

Policy Advisory Committee

3 September 2018 Meeting - PAC#17

Policy Advisory Committee - Agenda

1. Apologies (absentees)
2. Minutes of the Meeting of PAC#16 (12 June 2018)
3. **Review of action points from 12 June 2018**
(relating to matters not otherwise appearing on the Agenda)
 - a. Proposal to alter the DNS check validation process
4. Update on the policy change to introduce an
Alternative Dispute Resolution Process (ADRP)
5. Update on the policy change to remove restrictions on
.ie domains corresponding to TLDs
6. **Policy change conclusion template** - on the policy change requests arising from the introduction of GDPR
7. **Any Other Business**
 - Industry related developments / relevant legislative changes to be outlined by PAC members
8. Next meeting(s)

3. Action Points & updates

from the 12 June 2018 meeting

Policy change – to alter the operation of the DNS check validation process

(for new registration, modification and registrant transfer tickets)

Action Points:-

- IEDR to work to update its internal systems to support this change

Updates:-

- IEDR's software developers are currently working on the design and implementation of this feature
- Normal minimum notice periods will apply

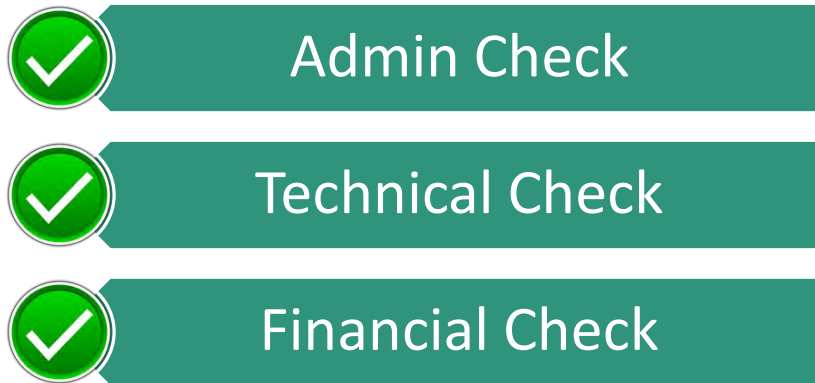
3a. Proposal to alter the operation of the DNS check validation process

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

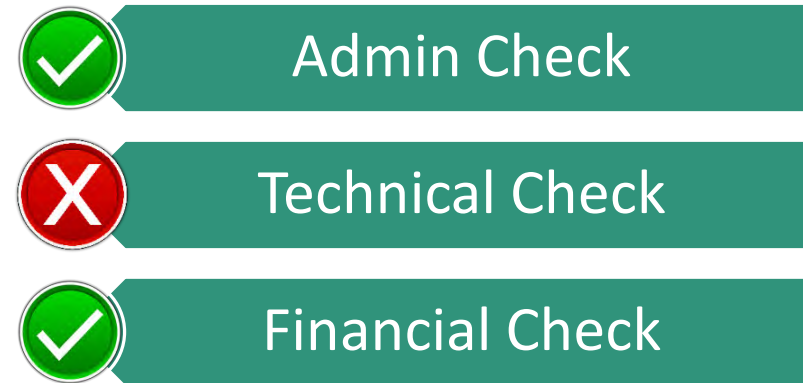
What is being proposed?

