

1. Introduction

- 1.1 Following a discussion at the March 2007 meeting and a report from the PAB Composition Sub-Committee, the Board invited the PAB to monitor and evaluate its performance and provide a progress report in September. Following the 12 March 2008 meeting, a PAB Sub-Committee discussed this issue and identified key strengths and weaknesses: the main conclusions from that discussion are at Annex 1.
- 1.2 This paper is put forward to promote further discussion among PAB members and it is suggested that it could form the basis of a report from the PAB to the Board on achievements and future plans.

2. Role of the PAB

- 2.1 The PAB role is identified as (<http://www.nominet.org.uk/policy/pab/>):

“To provide non-binding advice to the Board on the non-operational guiding principles regarding the oversight of the .uk domain name registry. This includes:

Giving policy advice to Nominet's Board of directors. This advice is not binding but carries strong influence and the Board is obliged to take any such advice into consideration when making decisions.

- Providing policy advice which:
 - Is sufficiently clear to be acted upon and flexible enough to apply as a general theme/rule/idea.
 - Assists in advising on the policy direction Nominet should be moving towards, but not how to get there.
 - Considering and bringing to the attention of the Board any policy issues that may be of future importance or affect the .uk namespace.
 - The periodic review of current policies.
 - Periodic review of the performance of the PAB and PAB members.”
- 2.2 In its role of providing advice to Nominet, the PAB is expected to “agree, communicate to Nominet and publish a PAB response to Nominet consultations.” In this the PAB will want to consider whether the consultation specifically refers to a policy issue, and this might influence whether the PAB submits a detailed input.
 - 2.3 The role also includes responsibilities in communications with members and stakeholders. That should include ensuring PAB representation at member and stakeholder events and engagement in discussions about implications of policy decisions. It also has a key role in education and awareness raising.

3. Assessment of Performance

a. Contributions to the Board and the Board's Response

- 3.1 In its main function, of providing timely advice to the Board, the PAB has performed well. In the 15 months from January 2007 to March 2008, there were 18 formal resolutions forwarded to the Board, all of which were either noted or fully accepted by the Board.

Annex 2 gives a full summary of advice and responses over the period. Ten of the resolutions were specifically addressed at issues of policy affecting the .uk domain name registry, with the remaining eight dealing with PAB organisational and operational questions.

b. Response to Consultations

3.2 In the definition of its role, the PAB is asked to publish a response to all Nominet consultations. Since January 2007, Nominet has launched five consultations:

- Nominet Foundation
- Renewals system review
- Second Governance consultation
- Proposed DRS default transfer process
- Introducing a web-based forum in place of nom-steer

The PAB has produced formal advice on two of these consultations: the Proposed DRS default transfer process; and Introducing a web-based forum in place of nom-steer.

c. Identification of Issues

3.3 On wider issues affecting the overall environment for the development of the Internet, the PAB has had discussion on:

3.3.1 Phishing: this issue was discussed over a number of meetings, drawing in external experts. The discussion led to the formulation of advice in July 2007 and which was accepted by the Board.

3.3.2 Trust in the Internet: this was discussed at the January 2008 meeting and it was recognised that there were a number of external activities that could have a significant impact on .uk, Nominet and its members: the House of Lords report on Personal Internet Security and the Government response; the Byron Review into Children and New Technology; and the Internet Governance Forum. This discussion identified a number of topics that would require further exploration: we need to re-visit the work programme to consider how to address these topics.

