

IE Domain Registry CLG

Policy Advisory Committee

Minutes from the 29 August 2017 Meeting



Identifiably Irish

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Ireland's Domain Registry

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Minutes of the Meeting held on 29 August 2017

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

Meeting Time: Called to order at 11:02am by the PAC Chairman.

Members present:

Chair	Alfie Shaw
Department of Communications, Climate Action & Environment	Niamh Burns
Department of Jobs, Enterprise and Innovation	Catherine MacEnri
HEAnet	Brian Nisbet
.ie Accredited Registrar (Blacknight Solutions)	Alan O'Reilly
.ie Accredited Registrar (Hosting Ireland)	Jonathan Bate
.ie Accredited Registrar (Irish Domains)	Conor Moran
.ie Accredited Registrar (Register 365)	Kelly Salter
Internet Service Providers Association of Ireland	Fred Logue
Small Firms Association	Linda Barry
IE Domain Registry (IEDR)	Jimmy Joyce

IEDR Representatives:

David Curtin
Oonagh McCutcheon

PAC Secretariat:

Sarah Keegan

1. Apologies - Members not present:-

- Paula Maguire – Enterprise Ireland (pre-arranged)
- Judy McCullagh – APTMA (pre-arranged)
- Joe Kane – Law Society
- Kevin Thomas - Irish Computer Society

Alternates attending on behalf of PAC members:

- Niamh Burns - Department of Communications, Climate Action & Environment
- Alan O'Reilly - Blacknight Solutions

2. Minutes from the 20 June 2017 PAC meeting

It was confirmed that the Minutes from the 20 June 2017 PAC meeting were published online and that members had no further comments on their content. The PAC Chair formally signed the Minutes.

3. Review of action points from the 20 June 2017 PAC meeting

3.1. Fast Track Request: WHOIS Policy & Acceptable Use Policy

The policy change proposal was briefly summarised for the PAC members, along with the action items from the last meeting. The PAC were reminded that the proposed edits to the WHOIS output display include the addition of Billing Contact information (Nic-Handle and Name), and the removal of the legacy class and category fields, which are now used for internal analysis only. It was noted that the action item was for the IEDR to engage with the wider accredited .ie Registrar channel through a consultation process, to determine if any objections existed to the proposed changes.

It was confirmed that two consultation phases had concluded, and that the proposal now included the introduction of a WHOIS inaccuracy reporting form. Furthermore, it had been proposed that the changes could be implemented in two phases. This phased introduction related to the immediate preparedness of IEDR systems to introduce the Billing Contact information to the WHOIS, and the requirement for system development work to be undertaken in order to introduce the Abuse Contact role, amongst other features.

During the consultation processes, it was noted that consensus was found to exist for the proposed changes, but not for their phased introduction. PAC Registrars expressed a strong preference for the changes to be introduced through a single system change. The IEDR acknowledged that it was happy to arrange this, and that it would implement all of the proposed WHOIS changes at one time, rather than in two phases. It was noted that this would give Registrars time to prepare themselves for the introduction of the new WHOIS inaccuracy reporting role, and for the establishment of their internal business practices to support it.

Clarification was sought on what activities Registrars would be expected to undertake through this role, and whether the IEDR had any intention of mandating certain actions. It was noted that requiring

Registrars to handle abuse cases through set protocols has been notoriously challenging for Registries to arrange. The IEDR confirmed that it had no intention of enforcing any mandated process for WHOIS inaccuracy reporting, and that it would work with the Registrar channel to establish a suitable timeframe for the implementation of the changes.

Further updates will be provided to the PAC at the next meeting.

3.2. Fast Track Request: Privacy Policy

The PAC were reminded that this fast track policy change request was submitted to account for updates to European and National legislation. It was noted that the action point from the last meeting related to the IEDR documenting data retention practices as part of the wider preparations for the enforcement of the new EU General Data Protection Regulation (GDPR).

It was confirmed that the IEDR's internal GDPR task-force was working on this matter, and that it was following the progressions of CENTR and ICANN discussions on emerging best practices. It was indicated that further updates will be provided to the PAC in the coming months.

3.3. Proposal to alter the operation of the DNS check validation process for new registration, modification and registrant transfer requests

The PAC were reminded that this proposal related to the intention to alter the operation of the DNS technical check which runs on all tickets in the IEDR systems, including new registration, modification and registrant transfer requests. This check determines if the DNS information included in a request is correctly configured in accordance with the dot ie namespace's technical requirements.

It was noted that the mini-Working Group had been expected to engage with the wider Registrar channel through a consultation process on the proposed change, to determine if any objections exist.