- 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:-



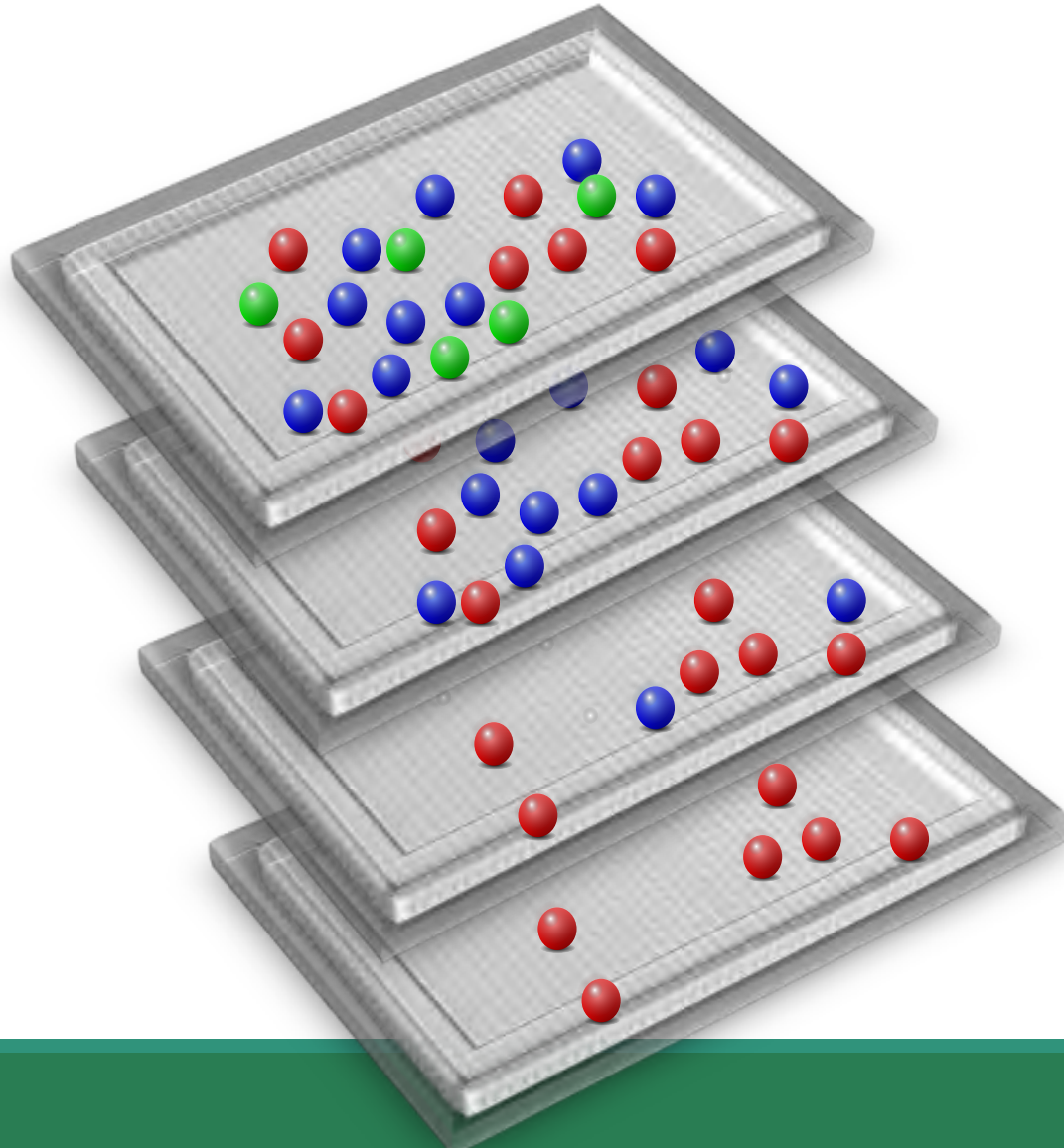
- Email notifications would continue to issue to the relevant contact(s) to notify them of the DNS configuration failure, but the need to correct the DNS would not delay the completion of the request.
- IEDR is in favour of this change to enhance the customer experience. We will monitor the impact of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

Policy Advisory Committee - Agenda

1. **Apologies (absentees)**
2. **Minutes of the Meeting of PAC#16 (12 June 2018)**
3. **Review of action points from 12 June 2018**
(relating to matters not otherwise appearing on the Agenda)
 - a. Proposal to alter the DNS check validation process
4. **Update on the policy change to introduce an Alternative Dispute Resolution Process (ADRP)**
5. **Update on the policy change to remove restrictions on .ie domains corresponding to TLDs**
6. **Policy change conclusion template** - on the policy change requests arising from the introduction of GDPR
7. **Any Other Business**
 - Industry related developments / relevant legislative changes to be outlined by PAC members
8. **Next meeting(s)**

4. Alternative Dispute Resolution (ADR) Policy

➤ Consensus within PAC for the proposed filtering in **Levels 1-3 below** - ADRP & Courts will accommodate Level 4 complaints



Level 1: IEDR can filter and deal with cases, such as:-

Technical abuse – malware, phishing, DNS hijacking or poisoning, botnet command and control, willful distribution of malware.....

