the ADA;
- (v) an authorised signature of the responding party; and
- (vi) copies of the following Documents which shall be annexed and cross referenced to the response if not dealt with in the statement of claim:
  - (A) the relevant extracts of contractual Documents containing the provision(s) under which the referral to the ADA arises and/or provision(s) associated with the substance of the dispute; and
  - (B) any other Documents referred to in the defence.
- (c) the claimant(s) may within seven days of the service by the respondent of its statement of defence, serve upon each Involved Party a reply limited to responding to new matters and contentions of law raised in the statement of defence and any counterclaim or related claim raised;
- (d) following service of the reply, the Secretary shall write to all parties to inform them that a hearing date will be set in accordance with (e) below and to inquire whether any party intends to make an application for alternative or varied directions and/or a directions hearing at this stage;
- (e) except in relation to a dispute arising under Part J of the CVL Network Code, before the date 14 days after the statements of case referred to in paragraphs (a)-(c) have been finalised, the Secretary shall agree with the Hearing Chair and the parties a hearing date and the estimated length of the hearing. If a date cannot be agreed with one or more parties the Hearing Chair shall determine the hearing date. Unless the parties agree otherwise, or the Hearing Chair determines otherwise having due regard to Rule G15, the hearing date shall be within 35 days of the date on which it is agreed or determined in accordance with this Rule. Upon agreement or determination of a hearing date, the Secretary shall write to all Involved Parties to confirm the date to them;

- (f) the Hearing Chair may raise any questions relating to the dispute he wishes in advance of the hearing. In particular the Hearing Chair shall consider whether any additional third party should be or should have been notified of the dispute subsequent to Rule B3(b) or otherwise and may ask the parties to justify their decision not to notify any such party. If any Industry Advisor or assessor raises a question, the Hearing Chair may in his absolute discretion refer such question to the parties;
  - (g) at least seven days before the hearing, each Dispute Party shall serve on all other Involved Parties its written submissions for the hearing and any additional information or responses to questions requested by the Hearing Chair; and
  - (h) for disputes referred under Part J of the CVL Network Code the timeframes set out in Rules G16(a) and G16(b) shall be reduced to 7 days.
17. At any stage prior to the date on which the Secretary writes to inform the Involved Parties of the date of the hearing, in accordance with Rule G16(e) or otherwise, any third party made aware of the dispute subsequent to Rule B3(b) or otherwise can by notification to the Secretary request to become a claimant, defendant or interested party in the dispute. Any Involved Party which has not requested to become a claimant, defendant or interested party in the dispute by this point shall cease to be an Involved Party.
18. Any third party which has not been made aware of the dispute subsequent to Rule B3(b) or otherwise can by notification to the Secretary request to become a claimant, defendant or interested party in the dispute at any stage prior to the final hearing. Unless the request seems to him vexatious or frivolous (in which case he shall request that the Hearing Chair determine appropriate directions) upon receiving such a request, the Secretary shall send copies of the Notice of Dispute and all statements of case to the third party making the request subject to a requirement that that party keep such Documents confidential.
19. Any request to become a claimant, defendant or third party in accordance with Rule G17 or 18 shall be considered and determined by the Hearing Chair having considered such submissions and evidence as he shall request. In making his decision the Hearing Chair shall take into account the Principles, the wider interests of the industry, the balance of interests between all relevant parties and such other matters as appear to him to be relevant.

#### *References to ORR*

20. The Hearing Chair may, on the application of any party or on his own motion, elect to refer any issue or issues to which Rule C3 applies, to ORR in























negative or positive), notwithstanding that the relief sought may overlap with the relief which is, or may be, claimed in the ADA.

## **Appeal**

67. Following a determination of a dispute by the Hearing Chair any Dispute Party is entitled to appeal in accordance with any relevant provisions in the Procedure Agreement. If the Procedure Agreement is silent in respect of a right of appeal then each party shall have a right of appeal to arbitration in accordance with these Rules.
68. Any further dispute resolution process to which an appeal is made in accordance with Rule G67, shall be subject to the confidentiality provisions set out in Rules G56 - G62 as if all Documents disclosed and prepared in relation to that further dispute resolution process had been prepared in respect of an ADA.
69. If any further dispute resolution process is provided for in the Procedure Agreement or if a right to appeal to arbitration exists in accordance with Rule G67 then any party which wishes to refer the dispute to the next stage of the determination procedure (in accordance with the Procedure Agreement) shall notify the Secretary of its intention to refer. Any such notification shall be copied to all Dispute Parties. If no party notifies the Secretary of its intention to refer the matter to such further dispute resolution process within 28 days of the determination of the Hearing Chair, that determination shall be deemed to have been accepted by all parties.