3.3.3 Following from the January meeting, we are planning a discussion on the Byron Review at the May meeting.

In addition, there are current wider policy issues that could usefully be reviewed by the PAB, some of which were identified in the discussion on Trust in the Internet:

3.3.4 OFCOM consultation on self and co-regulation;

3.3.5 EU communications regulatory framework;

3.3.6 Data retention (implementation of the directive into UK law); and

3.3.7 CBI IT User Competitiveness Scorecard Survey.

d. Engagement with Stakeholder Groups

- 3.4 Over the course of the year, three PAB members have attended Members' Lunches. Elected members also attend the AGM, although there is no clear framework for them to engage with the wider membership in this forum.
- 3.5 A number of elected members are regular users of nom-steer, although there is some concern about how effective this is as a forum for soliciting input from the wider membership.
- 3.6 Inviting external experts to discuss issues with the PAB has been effective – the dialogue on Phishing shows how this can improve understanding.
- 3.7 We will continue to try to reach out to other organisations to improve our work with the wider stakeholder community. The executive is trying to get an appointed representative from a consumer group.

4. **Methods of working**

- 4.1 In the view of the PAB members, the working environment in the PAB has improved and provides a better forum for dialogue. We recognise that we need to continue this process of consensus building and constructive engagement.
- 4.2 Working in smaller groups – as we have done in the preparation of our resolution on domain name re-registration and in looking at our performance – has proved to be successful, and we will wish to continue to use sub-committees, where this is appropriate. But we recognise that PAB members have limited time in which to engage on PAB work, and we will need to be careful that this does not place too onerous a burden on members. Similarly, we need to ensure that PAB resources are used effectively: this has been achieved in the past by holding discussions of sub-committees over lunch and in the afternoon.
- 4.3 Over the year we have developed as a more effective team, although there remains room for improvement. With new elected members each year, and with a limited number of meetings to “get to know one another”, we recognise that effort to improve teamwork will always be necessary.
- 4.4 There are mixed views about the nom-steer list mailing list. Some PAB members are active and regular users while others do not use it at all. One PAB member has suggested that nom-steer should become a moderated list and there is some concern (annex 1) that unguarded comments can bring the credibility of the PAB into question. Attacks on individuals and dismissive criticisms of ideas can discourage engagement in the process. There have been cases of personal comments about Nominet staff: this is unacceptable behaviour. We would like to encourage the use of nom-steer as a way of soliciting good and relevant comment from members that will help inform our discussions. We welcome the development of an on-line forum.
- 4.5 Members agreed that the PAB should “concentrate on pure policy issues and avoid getting bogged down in detail or operational issues”, but recognise that “occasionally policy issues will overlap with operational matters.”

5. Next Steps

- 5.1 We believe that developing a constructive exchange between the PAB and Nominet would help improve the quality and relevance of the PAB's advice.
- 5.2 We recognise that the PAB's advice does have an impact on Nominet's policies, for example in the modification of the proposed DRS default transfer process.
- 5.3 We also recognise that we are expected to respond to all Nominet consultations: we recommend that the Chair and executive ensure that time is made in meeting agendas as early as possible in policy consultation processes to allow a PAB input to be developed.
- 5.4 More work needs to be done in improving dialogue with Members and key external stakeholders. We will work with the executive to continue the progress already made and to investigate new ways of improving wider communications. One option might be to have an annual PAB workshop, perhaps in the framework of the AGM, providing a forum for the PAB to engage more directly with the membership.
- 5.5 We would like to improve meeting dynamics between PAB members and would like to work with the executive in identifying ways of achieving this.
- 5.6 We recognise the importance of focussing our discussion on policy issues, although views of what constitutes policy differ. We encourage the executive to more clearly identify which consultations it considers as policy and which operational issues. Any PAB member can ask for an issue to be put on the agenda.

Summary of Discussions of the Sub Committee on PAB Performance

The PAB as a bridge between Nominet stakeholders and the Board.

- As the PAB evolves it is developing as a better framework for dialogue. It needs to adopt and build on this less confrontational approach
- The PAB does have an effect on policies. For example with DRS the PAB contributed to changing what was originally proposed
- The PAB needs to concentrate on pure policy issues and avoid getting bogged down in detail or operational issues. Occasionally policy issues will overlap with operational matters.
- The PAB is not visible enough – not enough people know it exists.
- The PAB has a key role in identifying policy issues of concern to Nominet members and to the wider community
- Unfortunately both Nominet and the PAB can feel threatened by one another.
- PAB performance and effectiveness must focus on achievements in developing and influencing policy not be measured in terms of confrontation.
- The PAB can be effective on a qualitative as well as a quantitative level.