Obvious criminality - distribution of material depicting child abuse, human trafficking

Court Order – including an instruction to suspend, delete a domain

Level 2: WIPO and Regulatory Authority protocol (RAP)

IP infringement:- complainant sends to WIPO directly

Regulatory body - notice of illegal activity - existing protocol (RAP)

Level 3: Registration abuse

Breach of t&c's during registration - incorrect supporting documentation

Level 4: ADR for complex cases – referred to Expert Panel (or Courts)

Legal matters:- defamation, slander, impersonation, passing-off

Registration issues:- bad faith registrations, non-rights IPR breach

'Ownership' issues:- Business disputes, family disagreements

4. Alternative Dispute Resolution (ADR) Policy

Objective is an easier and affordable process

Action Items:-

- WG to continue its review of the proposed policy change, esp. the **design & scope** of process.

Updates:-

- WG has held **three conference calls** since last PAC meeting.
- Significant progression on:

Entry Requirements for
Complaints

Criteria for a successful
complaint

Available Remediation
Options

Draft edits to **Section 10** of
the Registrant Terms and
Conditions (for Disputes)

4. Alternative Dispute Resolution (ADR) Policy

Objective is an easier and affordable process

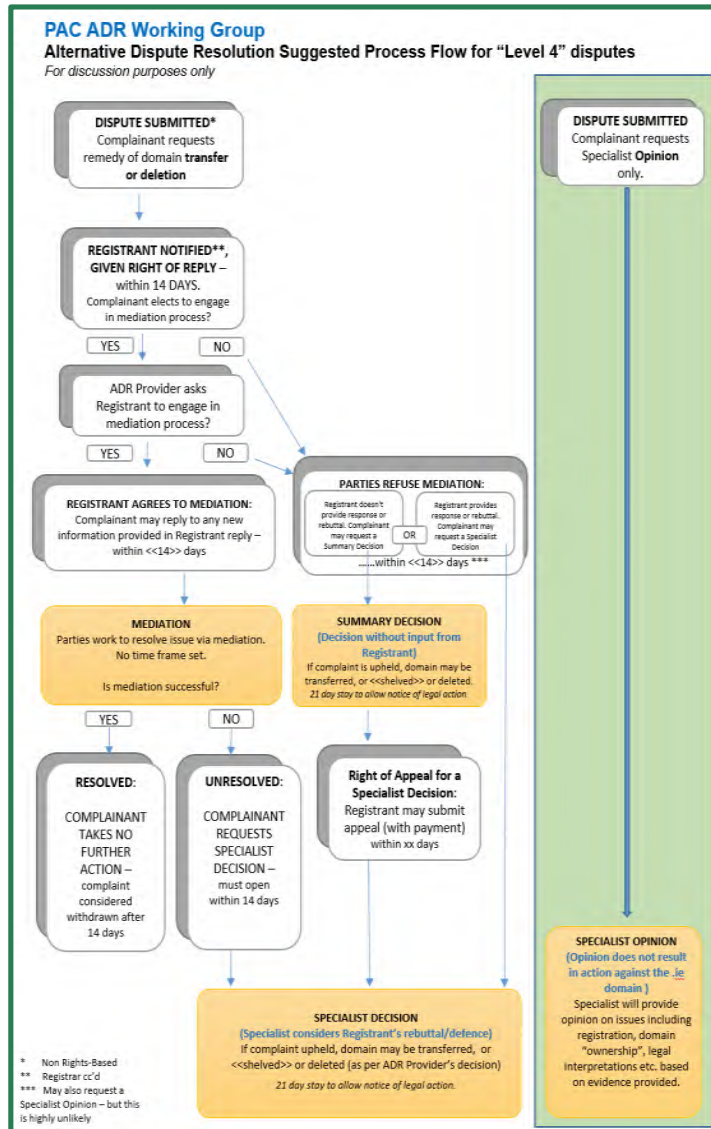
Policy principles :-

- Easier, more affordable and faster (*than WIPO DRP process*)
- “Plain English” (*easily understood by business, non-specialists, consumers.....*)
- Burden of proof is on the Complainant
- Registrant is given the benefit of the doubt
- Mediation is encouraged (*but not compulsory*)
- Right of Appeal (*for Registrant*)
- Statutory rights not affected
- Binding decisions (*subject to 21-stay, to allow for legal action*)

4. Alternative Dispute Resolution (ADR) Policy

The Process Flow

(page 17 of Meeting Materials)

