

IE Domain Registry CLG

Policy Advisory Committee – PAC #16

Minutes from the 12 June 2018 Meeting



IE Domain Registry

Table of Contents

1. Apologies - Members not present.....	4
2. Minutes from the 12 June 2018 PAC #15 meeting	4
3. Review of action points arising from the PAC #15 meeting	4
a. Proposal to alter the operation of the DNS check validation process	4
b. Proposal to remove the 'claim to the name' requirement	4
4. Update on the policy change request – to introduce an Alternative Dispute Resolution (ADR) Process to the .ie namespace	5
5. Update on the policy change requests arising from the introduction of the EU General Data Protection Regulation (GDPR)	6
5.1. Modification of the Privacy Policy.....	6
5.2. Introduction of the Data and Document Retention Policy	6
5.3. Modification of the WHOIS Policy	7
6. Update on the policy change request – to remove restrictions on .ie domains corresponding to TLDs	8
7. Any Other Business	8
a. Policy Conclusion Templates.....	8
b. Industry related developments / relevant legislative changes.....	9
8. Next Steps	9
9. Next Meeting.....	9

Minutes of the Meeting held on 12 June 2018

Meeting Location: Orion 2 Suite, Spencer Hotel, Excise Walk, IFSC, Dublin 1

Meeting Time: Called to order at 11:05am by the PAC Chairman.

Members present:

Chair	Alfie Shaw
Department of Communications, Climate Action & Environment	Niamh Burns
Department of Business, Enterprise and Innovation	Jill Colquhoun
Internet Service Providers Association of Ireland (ISPAI)	Fred Logue
Irish Computer Society	Kevin Thomas
.ie Accredited Registrar (Irish Domains)	Conor Moran
.ie Accredited Registrar (Register 365)	Kirstine Wilkes
IE Domain Registry (IEDR)	Jimmy Joyce

IEDR Representatives:

David Curtin
Oonagh McCutcheon

PAC Secretariat:

Sarah Keegan

1. Apologies - Members not present

- Judy McCullagh – Association of Patent and Trade Mark Attorneys (APTMA) – pre-arranged
- Brian Nisbet – HEAnet – pre-arranged
- Michele Neylon - .ie Accredited Registrar (Blacknight Solutions) - pre-arranged
- Linda Barry – Small Firms Association (SFA) – pre-arranged

- Jonathan Bate - .ie Accredited Registrar (Hosting Ireland)
- Jim Barry – Enterprise Ireland
- Joe Kane – Law Society

2. Minutes from the 12 June 2018 PAC #15 meeting

It was confirmed that the Minutes from the 17 April 2018 PAC #15 meeting were published online and that members had no further comments regarding their content. The PAC Chair formally signed the Minutes.

3. Review of action points arising from the PAC #15 meeting

a. Proposal to alter the operation of the DNS check validation process

The proposal was summarised for the PAC, along with the action item from the last meeting. This related to IEDR updating its technical systems to support the altered DNS check process operations.

With the recent completion of a number of resource-demanding projects, including policy liberalisation and GDPR-compliance preparations, IEDR confirmed that it was now accelerating the implementation of this change. It is expected that the operation of the DNS check process will be altered in Q3 2018.

IEDR also remarked that it intends to introduce an automated quality assurance check to monitor the quality of the .ie zone on an on-going basis, and to identify instances of malware distribution or botnet activity. There was discussion regarding notifying Registrars of such issues, and IEDR confirmed that it would share elements of the results with Registrars.

Further updates will be provided in due course.

b. Proposal to remove the 'claim to the name' requirement

This policy change proposal was implemented on 21 March 2018. IEDR commented that a marked increase in .ie domain name registrations had been experienced initially following the launch of the policy change.

It was also noted that registration numbers for May 2018 were 23% higher than those for the same period in May 2017. IEDR acknowledged that registration numbers had since normalised, and had seen a respectable rise overall.

The PAC were reminded of the potential concerns which were raised during the stakeholder engagement / planning phases or which were highlighted during the Public Consultation process in September 2017. These concerns included the potential for international cybersquatters to become active in the .ie namespace, and for potential awareness gaps to arise post implementation, whereby members of the Public may feel that they were not suitably informed in advance of the change. IEDR and the accredited .ie Registrar representatives on the PAC noted that there had been no evidence of either issue arising after the release.

The success of the release was acknowledged by the PAC, and it was confirmed that the policy change would be formally concluded under item 7(a) on the Agenda.

4. Update on the policy change request – to introduce an Alternative Dispute Resolution (ADR) Process to the .ie namespace

The action item from the last meeting was summarised. This related to the Working Group continuing its review of the proposed policy change, in particular, the design and scope of the process. It was acknowledged that resource intensive projects had taken priority in recent months, particularly GDPR-compliance preparations and policy liberalisation. Therefore, it was noted that there had been no engagement amongst the Working Group reviewing this policy change proposal since the last PAC meeting.

