

Policy Advisory Committee

12 June 2018 Meeting - PAC#16

Policy Advisory Committee - Agenda

1. Apologies (absentees)
2. Minutes of the Meeting of PAC#15 (17 April '18)
3. **Review of action points from 17 April 2018**
(relating to matters not otherwise appearing on the Agenda)
 - a. Proposal to alter the operation of the DNS check validation process
 - b. Proposal to remove the claim to the name
4. **Update on the policy change to introduce Alternative Dispute Resolution Process (ADRP)**
5. **Update on the policy changes arising from the introduction of GDPR**
6. **Update on the policy change to remove restrictions on .ie domains corresponding to TLDs**
7. **Any Other Business**
 - a. **Policy change conclusion / withdrawal templates relating to following policy change proposals:**
 - to modify the IEDR WHOIS Policy to display Billing Contact information within the WHOIS.
 - to modify the Privacy Policy to account for legislative changes
 - to remove the 'claim to the name' requirement from the Registration & Naming Policy
 - b. **Industry related developments /relevant legislative changes to be outlined by PAC members**
8. **Next meeting(s)**

3. Action Points & updates

from the 17 April 2018 meeting

a. Policy change – to alter the operation of the DNS check validation process
(for new registration, modification and registrant transfer tickets)

Action Points:-

- Consensus found for the proposed change following Registrar consultation period
- IEDR is working to update its internal systems to support this change

Updates:-

- Implementation is expected in **Q3 2018**.
- Normal minimum notice periods will apply

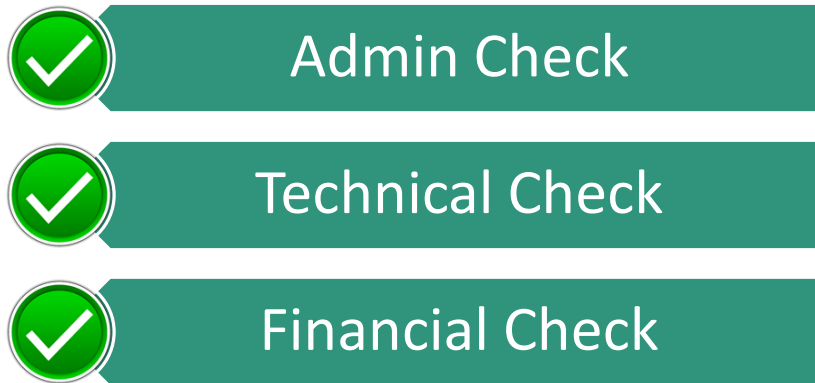
a. Proposal to alter the operation of the DNS check validation process

To ensure that a FAIL result on the technical check does not delay the completion of a request

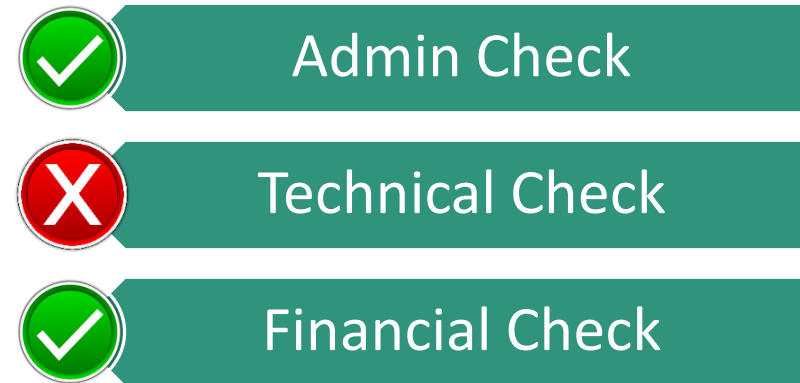
What is being proposed?

- The triple-pass check would continue to run.
- A **FAIL** result on the technical check would not delay the completion of the request, provided that the admin and financial checks are successful.

Checks that requests must pass currently:-



Checks that requests must pass after proposed change:-



- Email notifications would continue to issue to the relevant contact(s) to notify them of the DNS configuration failure, but the need to correct the DNS would not delay the completion of the request.
- IEDR is in favour of this change to enhance the customer experience. We will monitor the impact of the change and if there is a deterioration in the quality of the zone, we may need to re-visit the DNS check process.