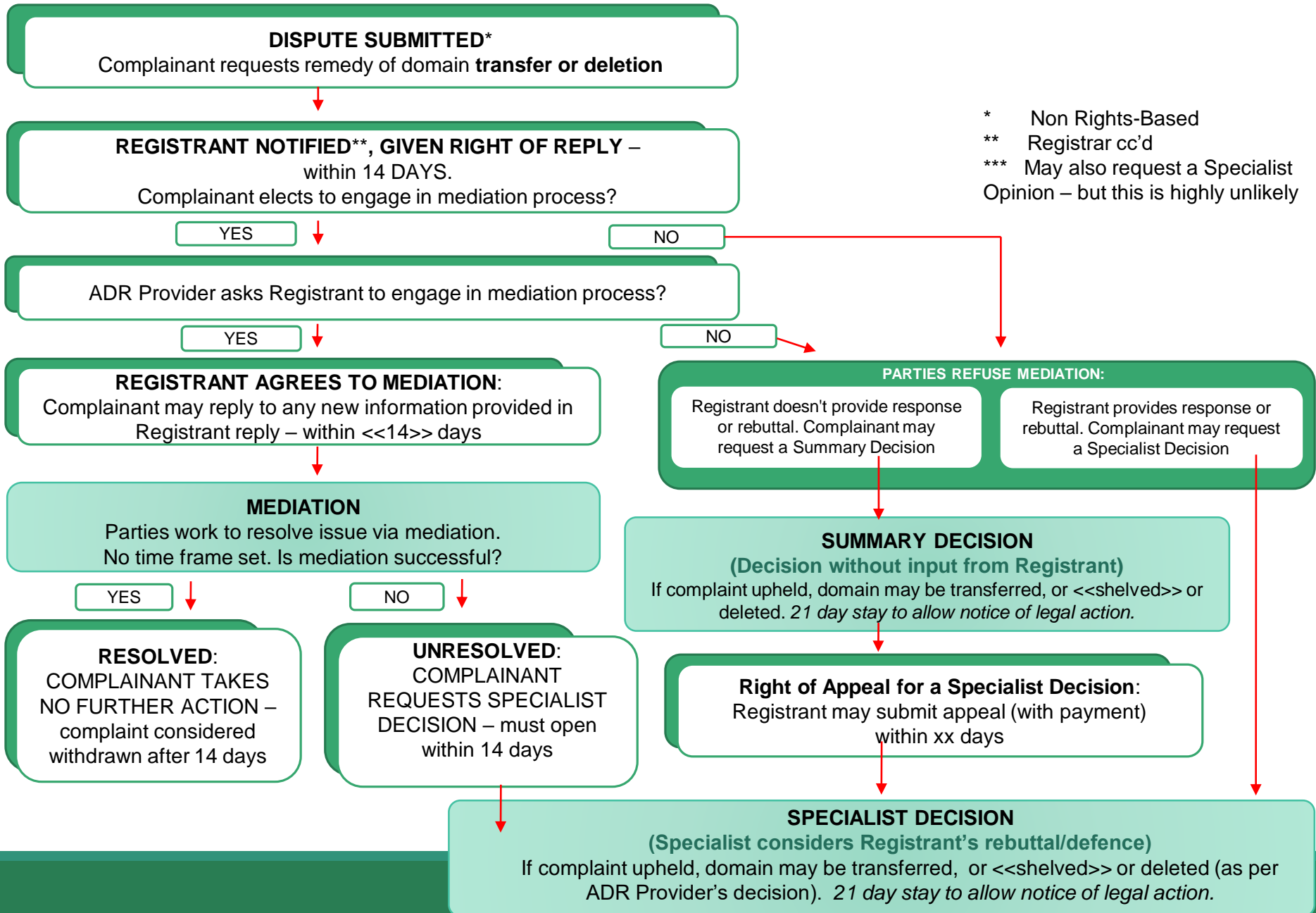


The Grid of ADR services

(page 19 of Meeting Materials)