Addressing “non-operational guiding principles”.

- Work rate could be improved
- More input and influence into the work programme from PAB members throughout the year
- Wider stakeholder input
- Board to provide feedback on how it is responding to advice
- PAB should respond to all consultations
- PAB should seek out advice from experts from the wider community (eg banks) on specific issues
- More sub-committees.

Work rate might be improved by limiting the time for discussion, or by limiting the numbers engaged in discussion, but the former might increase throughput at the expense of quality, and the latter reduce the areas of expertise that the PAB might call upon.

Greater use of sub-committees might keep agendas light so that items can be discussed fully in sub-committee and could help in preparing issues for full PAB discussions, but use of sub-committees will create a greater burden of attendance on what is a voluntary organisation and reduce the number of Appointed members attending these discussions.

The Board should consider clarifying the precise form they would like PAB responses to take to minimise risk that PAB advice and Board responses will be misinterpreted as mutual criticism.

Appointed members and Elected Members each have different motivations for attending PAB. These differing perspectives are important to help ensure a good understanding of the overall environment in which the Internet exists and operates in the UK.

Effectiveness in reaching agreement.

- The PAB has been more efficient and more effective over the last year
- It takes time for the group to get to know each other and work effectively together.
- It is difficult to reach full consensus on some issues.
- Some other method of reaching resolutions might be considered.
- Should be made clear that the PAB do not respond to consultations on operational issues.

It takes time for PAB members to get to know each other particularly since there are only 6 meetings in the year. Ways forward might include a “bonding day”, increasing the number of meetings and including current PAB members in the induction for new members.

The perception of what policy is (and therefore what is within the PAB remit) might be clarified (or more widely publicised). However Nominet must not be perceived to dictate the consultations to which the PAB can respond. Therefore this issue might best be addressed by the PAB itself.

Individual PAB members must take responsibility for their own actions and be aware that the credibility of the PAB as a whole can be affected by posts (that the member might even regard as expressing a personal viewpoint) to forums such as nom-steer. The PAB must consider how members can best solicit input from the membership and the wider community.

The PAB should represent all stakeholders but getting exposure can be difficult (and members have little time to undertake such work). The PAB should consider creating a strategy for reaching stakeholder. Nominet might undertake some education in this area.

PAB Resolutions and Board Responses

January 2007

Feedback from DRS Review subcommittee

The PAB resolved to accept the recommendations set out in the report of the DRS subcommittee, subject to the following: (i) the final and penultimate sentences of the paragraph starting "We believe that isolated offers to sell a domain" should be transposed, and (ii) that the section headed 'Other issues' be removed. The PAB further resolved to encourage Lord Erroll and James Conaghan to submit individual responses on the latter issue.

Noted.

Feedback from the IDN subcommittee

The PAB resolved to accept the recommendations set out in the report of the IDN subcommittee.

Noted. The board requests the executive to work on an implementation plan.

Access Limits Policy

The PAB resolved to accept the recommendations set out in the paper headed 'Access Limits Policy'.

Agreed.

Code of Conduct

The PAB resolved to accept the recommendations set out in the paper headed 'Code of Conduct', subject to the following: (i) in 2.7, replacement of "opinion on Nominet" by "criticism of Nominet"; (ii) after 2.1.7 insert "It is understood that PAB members have responsibilities with other organisations, including their employers. Where this might have put them into conflict with this code, they should proceed with caution and with due consideration as to how their actions may nevertheless be associated with the PAB"; and (iii) deletion of the note in bold on the last page.

Agreed. The Code of Conduct will be amended and published on Nominet's website.