3. Action Points & updates

from the 17 April 2018 meeting

b. Policy change – claim to the name

➤ **Issue management...ongoing monitoring. No issues so far.....**

- Disputes/appeals/challenges
- Potential cyber squatters
- Brand infringement
- Awareness gaps
 - “we weren't we told about changes”
 - “Why did you give them my name”

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4. Alternative Dispute Resolution (ADR) Policy

Objective is an easier and affordable process

Action Items:-

- Following the positive findings from the initial feasibility check, Working Group (WG) was to continue its review of the proposed policy change, in particular, the design and scope of the process.

Updates:-

- No WG engagement via conference call and mailing list since last PAC meeting.
- WG discussion expected to resume shortly.....

4. Alternative Dispute Resolution (ADR) Policy

WG:- **Scope** considerations:-

It was proposed that **any** of the following criteria could be used to legitimately **restrict the scope** of the ADR:-

- the complainant should have **legitimate rights** or **interests** in the name ?
- the complainant should be **negatively impacted** by the disputed registration ?
 - *(a complainant who is just "a concerned citizen" could be referred to relevant regulatory bodies).*
- the current registrant should have **no legitimate rights** to the name ?
- the domain should have been registered in **bad faith** and/or subsequently, used in **bad faith** ?
- the domain should be **used** currently for the provision of **bona fide services** (and so remain out the scope)?

4. Alternative Dispute Resolution (ADR) Policy

WG:- Further **emerging consensus** for:-

- **Formalisation of the Regulatory Authority Protocol (RAP)**
 - Use of a single, standardised template (to be available for national Regulatory Authorities on the IEDR.ie website)
- **Certain breaches of the rules could not be assessed / adjudicated-on by IEDR - subjective or legal judgement**
(and therefore ought to be escalated to a mediation service or an Independent Expert or referred to parties' legal advisors)
 - e.g. defamation, slander, impersonation, passing-off, bad faith registrations, bad faith use/content, legitimate interest etc.
- **ADR design**
 - WG should be mindful of offering a mechanism for addressing certain instances, such as:-
 - where a web designer registers a .ie domain to themselves (rather than to their client),
 - for disputes between business competitors,
 - for disputing personal domain name registrations (e.g. MickMurphy.ie, where there may be multiple interested / disappointed parties).

4. Alternative Dispute Resolution (ADR) Policy

WG:- Other considerations:-

Potential outcomes / remedies:-

- Outcome / remedy could be:- Suspension ? Deletion ? Transfer to the Complainant ? Indefinitely block/shelf it ?

Binding decisions:-

- Expert Decision should be binding on the parties (otherwise ADRP is pointless) thereby permitting the Registry to act per .ie T&Cs (however, legal recourse permitted, if disagreement still exists)

Independent Expert:-

- Should an Expert Panel adjudicate on certain instances, such as bad faith reg., slander, defamation etc.?
- An affordable / low-price point is realistic

Mediation:-

- Should it be offered? If so, should it be provided initially by IEDR or/and external Mediation Service?

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5. EU General Data Protection Regulation (GDPR)

- **GDPR Task-Force setup internally in July '17 to coordinate IEDR's compliance**
 - Data-mapping exercise undertaken to determine what Personal Data is held, access levels, where/how/why it is stored
 - IEDR engaged with Office of the Data Protection Commissioner
 - IEDR observed and participated in industry discussions to determine emerging best practice (e.g. CENTR)
 - Engaged with our external Legal Counsel, Arthur Cox, on revisions required to IEDR's contracts and suite of Policies
- **GDPR-related edits required to the *contracts* between IEDR, Registrars and Registrants:-**
 - Registrar Agreement
 - Registrant Terms and Conditions
- **GDPR-related edits are required to the following *IEDR Policies*:-**
 - a) Privacy Policy
 - b) Data Retention Policy
 - c) WHOIS Policy and Acceptable Use Policy

5. EU General Data Protection Regulation (GDPR)

a) Privacy Policy

- ❖ Edits for GDPR:-
 - Data subject rights have been included
 - Data subject access requests provided for
 - Analytics and Cookies (including WebCrawler opt-out)
 - Disclosure practices
 - Location of Processing
 - Communications from IEDR
 - Summary of data retention practices