ADR Working Group - Dispute Resolution Options (Inputs, Decision outputs and Remedies)			
Process	Input	Decision (Output)	Remedy (Statutory rights not affected)
ieDRP (WIPO)	<p>Fees: €1,500 – 1 panelist (€4,500 for 3 panelists)</p> <p>Requirements: Complainant must prove that:</p> <ul style="list-style-type: none"> The domain name is identical or misleadingly similar to a protected identifier in which the Complainant has rights; and The Registrant has no rights in law or legitimate interests in respect of a domain name; and A domain name has been registered or is being used in bad faith 	<p>Administrative Panel issues binding decision on the dispute.</p> <p>This may result in action being taken against the domain registration.</p>	<p>Complaint upheld: Domain is transferred to a Complainant after a period of 21 days (to allow for appeals to be raised / legal option to be pursued).</p> <p>Complaint refused: Domain remains registered to the existing Registrant – no action is taken.</p>
ADR Specialist Opinion	<p>Fees: €200-750 (estimated)</p> <p>Requirements: The Complainant must have proven that:</p> <ul style="list-style-type: none"> It has legitimate interests in the Domain Name; or It is negatively impacted by the disputed registration. <p>The Complainant must assert an allegation to the ADR Provider and provide evidence in support of the subject matter request.</p>	<p>Specialist considers the evidence provided and issues a non-binding opinion.</p> <p>This outcome does not involve any Specialist Decision or require any action to be taken against the domain registration.</p>	<p>Complainant may use the Specialist Opinion to inform its decision on whether to submit the complaint through the Irish Courts.</p> <p>Time Frame: TBC with Provider</p>
ADR Mediation	<p>Fees: €100 – 200 (estimated)</p> <p>Requirements: The Complainant must prove that:</p> <ul style="list-style-type: none"> It has legitimate interests in the Domain Name; or It is negatively impacted by the disputed registration. 	<p>Mediator, as a neutral party, aids discussions and promotes positive, constructive, engagement.</p> <p>Parties may / may not achieve resolution between themselves in discussions.</p> <p>Mediated outcome does not involve any Specialist Decision.</p>	<p>Complaint resolved: If Parties come to an agreement through mediation, the domain may be transferred using the Registrar Transfer process, or the existing Registrant will retain the right to use the domain.</p> <p>Complaint unresolved: If the Registrant refuses to engage, the Complainant can request a Summary Decision.</p> <p>If both Parties choose to engage in mediation but fail to resolve the dispute, the Complainant can request a Specialist Decision or Opinion (as desired).</p> <p>Time Frame Parties will be given as much time as is needed to engage in the mediation process. Responses expected over 14 day periods.</p>
ADR Summary Decision	<p>Fees: €200 (estimated)</p> <p>Requirements: The Complainant must prove that:</p> <ul style="list-style-type: none"> It has legitimate interests in the Domain Name; or It is negatively impacted by the disputed registration. <p>The Parties must have failed to engage in mediation.</p> <p>The Summary Decision must be requested within 14 days of mediation being refused.</p> <p>The Complainant must assert and prove to the ADR PROVIDER that any one of the following has occurred:</p> <ul style="list-style-type: none"> The Registrant has no Legitimate Interests in the Domain Name; or The Registrant's Domain Name has been registered in Bad Faith <<FIXME and/or>> is being used in Bad Faith; or The Registrant is in breach of the IEDR Registrant Terms and Conditions. 	<p>Specialist will consider the evidence provided by the Complainant and will issue a binding decision on the dispute.</p> <p>This may result in action being taken against the domain registration.</p>	<p>Complaint upheld: Domain is transferred to a Complainant, or <<FIXME shelved>>, or deleted, after a period of 21 days (to allow for the Registrant to submit an appeal for a Specialist Decision, or for a legal option to be pursued).</p> <p>Complaint refused: Domain remains registered to the existing Registrant – no action is taken.</p> <p>Time Frame Registrant will be given <<14>> days to reply.</p>
ADR Specialist Decision	<p>Fees: €750 (estimated)</p> <p>Requirements: The Complainant must prove that:</p> <ul style="list-style-type: none"> It has legitimate interests in the Domain Name; or It is negatively impacted by the disputed registration <p>The Complainant must assert and prove to the ADR PROVIDER that any one of the following has occurred:</p> <ul style="list-style-type: none"> The Registrant has no rights or Legitimate Interests in the Domain Name; or The Registrant's Domain Name has been registered in Bad Faith <<FIXME and/or>> is being used in Bad Faith; or The Registrant is in breach of the IEDR Registrant Terms and Conditions. 	<p>Specialist considers the evidence provided by the Complainant and the Registrant.</p> <p>Specialist issues a binding decision on the dispute.</p> <p>This may result in action being taken against the domain registration.</p>	<p>Complaint upheld: Domain is transferred to a Complainant, or <<FIXME shelved>>, or deleted after a period of 21 days (to allow for a legal option to be pursued).</p> <p>Complaint refused: Domain remains registered to the existing Registrant – no further action is taken.</p> <p>Time Frame Registrant will be given <<14>> days to reply.</p>