- (C) identification of the provision(s) of the Access Conditions or any Underlying Contract under which the reference is made;
- (D) identification of any other provision(s) of the Access Conditions or any Underlying Contract which the claimant believes are also relevant to the dispute;
- (E) a summary of the nature and circumstances of the dispute in sufficient detail for the other Dispute Party or Resolution Service Parties to identify the issues and whether they are likely to be materially affected;
- (F) the decision sought;
- (G) the remedy claimed;
- (H) an authorised signature of the referring party; and
- (I) copies of the following Documents which shall be annexed and cross referenced to the reference:
  - 1) the relevant extracts of contractual Documents containing the provision(s) under which the referral to the Timetabling Panel arises and/or provision(s) associated with the substance of the dispute; and
  - 2) any other Documents referred to in the reference,

and which shall be in accordance with the template format for a sole reference (found on the access disputes website) as may be adapted by the Hearing Chair in respect of a particular dispute; and

- (ii) each defendant shall within seven days of service on it of such sole reference produce and serve upon all Involved Parties a response which shall include:
  - (A) a schedule identifying those parts of the reference that it agrees with and those that it disagrees with;
  - (B) the reasons for any disagreement including any further references to provisions of the Access Conditions and Underlying Contracts not dealt with in the reference;



























relies (or admits or denies). The statement of defence may set out any counterclaim which the respondent wishes to make;

- (c) the statements of case served pursuant to sub-paragraphs (a) and (b) above shall be accompanied by copies of any Documents referred to in them or upon which the party serving the statement wishes to rely. In addition they shall be accompanied by (or, as appropriate refer to and identify) any computations, models, analysis or data prepared by or for that party upon which the party wishes to rely. That party shall, if so requested, make the originals of such Documents available for inspection by the determining expert or the other party(s) and shall as appropriate make available active electronic copies of such Documents for analysis by the determining expert or the other party(s);
- (d) The determining expert may raise such questions as he considers necessary or appropriate and require responses from the parties within such time as he specifies.
- (e) at least seven days before any hearing, each party shall serve on the other and on the determining expert its written submissions;
- (f) unless ordered otherwise by the determining expert, at the hearing:
  - (i) there shall be no oral opening submissions, but the determining expert may ask the parties questions arising out of their written submissions or statements of case;
  - (ii) subject to sub-paragraph (iii) below, the testimony of a witness may be presented in written form, either as a signed statement or as an affidavit duly sworn. Any party may apply to the determining expert for an order that any witness whose written statement or affidavit is to be relied upon by a party should attend for oral examination at a hearing and the determining expert shall make such order unless, having heard the parties, he is satisfied that such oral examination is not likely to assist him in making his award. If a witness is ordered to attend and fails to do so, the determining expert may:
    - (A) place such weight on the written statement or affidavit as he thinks fit;













## **Communications**

33. Communications for the purposes of the expert determination may be by telephone or email (or such other means as is appropriate) and where by telephone shall be confirmed in writing wherever possible.

## **Exclusion of liability**

34. None of the Allocation Chair, the Secretary or any determining expert shall be liable to any party for any act or omission (including negligence) in connection with any expert determination under these Rules unless the act or omission is shown to have been in bad faith.

## **Jurisdiction and governing law**

35. Expert determinations shall take place in England or Wales and be subject to the law of England and Wales.

## **Interim relief granted by the Court**

36. In an appropriate case, a party to a dispute which has been or may be submitted to expert determination may apply to the Court for interim relief (whether negative or positive), notwithstanding that the relief sought may overlap with the interim relief which is, or may be, claimed in the expert determination.









22. The Secretariat shall be appointed upon such terms as the Committee shall determine.
23. The appointment of the Secretariat and the terms of such appointment shall be as prescribed in, and made pursuant to, Part J of the NR ADRR.