- ❖ Updated .ie Privacy Policy: effective from **25 May 2018**

5. EU General Data Protection Regulation (GDPR)

b) Data and Document Retention Policy – Effective from **25 May 2018**

Data type	Proposed retention	Legal Basis
Domain data (Domain holder name and domain name)	Lifetime of the domain + 2 years (out of 6 years potential retention under statute of limitations for breach of contract) Anonymised thereafter, and held indefinitely	<ul style="list-style-type: none"> - Contract - Legitimate interest - For defence of legal rights - Compliance with Registration and Naming Policy - Archive purposes, Public Interest obligations as the National Registry.
Contact data (Admin Contact, Tech Contact and Billing Contact)	Lifetime of the domain + 2 years (out of 6 years potential retention under statute of limitations for breach of contract)	<ul style="list-style-type: none"> - Contract - Legitimate interest - For defence of legal rights - Compliance with Registration and Naming Policy
NameServer data (NS records)	Lifetime of the domain + 2 years (out of 6 years potential retention under statute of limitations for breach of contract) Anonymised thereafter, and held indefinitely	<ul style="list-style-type: none"> - Contract - Legitimate interest - Compliance with Registration and Naming Policy - Archive purposes, as National Registry
Documents submitted as support for domain registration, modification or transfer (e.g. passports etc.)	New Registration - 30 days after commencement of the Contract Modification, Transfer - 30 days after Ticket is passed	<ul style="list-style-type: none"> - Contract - Data minimisation and purpose limitation
Documents submitted – unsuccessful registration, (e.g. passports etc.)	Within 7 days after Ticket expires (dropped), or is cancelled	<ul style="list-style-type: none"> - No Contract established

5. EU General Data Protection Regulation (GDPR)

c) WHOIS Policy : Effective from **11 May 2018**

- **Consensus changes** from the 2017 Consultation Process with Registrars have been implemented. These include:-
 - ❖ **Abuse Contact** (Interim solution for data capture implemented. Console functionality to follow).
 - ❖ **Billing Contact Account Name**
- **GDPR-related changes** have also been implemented. These are as follows:-

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

- ❖ Default is **opt-out** (Domain name will be displayed with technical domain info.). Registrant will have the option of an **opt-in**
- ❖ Domain Holder, Admin Contact and Technical Contact names **will not appear** (just their NIC handle ref / account number)

Note: “Sole Traders” were included under this WHOIS output temporarily (prior to 25 May), following a legal query.

IEDR conferred with its legal counsel, Arthur Cox – Advice is that IEDR has a legitimate interest to publish domain holder name.

IEDR will undertake a data validation check of those listed as “Sole Traders” prior to re-publishing on WHOIS.

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

- ❖ Domain Holder name will appear
- ❖ Admin Contact and Technical Contacts’ personal names **will not appear** (just their NIC handle ref / account number)
- ❖ No opt-out permitted for these entities

5. EU General Data Protection Regulation (GDPR)

Existing WHOIS Output

```
domain: iedr.ie
descr: IE Domain Registry Limited
descr:
descr:
admin-c: IH4-IEDR
tech-c: ITS2-IEDR
registration: 16-March-1999
renewal: 01-January-2025
holder-type: NonBillable
locked: N
ren-status: Active
in-zone: 1
nserver: ns0.iedr.ie 77.72.74.133 2a01:4b0:0:6::5
nserver: ns2.iedr.ie 77.72.78.88 2a01:4b0:2:2::88
nserver: e.ns.ie
nserver: f.ns.ie
nserver: ns.heanet.ie
source: IEDR

person: IE Domain Registry Limited
nic-hdl: IH4-IEDR
source: IEDR

person: IEDR Technical Services
nic-hdl: ITS2-IEDR
source: IEDR
```

GDPR edits



Post-GDPR WHOIS Output: Non-legal persons

```
Domain: JohnDoe.ie
Domain Holder: BLANK
Admin-c: abc-IEDR
Tech-c: xyz-IEDR
Account Name: accredited .ie Registrar name
Registrar Abuse Contact: (email address or
“Service not currently supported”)
Registration Date:99/abcd/9999
Renewal Date:99/abcd/9999
Holder-type: Billable
Locked status: Yes or No
Renewal status: Active
In-zone: 99
Nserver: ns1.DNS.ie
Nserver: ns2.dns.ie
Nserver: ns3.dns.ie
Nserver: ns4.dns.ie
Nserver: ns5.dns.ie
```