Alternative Dispute Resolution - Suggested Process Flow for “Level 4” disputes



* Non Rights-Based
 ** Registrar cc'd
 *** May also request a Specialist Opinion – but this is highly unlikely

DISPUTE SUBMITTED
Complainant requests Specialist **Opinion** only.

SPECIALIST OPINION
(Opinion does not result in action against the .ie domain)
Specialist will provide opinion on issues including registration, domain “ownership”, legal interpretations etc. based on evidence provided.

4. Alternative Dispute Resolution (ADR) Policy

“Level 4” Complaint handling discussions since PAC#16 have focused on:-

Entry Requirements for Complainants:-

To engage in **any stage of the ADR Process**, a Complainant must have proven that:

➤ It has **Legitimate Interests** in the Domain Name;

OR

➤ It is **negatively impacted** by the disputed registration.

Criteria for a successful complaint:-

The Complainant must assert and prove to the ADR PROVIDER that any **ONE** of the following has occurred:

➤ the Registrant has **no Legitimate Interests** in the Domain Name;

OR

➤ the Registrant's Domain Name has been registered in Bad Faith
<< **OR** >> is being used **Bad Faith**;

OR

➤ the Registrant is in **breach of the IEDR Registrant T&Cs**

Process Design: Mediation

Input	Decision	Remedy
<p>Fees: €100 – 200 (estimated)</p> <p>Requirements: <u>The Complainant must prove that:</u></p> <ul style="list-style-type: none">• It has legitimate interests in the Domain Name;or• It is negatively impacted by the disputed registration.	<p>Mediator, as a neutral party, aids discussions and promotes positive, constructive, engagement.</p> <p>Parties may / may not achieve resolution between themselves in discussions.</p>	<p>Complaint resolved: If Parties come to an agreement through mediation, the domain may be transferred using the Registrant Transfer process,, or the existing Registrant will retain the right to use the domain.</p> <p>Complaint unresolved: If the Registrant fails to engage with the ADR process / provide any rebuttal to the complaint upon initial notification, the Complainant can request a Summary Decision.</p> <p>If the Registrant refuses to engage in mediation, but provides rebuttal upon initial notification of the complaint, the Complainant can request a Specialist Decision.</p> <p>If both Parties choose to engage in mediation but fail to resolve the dispute, the Complainant can request a Specialist Decision or Opinion (as desired).</p> <p>Time Frame: Parties will be given as much time as is needed to engage in the mediation process. Responses expected over 14 day periods.</p>

Process Design: Summary Decision

Input

Fees: €200 (estimated)

Requirements:

The Complainant must prove that:

- It has **legitimate interests** in the Domain Name;
- **OR**
- It is **negatively impacted** by the disputed registration.

The Registrant must have failed to respond to the complaint.

The Summary Decision must be requested within 14 days of Registrant failing to respond to complaint.

The Complainant must assert and prove to the ADR PROVIDER that any **ONE** of the following has occurred:

- the Registrant has no **Legitimate Interests** in the Domain Name; or
- the Registrant's Domain Name has been registered in **Bad Faith** << or >> is being used in Bad Faith; or
- the Registrant is in **breach of the IEDR Registrant Terms and Conditions**.

Decision

Specialist will consider the evidence provided by the Complainant and will issue a binding decision on the dispute.

This may result in action being taken against the domain registration.

Remedy

Complaint upheld:

Domain is **transferred** to a Complainant, or **<<FIXME shelved>>**, or deleted, after a period of 21 days (to allow for the Registrant to submit an appeal for a **Specialist Decision**, or for a legal option to be pursued).

Complaint refused:

Domain **remains registered** to the existing Registrant – no action is taken.

Time Frame:

Registrant will be given **<<14>>** days to reply.