The mini-Working Group advised that the consultation process had been deferred until the existing consultation processes relating to the claim removal and WHOIS changes had both ended.

The PAC Secretariat noted that the consultation process was now expected to take place later in Q4.

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

The policy change proposal was briefly summarised for the PAC. Members were reminded that a number of restricted domains corresponding to gTLD extensions were suggested for release, using the standard phased release model for the dot ie namespace, Sunrise, Landrush and General Availability. These domains include coop.ie, aero.ie and post.ie.

The PAC were also reminded that the action item from the last meeting related to the IEDR compiling a list of the domains it has registered, along with a list of the domains it wishes to release from that list, and for this to be shared with PAC members in due course.

The IEDR displayed a list of 150 domains to the PAC, which the IEDR has registered over its 17 year history, along with details of some of the domains it is considering for release. The IEDR advised that it would work to document the rationale for the historic restriction of some of the domains it has registered, and would share this with the PAC in due course.

It was further noted that the opinion and approval of the IEDR Board of Directors for the release of the restricted domain, porn.ie, was still outstanding and that the matter would be considered by the Board once a draft proposed list of domains to be released had been compiled.

Further updates will be provided to the PAC at the next meeting.

5. Update on the policy change – to remove the ‘claim to the name’ requirement from the Registration & Naming Policy

The policy change proposal was briefly summarised, and the PAC were reminded of the action items from the last meeting, which related to:-

- The launch of the Public Consultation
- The creation / sharing of marketing material
- The submission of the new policy change request template for the Alternative Dispute Resolution (ADR) Process - see Agenda item 6

Work Stream 1 – Communications, awareness-building and promotion

The IEDR advised that it had consulted with the accredited .ie Registrar representatives on the PAC regarding a potential collaborative, awareness-building campaign to promote the proposed policy change. This collaborative campaign was expected to be funded by the IEDR, with financial contributions from any Registrars wishing to participate.

It was noted that the IEDR had allocated a budget of €175,000 for the proposed awareness-building and sales campaign, and had undertaken a tendering process in line with its Corporate Governance principles to determine which marketing and design agency should be selected. The preferred bidder was the ICAN Agency.

ICAN presented its response to the tender proposals to PAC Registrars on 20 June 2017. A 'Question-and-Answer' session followed with the ICAN personnel. After open discussion amongst the IEDR and the PAC Registrars without ICAN personnel present, it was concluded that the Registrar group did not wish to undertake a collaborative campaign at this time for a range of specified reasons. The conclusion was that individual campaigns were the preferred method of awareness-building and driving sales to achieve a return on marketing investment.

The IEDR confirmed that the Public Consultation phase had launched and would run until 30 September 2017. It was also confirmed that communications in the form of 'Public Service Obligation (PSO) Announcements' were in the process of being released. These include:-

- Press Release; issued on 28 Aug. 2017
- National Press notices in the **Irish Times** on 30 Aug. 2017, and **Sunday Independent** on 3 Sept. 2017

It was also noted that some marketing materials had been created for, and circulated to, Registrars and PAC members. The PAC were also reminded that comments are being accepted via a 10-question consultation form on www.iedr.ie/public-consultation, with supporting information available on www.iedr.ie/liberalisation.

It was acknowledged that the policy change proposal had received reasonable coverage in the press, with a number of national newspapers, online news sites and radio stations reporting on the proposal on the launch day of the Public Consultation. The IEDR noted that the feedback received so far was mixed, and that engagement had been positive with between 40-50 responses received on the first day.

It was noted that subject to a favourable Public Consultation outcome, additional promotional activities would be undertaken during a potential phase 2 of the communications plan, which would take place after the Public Consultation has ended. Promotional efforts in that phase would be undertaken through separate campaigns launched by the IEDR and any Registrars wishing to do so.

Discussion centred on some images that the IEDR intended to use on its homepage, www.iedr.ie, to promote the Public Consultation. The PAC requested that the 'January 2018' wording within one of the images be altered to ensure that no confusion was caused with regard to the potential implementation timeframe. The IEDR confirmed that it was happy to update the wording within the image, and would ensure this is done urgently.

There was further discussion on the rationale for the messaging within the images. The IEDR noted that it had an obligation to ensure that the Public, and current dot ie registrants in particular, were informed of any potential risks associated with the policy change, and that this had influenced the messaging selected. It was clarified that the messaging within the images was designed to convey that those with a valid claim to the name should register the domain now to protect it.

The IEDR confirmed that it will continue to prepare marketing materials, and that these will be circulated by the PAC Secretariat, in due course. The IEDR also advised that it was happy to facilitate special requests for marketing material, should any member have a particular idea for promotional content.