Post-GDPR WHOIS Output: Legal persons

```
Domain: iedr.ie
Domain Holder: IE Domain Registry Limited
Admin-c: abc-IEDR
Tech-c: xyz-IEDR
Account Name: accredited .ie Registrar name
Registrar Abuse Contact: (email address or “Service
not currently supported”)
Registration Date:99/abcd/9999
Renewal Date:99/abcd/9999
Holder-type: NonBillable
Locked status: Yes or No
Renewal status: Active
In-zone: 99
Nserver: ns1.DNS.ie 77.72.74.133 2a01:4b0:0:6::5
Nserver: ns2.dns.ie 77.72.78.88 2a01:4b0:2:2::88
Nserver: ns3.dns.ie
Nserver: ns4.dns.ie
Nserver: ns5.dns.ie
```


5. EU General Data Protection Regulation (GDPR)

d) Registrar Agreement – **Majority of Agreements returned by COB 24 May 2018 via DocuSign.**

Some notable edits arising from Policy changes:-

- Registrars not obliged to retain documentary evidence of Registrant's compliance with Registration & Naming Policy
- Registrars may choose to have (future) Registrant's send supporting docs to IEDR directly.
- New data processing requirements
- New standard contractual clauses for Third Country data transfers (where country is not subject to an EU adequacy decision / Privacy Shield)
- Changes to provisions on liability and indemnity arising from GDPR breaches

Some operational matters arising from Policy changes:-

- Document Uploader on IEDR.ie implemented **25 May** - This facilitates the provision (upload) of docs directly to IEDR (without needing to login).
- The 'Snap and Send' feature will also continue – using the Support-Docs@iedr.ie facility

5. EU General Data Protection Regulation (GDPR)

e) Registrant T&Cs – **effective from 25 May 2018**

Some notable edits arising from Policy changes :-

- Obligation on registrant to re-submit supporting docs, if requested (e.g. for ADRP)
 - Mandatory, due to data destruction within 30 days, under new Retention Policy
- Natural Persons / Non-Legal Persons may opt-in to WHOIS publication / disclosure of Personal Data elements
- Requests to delete Personal Data (from Legal Person)
 - will trigger a deletion of the domain name (on the basis that processing is necessary for the duration of domain registration contract)
- New conditions now included on Data Subject rights
 - including right to provide / withdraw consent for Personal Data processing - only where the legal basis for this is consent (e.g. new WHOIS operations)
- Registrants must be over 18 years of age to contract
 - this is now specified in t+cs (even though GDPR creates a new digital age of consent of 13 years)

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8. **Next meeting(s)**

6. Policy change – TLD names

Policy change – to remove restrictions on .ie domains corresponding to TLDs

Action Point:-

- IEDR to provide feedback from the Board of Directors regarding this policy change proposal.

Update and Next Steps:-

- Further updates to be provided at PAC#16.
- Potential implementation to be discussed.

aero.ie	heis.ie
coop.ie	sheis.ie
post.ie	weare.ie
wpad.ie	allinthename.ie
porn.ie	allinthenames.ie
school.ie	elliptic.ie
kid.ie	pin.ie

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b. Industry related developments /relevant legislative changes to be outlined by PAC members

8. Next meeting(s)

7. Any Other Business...

a) Policy change conclusion / withdrawal templates relating to following policy change proposals:

- Fast-Track request to modify the IEDR WHOIS Policy to display Billing Contact information within the WHOIS.
- Fast-Track request to modify the Privacy Policy to account for legislative changes
- Proposal to remove the 'claim to the name' requirement from the Registration & Naming Policy

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8. Next Meeting

JUL 2018

SUN	MON	TUE	WED	THU	FRI	SAT	
	01	02	03	04	05	06	07
	08	09	10	11	12	13	14
	15	16	17	18	19	20	21
	22	23	24	25	26	27	28
	29	30	31				

AUG 2018

SUN	MON	TUE	WED	THU	FRI	SAT	
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