The PAC were reminded that emerging consensus had previously been established for 'Levels 1-3' of the complaint filtering proposal detailed in the supporting slides, which are available on the IEDR website at <https://www.iedr.ie/p30/policy-development/>

It was also acknowledged that there was strong consensus for the formalisation of the Regulatory Authority Protocol (RAP). Through this formalisation, a standardised template would be used to codify the process and facilitate takedown notices and dispute handling requests from Regulatory Authorities. Discussion followed on the need for IEDR to ensure that Regulatory Bodies engaging with the RAP are appropriately empowered through statutory instruments, in order to mitigate IEDR's legal risk exposure.

There was further brief discussion on the following matters:

- processes used by other ccTLD operators to handle complaints from Regulatory Authorities
- whether the RAP should only be used for complaints relating to criminal activity (excluding civil matters)
- Precedents and experiences to date from IEDR's historical engagement with Irish national Regulatory Bodies and An Garda Síochána
- the need to ensure the ADR Process meets the dispute resolution needs of the SME business community
- the potential for service providers to provide examples / templates of terms and conditions of service.

It was confirmed that the Working Group would engage via conference call in the coming weeks to progress discussions on a number of matters, including:

- ADR Design, Scope and Remedy considerations

- Expert Panel modus operandi. Potential for optional third party Mediation service
- Whether complainants ought to have a legitimate interest in the domain name
- Recommendation for a process operator - (based on submissions received and communications to date).

Further updates will be provided at the PAC #17 meeting.

5. Update on the policy change requests arising from the introduction of the EU General Data Protection Regulation (GDPR)

The IEDR summarised its GDPR-compliance preparations and progress to date. It was noted that the Registry had achieved compliance in advance of the enforcement date of 25 May 2018.

The PAC were reminded that changes had been required to IEDR's legal agreements with all accredited .ie Registrars and Registrants to give effect to the policy changes and ensure GDPR-compliance.

Discussion turned to the three policy changes which were required for GDPR-compliance. These changes are summarised below, along with points discussed:-

5.1. Modification of the Privacy Policy

It was noted that the revised Privacy Policy came into effect on 25 May 2018. The revisions to the Policy included clarifications on the following matters:-

- Data Subject rights
- Data Subject access requests
- Operation of analytics and cookies (including WebCrawler opt-out)
- Disclosure practices and location of processing
- Marketing communications (confirming that IEDR does not issue marketing communications to Registrants, where the domain is managed by an accredited .ie Registrar)
- A summary of the .ie data retention practices

There was general discussion on instances of non-compliant privacy notice communications and misinformation on how to achieve GDPR-compliance that PAC members had noticed since the introduction of the GDPR. The value of the Guidelines, documents and communications distributed by the EU Article 29 Working Party in aiding compliance efforts was also acknowledged.

5.2. Introduction of the Data and Document Retention Policy

It was noted that the newly introduced Data and Document Retention Policy came into effect on 25 May 2018. The provisions of the Policy were summarised for the PAC, along with the considerations raised during its design.

Under this Policy:-

- supporting documentation provided to the Registry is deleted within the **30 day** period after the completion of the related ticket request.
- Personal Data provided to the Registry is retained for the **lifetime of the domain registration, plus an additional 2-year period**, for use in cases of potential legal disputes. (The 2-year period was chosen, even though the statute of limitations for a lawsuit for breach of contract is six years).
- for unsuccessful ticket requests, the supporting documentation and Personal Data is deleted within **7 days** following the expiry / cancellation of the related request

The PAC acknowledged that the Policy's introduction represented a significant change for the .ie namespace, reflecting a re-balancing of the citizens' and registrants' rights to protection and security of their personal data.

5.3. Modification of the WHOIS Policy

There was discussion on the revised operation of the WHOIS, which came into effect on 11 May 2018.

The proposed changes to the WHOIS output on the IEDR website were summarised, as follows:-

Where a Registrant is a **Natural Person** (i.e. non-legal person, private individual):

- Domain Holder, Admin Contact and Technical Contact names do not appear (just the NIC handle / account number)
- Default is opt-out (Domain name is displayed with technical domain information)
- Registrants have the option of opting-in to the publication of the Domain Holder name

Where a Registrant is a **Legal Person** (i.e. Commercial entity, Government Body etc.):

- Domain Holder name appears
- Admin Contact and Technical Contacts' personal names do not appear (just the NIC handle / account number)
- No opt-out is permitted for these entities

The PAC were reminded that under the revised WHOIS Policy which came into effect on 11 May 2018, the publication of Sole Trader domain holder names was mandatory. IEDR advised that it had received a query regarding this matter prior to the GDPR enforcement date of 25 May 2018.