Work Stream 2 - Deterministic Registration Process: How to show a 'Connection to Ireland'

The progression of this work stream to date was summarised, along with some of the outstanding issues being considered by the Working Group. These include:-

- How organisations should show evidence of their 'Connection'
- Whether utility bills should be accepted as evidence of a 'Connection' and proof of identity
- The circumstances where a non-Irish citizen / resident should be allowed to register a dot ie
- Word-crafting the 1-page definitive Guidelines on showing a 'Connection' within the Registration & Naming Policy framework document

The Working Group will continue their discussions on these matters, and provide updates to the PAC, in due course.

Work Stream 3 - Fast-Pass Registration Process for existing registrants

The proposed 'Fast-Pass' registration process was outlined, and the PAC were reminded that the rationale for this process related to the intention to offer '1-click' registration for existing registrants, to enhance the registration process. This would result in new registration requests from existing dot ie registrants being automatically 'admin-passed', once flagged as 'Fast-Pass'. This would ensure that such registrations could be immediately added to the database after submission, reducing the processing time for those who will have previously proved their compliance with the IEDR's Registration & Naming Policy.

After circulating a proposed operational process for the 'Fast-Pass' service to the accredited .ie Registrar representatives on the PAC, it was concluded that consensus could not be established for the proposal. The IEDR advised that it has since revisited the proposal, and determined that its implementation will be deferred for the time being, until sufficient demand for the service can be identified. Instead, the IEDR advised that it will offer an alternative form of the process with manual processing, which would ensure that no documents were requested by the IEDR's Registration Services staff in respect of the new registration request, (where the existing domain held by the registrant was included in the comments box of the application form). Although not fully automated, this would still result in a faster processing time, and would ensure that no technical changes were needed to the systems of the IEDR or Registrars, in order to facilitate 'Fast-Pass' registrations.

Accredited .ie Registrar representatives on the PAC welcomed the revised proposal, and felt that it was the preferred operational process. In particular, the Registrars welcomed the removal of the need for the IEDR to undertake a post-audit of the registration, which would have occurred as part of the automated, straight to the database 'Fast-Pass' process, in order to identify dissolved companies.

Discussion turned to the question of how long evidence of a 'Connection to Ireland' should be considered valid. For example, if someone provided evidence of citizenship in Ireland, it was suggested that this could be considered permanent proof, as citizenship status is unlikely to change, whereas the provision of a utility bill as evidence of a 'Connection' may warrant further evidence of the registrant's continued 'Connection' after a period of time. It was noted that there is currently no process to revisit the installed base, currently 230'000 domains, once passed at the time of original registration. It was argued that this practice ought to continue. It was acknowledged that the Working Group are currently considering this as part of their efforts on Work Stream 2. The PAC were advised that discussions on this matter are on-going, and that consensus had not yet been found.

Public Consultation – Next Steps & Comments

- It was agreed that the PAC Secretariat will compile a report detailing the feedback received to the Public Consultation for the Working Group, which will provide its recommendations at the next PAC meeting.
- A member notified the PAC that they had been contacted by a party from the Local Government Management Agency (LGMA) wishing to discuss the Public Consultation, and to provide their opinion on the proposal. It was agreed that the relevant website links for the Public Consultation would be circulated to the LGMA for the submission of their feedback, and that the PAC Secretariat would reach out to them to address any questions they have about the proposed policy change.

Work Stream 4 – Alternative Dispute Resolution Process

This is now a separate policy change request, and appears in Agenda item 6 below.

6. New – policy change request – to introduce an Alternative Dispute Resolution (ADR) Process to the dot ie namespace

The policy change request template is included in Appendix 1.

The background to the policy change request was outlined for the PAC. It was agreed that the proposal represented a welcome development for the dot ie namespace, regardless of the outcome of the policy change proposal for the removal of the claim to the name.

The potential benefits of an Alternative Dispute Resolution Policy were discussed, along with the perceived challenges of the existing IE Dispute Resolution Policy (ieDRP). In particular, the high costs and strict criteria associated with the process were identified as the most significant factors that are considered prohibitive to the widespread use of the ieDRP. It was noted that this was a particular barrier for small business owners, with limited time and resources for perceived bureaucracy.

Discussion turned to the IEDR's current processes and procedures for dispute resolution, which have emerged over time to address the types of complaints that arise. In particular, the Regulatory Authority Protocol (RAP) was summarised, and the PAC were reminded that this is used to facilitate the submission of complaints by national Regulatory Authorities, and that the protocol had been engaged previously for bodies such as the Office for the Director of Corporate Enforcement and the Irish Medicines Board. The IEDR also clarified that it has no active involvement in domain disputes relating to content, outside of the RAP process, cooperation with law enforcement / Irish Courts, or technical issues that arise on dot ie domains.

