
Board Response to PAB Resolutions

PAB Resolutions at Meeting 57

1. Phishing

The PAB recalls its earlier advice¹ on Phishing.

It recognises the responsibility of registrars for timely and effective action.

It welcomes current work in Nominet to share information and intelligence, in particular to support members' own work with evidence and best practice.

The PAB resolved to recommend that the PAB, the Board and the executive work with other key stakeholders to prepare a joint industry–law-enforcement workshop to help improve understanding of options and cooperation with other organisations.

The Board welcomes the priority that the PAB has given to addressing the issue of Phishing. It agrees with the approach outlined above and requests that the Executive develop proposals for the workshop.

2. Byron Review on Child Internet Safety

The PAB resolved to draw the attention of the Nominet Board and of Nominet members to the Byron Review on the risks to children from exposure to potentially harmful or inappropriate material on the Internet and in video games, Safer Children in a Digital World².

The Byron Review has a clear message for industry to show that the self-regulatory approach is effective: that it is taking the lead in addressing child safety on line. The emphasis is on industry identifying and adopting good practice, evaluating and benchmarking its actions.

We welcome Nominet's work in this area. We would encourage Nominet to maintain its leadership role. It should continue to make information available about the Nominet Best Practice Challenge, the UK-Internet Governance Forum and other initiatives.

Many Nominet members are small and might find useful to receive updates of initiatives from time to time: for example, Nominet could help draw the implications of the review to the attention of the wider membership. In addition, it could provide a channel of communications about other industry action like the Internet Watch Foundation.

The Byron Review shows an expectation that the industry will assess the success of its actions. This implies building an evidence base continued auditing and benchmarking to demonstrate responsible behaviour. Nominet could help members keep up to date by sharing information about good practice and monitoring activities.

We recognise the importance of maintaining industry standards to ensure the continued good reputation of the .uk name space. We would like to look at the promotion and enforcement of industry good practice and acceptable standards, and will schedule this into the work programme for future discussion.

¹ Meeting 51, July 2007 http://www.nominet.org.uk/digitalAssets/28811_Board_response_Sept_07.pdf

² <http://www.dfes.gov.uk/byronreview/>

Nominet could identify to the Nominet Foundation the importance that the Byron Review placed on education in addressing child protection. However, we recognise that funding decisions are for the trustees.

The PAB recommends that Nominet monitor the work of the new UK Council on Child Internet Safety (UKCCIS).

The Board recognises the role that Nominet can play in helping the membership respond to the challenges identified by Dr Byron. We will continue to work towards making a positive difference to Internet users and to shape the development of the Internet, and have placed this at the centre of our mission statement and supporting strategies.

The Board requests that this is posted as a policy statement on the Nominet website.

3. Applicable Law

The PAB resolved to ask that the Executive examine the possibility, and if they consider it reasonably practical to take action, to change the registrant terms and conditions to allow all registrants based in the UK the same choice of law that is currently available to consumers.

Noted.

4. .ltd.uk and .plc.uk registration rules

The PAB resolved³ to recommend that Nominet should review the rules on ltd.uk and plc.uk domain names based on the following principles and proposals:

Recommendation A:

The policy underpinning the ltd.uk and plc.uk second level domains (SLDs) is:

1. Only limited companies should be able to have names in these SLDs (with the type of company determining which of the two SLDs it uses).
2. There should be a clear and obvious relationship between the name of a limited company and its domain name, so that anyone seeing the name can determine which company it is. This should be algorithmic rather than requiring human judgement.
3. There should never be the possibility that two different companies could be entitled to the same name.
4. A company should be limited to a single domain name within these SLDs.

³ Simon Bezant asked for it to be recorded that he dissented from the decisions on recommendations A, B and G. He also asked for it to be recorded that he abstained on the decision on recommendation E.

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5. So long as it does not breach the above policy points, where there are cosmetic variations possible in a domain name (e.g. inclusion or omission of hyphens), the company rather than Nominet should have the choice of which exact variation is adopted.

The Board agrees that these principles are a useful basis for the ltd.uk and plc.uk second-level domains.