IEDR confirmed that it had taken steps to investigate the matter, consulting with its external legal counsel and taking into consideration international developments within the domain-industry. IEDR advised that ICANN had published its "Proposed Temporary Specification for gTLD Registration Data" (coincidentally, on 11 May 2018). IEDR advised that it had temporarily suspended the publication of Sole Trader domain holder names pending the progression of industry-wide discussions.

Separately, IEDR confirmed that it intends to undertake an internal data validation exercise to categorise domain holders into Legal Persons or Natural Persons. Further updates will be provided when the data validation exercise has been completed.

There was discussion on the functionality to allow Registrars and Registrants to opt-in to / opt-out of the display of Natural Person domain holder names on the WHOIS facility. IEDR confirmed that this functionality would be introduced for Registrars, via the web-based Console, later in 2018. An interim solution is currently being used, whereby IEDR is implementing requests submitted by Registrars to toggle domain holders consent for opt-in / opt-out display.

An accredited .ie Registrar representative queried if this functionality would be introduced to the API. IEDR advised that it is reviewing the matter, and was mindful of the 90-day notice period for API changes. Further updates on this matter will be issued to the Registrar channel in due course. The immediate priority was to introduce the feature into the web-based Console first.

Discussion followed on the progression of WHOIS debates within the wider domain industry, and the potential issues faced by the legal profession and law enforcement from the non-availability of WHOIS directory services. Pending stakeholder consensus, the transitional arrangement implemented by ICANN is to suppress all personal data of domain holders in top-level domains.

IEDR acknowledged the efforts of the PAC in ensuring the .ie namespace achieved GDPR-compliance, especially accredited .ie Registrars, whose expertise and feedback was particularly helpful in refining solutions, finalising the policy changes and word-crafting the draft policy documents and agreements.

6. Update on the policy change request – to remove restrictions on .ie domains corresponding to TLDs

The action item from the last meeting was summarised. This related to IEDR providing the Board of Director's approval for the implementation of the policy change proposal and release of the relevant reserved domains held by IEDR.

IEDR confirmed that the Board of Directors has accepted the recommendation of the PAC in relation to the release. IEDR advised that it has a number of upcoming technical changes planned in the coming months, related to items in Sections 3(a) and 5.3 above, and that it would work to schedule the release once these planned technical changes have been implemented. The Release Mechanism will be the precedent Sunrise / Landrush / General Availability model as previously agreed by the PAC.

Further updates will be provided in due course.

7. Any Other Business

a. Policy Conclusion Templates

A number of policy change conclusion templates were submitted for formal sign-off by the PAC. These are as follows:-

- **Fast-Track request to modify the IEDR WHOIS Policy (incorporating the Acceptable Use Policy) to display Billing Contact information within the WHOIS**

This policy change proposal was withdrawn by the Proposer at the 7 February 2018 meeting on the basis that further changes to this Policy were required for GDPR-compliance. The consensus

changes agreed during the consultation period with the accredited .ie Registrar channel were carried forward into the GDPR-related policy changes.

The PAC Chair signed the policy change conclusion template, formally acknowledging the withdrawal of the policy change proposal.

- **Fast-Track request to modify the Privacy Policy to account for legislative changes**

This policy change proposal was withdrawn by the Proposer at the 7 February 2018 meeting on the basis that further changes to this Policy were required for GDPR-compliance.

The PAC Chair signed the policy change conclusion template, formally acknowledging the withdrawal of the policy change proposal.

- **Policy change request to remove the ‘claim to the name’ requirement from the Registration & Naming Policy**

As discussed under Agenda item 3(b), it was noted that the policy change had been successfully implemented on 21 March 2018, and no matters were identified during the post-implementation review by the PAC (Step 11 of the PDP).

The PAC Chair signed the policy change conclusion template, formally acknowledging the completion of the policy change proposal.

b. Industry related developments / relevant legislative changes

There was brief discussion on the following matters:-

- The just-in-time enactment of the Data Protection Act 2018 on 24 May 2018
- The upcoming introduction of the EU ePrivacy Regulation
- The progression of the transposal of the EU Directive on security of network and information systems (NIS Directive) into Irish Law

8. Next Steps

IEDR will:-

- Continue preparing for the operational changes to the DNS check process, with a view to implementing this change in Q3 2018
- Continue preparing technical changes to facilitate toggling between the WHOIS opt-in / opt-out outputs for natural persons on Console (and potentially API)

PAC Secretariat will:-

- Engage with the ADR Working Group to progress discussions

9. Next Meeting

PAC Secretariat will engage with wider PAC to set a date for the next meeting, which is expected to be held in late August – early September 2018.