There was further discussion on the types of complaints that the IEDR receives via customer service channels or via the dedicated complaints mailbox, complaints@iedr.ie, and how they are handled. The IEDR outlined this information for the PAC, and discussed the need for the IEDR, as the national Registry operator, to address complaints in order to offer a positive user experience to those who contact IEDR.

A slide presentation outlining how alternative types of disputes are handled was presented to the PAC. There was discussion on the various processes used by the IEDR to handle customer complaints / disputes that arise. It was noted that these processes had been outlined to the PAC during previous discussions on the policy change proposal to remove the claim to the name requirement. Some members commented that the processes could be more widely shared, particularly with Registrars, some of whom felt that they were not aware of the specifics of IEDR's processes (outside of their engagement with PAC).

The criteria that determines which complaint handling process will be used to address a complaint was briefly discussed, and the IEDR advised that the nature of the complaint determined which process was used. The IEDR confirmed that relevant complaints are still directed to the ieDRP for resolution.

A member of that PAC suggested that the IEDR should document the nature of such complaints handled internally. The IEDR confirmed that the number of complaints handled outside of the ieDRP is particularly low, that it was happy to further document the types and volumes of complaints received for the PAC, and that this would be shared in due course.

The issue of the handling of some recent domain suspensions / deletions was raised by an accredited .ie Registrar representative on the PAC via email on the evening before the PAC meeting, and again at the meeting. The Chairman pointed out that, in the normal course, appropriate notice should be given of an intention to raise an issue at a meeting, so as to enable other members to be properly prepared. It was agreed that the IEDR and the PAC Registrar involved would circulate further information on this matter to the wider PAC, so that the matter could be taken into consideration during the design of the ADR process. The IEDR confirmed for the PAC that all Registrants are given a right of reply before any action is taken against a dot ie domain on foot of a complaint. IEDR confirmed that Registrars are always involved if the outcome involved a suspension or deletion of a domain name. IEDR also agreed that it could involve the relevant Registrar earlier in the process.

Discussion then turned to who could potentially operate (and pay for) an ADR service, and the option of an independent mediation service to be offered as part of the process. It was agreed that the scope of the process should first be defined, and the processes for dispute handling clearly documented. It was further suggested that the ADR process discussion could potentially consider all of the types of domain registration disputes which were outlined by the IEDR in the slide presentation. The IEDR confirmed that it was agreeable to this, in principle. The IEDR further noted that customer / consumer complaints or disputes requiring immediate action by the Registry, such as technical related issues, and law enforcement / Irish Court matters, may need separate provisions.

It was agreed that a dedicated Working Group should be setup to fully consider the proposal in line with the 10-step Policy Development Process. Representatives from the following PAC member organisations volunteered to participate:-

- Association of Patent & Trademark Attorneys (*membership confirmation pending*)
- Irish Domains
- Register 365
- Small Firms Association
- Internet Service Providers Association of Ireland

This Working Group will be responsible for reviewing industry common practices / best practices for issues which may be deemed to be in scope, including but not limited to:-

- Dispute Resolution
- Protection of Intellectual Property Rights
- Co-operation with Law Enforcement
- Customer service and complaint handling
- Appeals processes
- Facilitation by professional Mediation / Expert services

The Working Group will continue their discussions, engage with the Law Society on the proposal, and give consideration to who should operate the process and how it should be funded. Further updates will be provided at the next PAC meeting.

7. Any Other Business

7.1. Industry related developments / relevant legislative changes

Topics discussed included:

The Department of Communications, Climate Action and Environment (DCCAE) provided updates on the progression of preparations for the NIS Directive. It was confirmed that the identification process for the 'Operators of Essential Services' (OES) has been deferred, while work continues on legislative preparations. This is expected to be completed by the end of October, with the identification process for the OES expected to begin in November / December.

It was also confirmed that a draft consultation paper on the security requirements and incident reporting guidelines for OES is currently being written. This will be published in mid-September for consultation. A meeting will be held in early October with OES to discuss these guidelines.

7.2. Co-Funded Marketing Programme Operational Updates

The programme was summarised for the benefit of the non-Registrar PAC members present, along with the requirements for co-funding. It was noted that the programme is available to all accredited .ie Registrars who opt-in, and that it, and the Volume Growth Rebate Scheme, are designed to offer margin improvement to Registrars.