### **Funding**

24. The Committee's financial year shall commence on 1 April.
25. Not used.
26. Not used.
27. The CVL IM shall be a Resolution Service Party and shall make a payment in an amount to be agreed between the CVL IM and the Committee which shall be a fair and reasonable amount in respect of the CVL, taking into account such factors as the Committee in its discretion believes to be appropriate.
28. The Committee may from time to time publish and/or amend a statement of the additional charges it will require Dispute Parties to pay in relation to the services provided in connection with disputes which have been referred for resolution under these Rules and may require Dispute Parties to pay such charges (including as a precondition to releasing determinations).
29. Not used.
30. Any request for payment from the Secretary shall be settled within 30 days.
31. Not used.
32. Not used.
33. Any Resolution Service Party shall be entitled to require the Secretary to provide him with a certificate from a firm of chartered accountants in relation to the costs and expenses of the Committee in respect of any financial year. The Secretary shall promptly comply with any such request.
34. Not used.

### **Capacity of Committee to enter into Contracts**

35. In making any appointment or otherwise exercising the powers under this Chapter J the Committee Members are authorised to act on behalf of the Resolution Service Parties.
36. None of the Allocation Chair, any Hearing Chair, any Industry Advisor, the Secretary or any member of the Secretariat shall by virtue of his office be an employee of the Committee or any person.



- (d) subject to determinations of commercial confidentiality, copies of every reference to ORR under these Rules and all responses from ORR; and
- (e) all other Documents including determinations and awards as specified for publication on the access disputes website in these Rules.

### **Liability of Committee Members, Panel Members and officers**

- 40. Subject to Rule J41 none of the Committee Members, the Committee, Panel Members (TTP or ADA), Committee Chair, the Allocation Chair, any Hearing Chair, Industry Advisors and the Secretary, ~~or any member of the Secretariat~~ or any employee of the Committee shall be liable in contract or tort or otherwise to any party for any act or omission (including negligence and vicarious liability for the negligence of employees) in connection with any Committee proceedings or dispute determined by a Timetabling Panel or by a Hearing Chair under these Rules except in respect of any act or omission shown to constitute bad faith and/or dishonest conduct.
- 41. The exclusion of liability in Rule J40 does not extend to the express obligations of the Committee Chair, the Allocation Chair, any Hearing Chair, Industry Advisors and the Secretary, ~~or any member of the Secretariat~~, or any employee of the Committee contained in any contract of appointment or employment.
- 42. The Resolution Service Parties shall (subject to Rule J43) jointly and severally indemnify, and keep indemnified, the Committee Members, Committee Chair, the Allocation Chair, any Hearing Chair, Panel Members (TTP or ADA), Industry Advisors, the Secretary and any member of the Secretariat against any liability incurred (or alleged to have been incurred) by them to any Dispute Party or any third party in connection with any of their duties under these Rules so far as it relates to the CVL, except in respect of any act or omission which is shown to constitute bad faith and/or dishonest conduct or which would be a breach of any obligation contained in any contract of appointment.
- 43. The indemnity obligation of a specific Resolution Service Party under Rule J42 shall exclude any individual who is an appointed officer of that Resolution Service Party or of any affiliate if (and only to the extent that) such indemnity would be precluded under the Companies Acts. For the avoidance of doubt such exclusion shall not however affect:
  - (a) the joint and several obligation of that Resolution Service Party under Rule J42 to indemnify other relevant individuals;
  - (b) the joint and several obligation of all other Resolution Service Parties to indemnify any individual not entitled to an indemnity



from any Resolution Service Party by virtue of a directorship;  
and

- (c) any lawful right of contribution by indemnifying Resolution Service Parties against a Resolution Service Party not required to indemnify by reason of this Rule J43.

#### **Other Administrative Issues**

- 44. These Rules may be amended in accordance with the provisions of Part C of the CVL Network Code.
- 45. No amendment of these Rules shall have effect unless approved by ORR.
- 46. Any dispute arising out of the operation or interpretation of these Rules including this Chapter J shall be referred to ORR for determination in accordance with such process as ORR shall specify. In the event that ORR determines that a reference made to it under this Rule J46 does not relate to the operation or interpretation of these Rules, it shall decline to hear the reference.
- 47. These Rules are subject to the laws of England and Wales.
- 48. These Rules form part of the CVL Network Code.