The PAB resolved to recommend a change to the PAB rules such that removal of a PAB member can be effected by 75% of all PAB members (irrespective of how many attend the meeting considering the issue) excluding the member under consideration, and that postal or proxy votes should be permitted.

Agreed.

March 2007

.net.uk statement

The PAB agreed that the statement should be communicated to Nominet's membership.

Agreed

PAB Composition Sub-Committee

The PAB came to the conclusion that no change is to be made at this stage other than to invite experts to present their views on topics under discussion, and for the PAB to present a range of views on policy issues rather than a single resolution. It was agreed to try these initiatives as a first stage.

Noted.

The Board encourages the PAB to continue to monitor and evaluate its own performance, and requests a progress report immediately following the PAB's September 2007 meeting.

Expenses Policy

Following some discussion, the PAB noted the expenses policy and passed the matter to the Board for a decision.

The Board approved the PAB expenses policy.

Work Programme

The PAB resolved to adopt the Work Programme subject to reviewing the title of 'Domaining'.

Noted

May 2007

Phishing policy

The PAB asked the Executive for draft policy proposals.

Agreed.

Chairman

The current Chair was elected by informal vote for a further term of one year.

Noted. The board congratulates Eric Ramage on his reappointment, and wishes him well as he continues in his role.

PAB Schedule

The PAB resolved to trial afternoon meetings in July and September and to find a less-expensive venue close to Kings Cross.

Noted

July 2007

Phishing policy

The PAB proposes Nominet adopts the following policy on Phishing:

Because Phishing is a criminal activity which can adversely affect Internet users' trust and confidence in the online environment, and because it is highly unlikely to be solved by a single intervention, the PAB encourages Nominet to participate in self- or co-regulatory responses through a series of co-operative activities with other agents to include education of users and improved security measures. The PAB advises Nominet not to duplicate existing efforts by other agencies.

Agreed

PAB Schedule

2.1 Timing and venue of PAB meetings to be discussed in September.

Noted

2.2 Appointed membership review: The Social Policy Manager of the Citizens Advice Bureau to be contacted with a view to joining the PAB.

Agreed

September 2007

Domaining, dropcatching and the secondary market

The PAB recommends that the Executive develop suitable options to suit the needs of different segments of the registrar community, but believes that no registrar should be forced to take a more restrictive option based on their business model.

Agreed

DRS consultation

The PAB advises the Board that Nominet should be aware that the proposed change to the Default Transfer scheme may result in abusive or speculative attacks and that it should take steps to prevent or thwart these.

Noted

Variable registration periods

The PAB resolved to recommend that a policy of extended registration periods of up to 10 years be introduced.

Agreed

November 2007

Domaining

Wording for a statement on Domaining was agreed:

“Nominet recognises that the sale of domain names is legitimate so long as no third party rights are infringed.”

Agreed.

PAB Rules (from November)

The PAB recommended that the rules should be changed to make it clear that the Board can appoint either one or two of its members to the PAB.

Agreed. The board request the executive to review the PAB rules in general, and bring proposed changes to a future PAB meeting

January 2008

None

March 2008

The PAB recommend the following policy principles with regards to domain name re-registration to Nominet:

1. The system should be fair, and should not incentivise people to share resources/act in concert

2. There should be low barriers to entry for all registrars so they can truly compete for cancelled names
3. One party should not be able to unfairly disadvantage another
4. The system should aim to prevent excessive use of resources on tech/complaints systems at Nominet
5. An even distribution of registrants should be able to obtain cancelled domains
6. The ability to dropcatch should not prevent a registrar's ability to do other normal tasks
7. Should your ability to dropcatch depend on the number of names on your tag? The larger registrars are being disadvantaged because they need their access to do other things
8. Cost neutrality
9. Mechanism should be understandable to the average registrant
10. There should be disincentives for hammering Nominet's technical systems.

Agreed subject to the following comments:

2: we believe that this should be subject to recovering the cost of system development and ongoing costs (including overheads);

7: comment noted;

8: we believe that cost neutrality should include recovery of overheads.