After some discussion, the Committee acknowledged that the PAC was not the appropriate forum for a discussion on the topic, and suggested that it could be addressed through an alternative channel.

8. Next Steps

IEDR will:-

- Document data retention practices in the course of its GDPR preparations, and circulate this to the PAC in due course.
- Consult with the IEDR Board of Directors regarding the potential release of the non-TLD reserved domains, including porn.ie.
- Document the rationale for the historic restriction of some of the domains it has registered, and share this with the PAC in due course.
- Document the types of complaints received to the IEDR complaints mailbox for the PAC.

PAC Secretariat will:-

- Engage with the wider Registrar channel to establish an appropriate timetable for the implementation of the proposed WHOIS changes.
- Document the rationale for the policy change proposal to alter the operation of the DNS technical check system, to ensure that it doesn't impede registration, modification or registrant transfer requests. This will then be circulated to the wider accredited .ie Registrar channel, requesting comment over a 30 day period.
- Compile a report detailing the feedback received during the Public Consultation.
- Circulate marketing material to the PAC for onward sharing with Mothership(s).

Claim Proposal Working Group will:-

- Continue their deliberations on the various work streams.
- Provide updates to the PAC at their next meeting.

Alternative Dispute Resolution Policy Proposal Working Group will:-

- Continue the discussions commenced during talks on Work Stream 4 of the policy change proposal to remove the claim to the name.
- Engage with the Law Society on the proposal.
- Give consideration to who should operate the processes and how it should be funded.
- Provide updates at the next meeting.

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 mid-November 2017.

Appendices

Appendix 1 – Alternative Dispute Resolution Policy Change Template

1	Proposal Originator: Kelly Salter, ksalter@names.co.uk 01-5255768, Register 365
2	Date: 20 June 2017
3	Policy Proposal Name: To introduce an alternative dispute resolution (ADR) process to the dot IE namespace
4	Policy Proposal type: New
5	<p>Purpose and benefits of the proposal : The purpose of this policy change proposal is to offer an alternative mechanism for domain registration dispute handling in the dot IE namespace. The IEDR has a Dispute Resolution Policy (ieDRP), and this is operated by an independent, third party arbitrator, known as the World Intellectual Property Organisation (WIPO). Under this process, complainants must prove that:</p> <ul style="list-style-type: none"> • <i>a domain name is identical or misleadingly similar to a protected identifier; and</i> • <i>the Registrant has no rights in law or legitimate interests in respect of a domain name; and</i> • <i>a domain name has been registered or is being used in bad faith.</i> <p>The need to prove all three criteria contrasts with ICANN's Uniform Dispute Resolution Policy, which requires complaints to prove any one.</p> <p>Some benefits of the proposed alternative dispute mechanism are that this new service would represent a cheaper and faster mechanism for domain registration dispute resolution, in comparison with the existing dot ieDRP.</p> <p>Furthermore, a mediation service could be offered under potential ADR operations to address any disputes that arise.</p>
6	<p>Please indicate any perceived problems (issues you envisage) Specific consideration may need to be given to the types of domain disputes that will be addressable under the proposed alternative dispute resolution process (e.g. disputes relating to the domain use or disputes relating solely to the domain name itself). Also, whether a mediation service should be offered under the process.</p> <p>Further consideration may also need to be given to the potential for an independent, third-party mediation service operator, what the associated costs might be, and whether full / partial refunds should be given to complainants whose disputes are upheld.</p>
7	<p>Policy proposal grounds: The existing dot ieDRP, and associated process, offer an effective mechanism for the resolution of domain name registration disputes.</p> <p>Anecdotally, it has been reported to the Registry and acknowledged by Stakeholders that some complainants find the process to be overly-costly and lengthy, with a high burden of proof for complainants, which can act as a potential deterrent to its use, particularly by SMEs and citizens.</p> <p>As such, a significant driver behind this proposal is to ensure that SMEs and citizens can avail of a fast and affordable dispute process, rather than catering to the needs of patent attorneys etc., who are already well-accustomed to the use of the ieDRP.</p> <p>Furthermore, during PAC Working Group discussions on the policy change proposal to remove the 'claim to the name' requirement from the IEDR Registration & Naming Policy, it has been acknowledged that an ADR process could be beneficial to the IE namespace, should the removal of the claim requirement lead to an increase in the number of disputes submitted. Accordingly, now is an appropriate time to consider the introduction of an alternative mechanism for dispute handling in the dot IE namespace.</p>
8	Policy term proposal: Permanent
9	Policy statement / text: (if modification) <i>N/A – This proposal relates to the introduction of a new policy to the dot IE namespace.</i>