Process Design: Specialist Decision

Input

Fees: €750 (estimated)

Requirements:

The Complainant must prove that:

- It has **legitimate interests** in the Domain Name;
- or
- It is **negatively impacted** by the disputed registration

The Complainant must assert and prove to the ADR PROVIDER that any **one** of the following has occurred:

- the Registrant has **no legitimate interests** in the Domain Name; or
- the Registrant's Domain Name has been registered in **Bad Faith** <<or >> is being used in Bad Faith; or
- the Registrant is in **breach of the IEDR Registrant Terms & Conditions**.

Decision

Specialist considers the evidence provided by the Complainant and the Registrant.

Specialist issues a **binding** decision on the dispute.

This may result in action being taken against the domain registration.

Remedy

Complaint upheld:

Domain is **transferred** to a Complainant, or **<<FIXME shelved>>**, or **deleted** after a period of 21 days (to allow for a legal option to be pursued).

Complaint refused:

Domain remains registered to the existing Registrant – no further action is taken.

Time Frame:

Registrant will be given **<<14>>** days to reply.

Process Design: Specialist Opinion

Input	Decision	Remedy
<p>Fees: €200-750 (estimated)</p> <p>Requirements:</p> <p><u>The Complainant must have proven that:</u></p> <ul style="list-style-type: none">• It has legitimate interests in the Domain Name;or• It is negatively impacted by the disputed registration. <p>The Complainant must assert an allegation to the ADR Provider and provide evidence in support of the subject matter request.</p>	<p>Specialist considers the evidence provided and a issues a non-binding opinion.</p> <p>This outcome does not involve any Specialist Decision or require any action to be taken against the domain registration.</p>	<p>Complainant may use the Specialist Opinion to inform its decision on whether to submit the complaint through the Irish Courts.</p> <p>Time Frame: TBC with Provider</p>

4. Alternative Dispute Resolution (ADR) Policy

Remediation Options Under Consideration

❖ Transfer

- Successful Complainant is granted right to use domain (after 21 day stay on decision implementation to allow for legal challenge, or appeal from Registrant for Specialist Decision in cases of Summary Decision)

❖ Deletion

- Successful Complainant may request the deletion of the domain – this will make the domain available for registration on a first come, first served basis. (21 day stay on decision implementation to allow for legal challenge, or appeal from Registrant in cases of Summary Decision)

❖ Shelving **(under review)**

- Where both Parties are agreeable, the domain may be “shelved” making the domain unavailable for registration to any party. Currently seeking feedback from other Registry operator on scenarios where this may be appropriate.

4. Alternative Dispute Resolution (ADR) Policy

Consensus check :

- ❖ Process ?
- ❖ Entry criteria ?
- ❖ Success criteria ?
- ❖ Remedy ?
- ❖ Costs and financial implementation considerations:-
 - ❖ IEDR to further engage with preferred process operator

4. Alternative Dispute Resolution (ADR) Policy

Next Steps:

- ❖ WG recommendation to the PAC for policy change implementation?
- ❖ Consultation with the Registrar channel?
- ❖ Drafting ADR Policy and Rules (plain-English) – preferred process operator to assist
- ❖ Costs and financial implementation considerations:-
 - ❖ IEDR to further engage with preferred process operator

Policy Advisory Committee - Agenda

1. **Apologies (absentees)**
2. **Minutes of the Meeting of PAC#16 (12 June 2018)**
3. **Review of action points from 12 June 2018**
(relating to matters not otherwise appearing on the Agenda)
 - a. Proposal to alter the DNS check validation process
4. **Update on the policy change to introduce an
Alternative Dispute Resolution Process (ADRP)**
5. **Update on the policy change to remove restrictions on
.ie domains corresponding to TLDs**
6. **Policy change conclusion template** - on the policy change requests arising from the introduction of GDPR
7. **Any Other Business**
- Industry related developments / relevant legislative changes to be outlined by PAC members
8. **Next meeting(s)**

5. Policy change – TLD names

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

Action Point:-

- IEDR to work to schedule the release once other planned technical changes have been implemented

(i.e. DNS check process change and Console changes for natural persons to opt-in to publishing their name on WHOIS).

Update and Next Steps:-

- Further updates to be provided in due course.
- Potential implementation to be discussed (phased mechanism to be used).

aero.ie

coop.ie

post.ie

wpad.ie

porn.ie

school.ie

kid.ie

heis.ie

sheis.ie

weare.ie

allinthe.name.ie

allinthe.names.ie

elliptic.ie

pin.ie

Policy Advisory Committee - Agenda

1. **Apologies (absentees)**
2. **Minutes of the Meeting of PAC#16 (12 June 2018)**
3. **Review of action points from 12 June 2018**
(relating to matters not otherwise appearing on the Agenda)
 - a. Proposal to alter the DNS check validation process
4. **Update on the policy change to introduce an
Alternative Dispute Resolution Process (ADRP)**
5. **Update on the policy change to remove restrictions on
.ie domains corresponding to TLDs**
6. **Policy change conclusion template - on the policy
change requests arising from the introduction of GDPR**
7. **Any Other Business**
 - Industry related developments / relevant legislative
changes to be outlined by PAC members
8. **Next meeting(s)**

6. EU General Data Protection Regulation (GDPR)

Policy change conclusion template

- relating to policy changes arising from the introduction of the EU General Data Protection Regulation

(page 21 of Meeting Materials)

1	Proposal Originator: David Curtin, 01-2385400, dcurtin@iedr.ie
2	Date: 10 April 2018
3	Policy Proposal Name: To update the Policies of the .ie namespace for compliance with the EU General Data Protection Regulation (GDPR)
4	Policy Proposal type: Modification and New
5	Purpose and benefits of the proposal : The purpose of this policy change proposal is to outline the required changes to IEDR's suite of Policies, in order to ensure compliance with GDPR, by the enforcement date for the new Regulation, 25 May 2018. GDPR-related changes will be required to the following Policies:- <ul style="list-style-type: none">• Privacy Policy<ul style="list-style-type: none">❖ To include clarification on data subject rights and access requests, disclosure practices, location of Personal Data processing, IEDR communications, to provide for statistical and analytical work undertaken on .ie zone• WHOIS Policy and Acceptable Use Policy<ul style="list-style-type: none">❖ To include billing contact and abuse contact information (following the favourable 2017 Registrar consultation process)❖ To change the default to be "opt-out" for non-legal entities from WHOIS Personal Data disclosure (e.g. private persons)❖ To suppress domain contact personal names for all .ie domain registrations (only nic-handles will display)❖ To clarify the compulsory disclosure for domain holder names for legal entities (e.g. companies, commercial entities, Government Agencies)• New Retention Policy<ul style="list-style-type: none">❖ Introduced to provide clarification on the data retention practices in the .ie namespace, as required under the provisions of the GDPR – in particular the storage and processing purpose limitation principles. Non-compliance with the GDPR carries significant financial penalties, therefore, by implementing these changes to the .ie suite of Policies, the .ie namespace can ensure it conforms to GDPR's requirements, thus avoiding the levying of such fines against it.
6	Please indicate any perceived problems (issues you envisage) The timelines represent a need for urgency in generating consensus for the changes.
7	Policy proposal grounds: The changes to .ie's suite of Policies is required to ensure compliance with the principles of the GDPR before 25 May 2018. Violations of this Regulation carry significant fines and could result in serious reputational damage to the namespace.
8	Policy term proposal: Permanent
9	Policy statement / text: The revised, new texts for the Policies outlined above will be discussed at the PAC#15 meeting on 12 April 2018, with the final texts of the Policies added to the IEDR website, www.iedr.ie , in due course.

Policy Advisory Committee - Agenda

1. **Apologies (absentees)**
2. **Minutes of the Meeting of PAC#16 (12 June 2018)**
3. **Review of action points from 12 June 2018**
(relating to matters not otherwise appearing on the Agenda)
 - a. Proposal to alter the DNS check validation process
4. **Update on the policy change to introduce an
Alternative Dispute Resolution Process (ADRP)**
5. **Update on the policy change to remove restrictions on
.ie domains corresponding to TLDs**
6. **Policy change conclusion template** - on the policy change requests arising from the introduction of GDPR
7. **Any Other Business**
- Industry related developments / relevant legislative changes to be outlined by PAC members
8. **Next meeting(s)**

7. Any Other Business...

- **Industry related developments / relevant legislative changes to be outlined by PAC members**

8. Next Meeting

November						
Mon	Tue	Wed	Thu	Fri	Sat	Sun
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December						
Mon	Tue	Wed	Thu	Fri	Sat	Sun
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Policy Advisory Committee

3 September 2018 Meeting - PAC#17