Recommendation B:

Nominet should liaise with the Department for Business (BERR) and Companies House to have the proposed Regulations changed so that every legal company name has an equivalent that uses only letters and digits.

Agreed.

Recommendation C:

The Executive should monitor changes to the Companies Act, associated Regulations, and Companies House practice and – via the PAB – propose changes to the ltd.uk and plc.uk rules to remain in step with them

Agreed: the Board instructs the Executive accordingly.

Recommendation D:

Where a company X has a “similar name” to a company Y as may be defined in the proposed new Regulations (as and when they come into force), then one of the following shall apply:

- If company Y already has a ltd.uk or plc.uk domain name, company X shall choose a different ltd.uk or plc.uk domain name that nonetheless conforms to the relevant rules;
- Company X shall choose a ltd.uk or plc.uk domain name that company Y would not be able to choose under the rules; or
- Company Y shall explicitly consent to the choice of name.

The Board requests the Executive to assess this proposal for implementation, in the light of the new Regulations as and when they come into force, and the Executive’s discussions with Companies House.

Recommendation E:

Until new rules are put in place to match the new Regulations, it should not be possible to register names based on company names containing characters not in the DNS.

Agreed: the current bar will remain in place until the rules are changed.

Recommendation F:

Where a company either has a name containing a non-alphanumeric character, or chooses to omit part of its name (in accordance with the rules) when converting the company name to an .ltd.uk or plc.uk domain name, it shall certify that, at time of application:

- There is no other existing company that would be entitled to the resulting domain name;
- Any other existing company that would be entitled to the resulting domain name already has a different .ltd.uk or plc.uk domain name; or
- Any other existing company that would have entitled to the resulting domain name has agreed to the application;

and it shall be responsible for any error or false statement.

The Board requests the Executive to assess this proposal for implementation.

Recommendation G:

Where a DRS dispute occurs between two companies in relation to a ltd.uk or plc.uk domain name, the complainant would be able to register the name under the Nominet rules in force at the time of the dispute, and the registrant would not be able to register the name under those rules, then:

- The complainant company is deemed to have rights in the name.
- If the registrant company was registered at Companies House after the complainant company, this shall be conclusive evidence that the registration is a “blocking registration” under paragraph 3.a.i.B. of the DRS policy. However, if the registrant company can demonstrate that, at the time of the registration, the complainant company either:
 - had a different ltd.uk domain name registered, or
 - had agreed to the registration

then this shall be conclusive evidence that it was not a “blocking registration”.

The above points are without prejudice to any other aspect of the DRS policy (e.g. under paragraph 3.a.ii or 3.c).

The Board is concerned that the effect of this recommendation would effectively be to amend the DRS policy and procedure, which have just been the subject of a lengthy consultation and revision process. It requests the Executive to update the DRS experts on revisions to the ltd.uk and plc.uk rules as and when they come into force and to draw attention to the PAB’s views.

Retrospective Action

The PAB also resolved to recommend that Nominet consult on the issue of retrospection.

The Board would welcome further discussion in the PAB about the implications of retrospective application of registration rules to help inform any consultation. The Board asks the PAB to note that any retrospective application of changes to the ltd.uk and plc.uk rules would also involve a change to the general rules of registration (rule 4.7). We recognise that, in a few cases, there

*may be consumer confidence issues associated with some domain names under ltd.uk and plc.uk.
We recognise the important point associated with trust in the Internet.*

5. PAB Rules

The PAB resolved to propose changes in the rules as identified in the Annex

Agreed. The Board requests the Executive to revise and post the rules as proposed by the PAB.

6. Additional Resolution

The Board receives regular and timely reports on PAB matters from the Non Executive Director and Executive. The Board is very happy with this and to say otherwise is totally incorrect

PAB Rules

1. History

This is version 6 of the PAB Rules, adopted by the Board with effect from dd month yyyy. The PAB Rules were first established on 19 January 1999 and subsequently amended by the Board in December 2002, December 2004, March 2005, March 2007 and [month] 2008 following recommendations by the PAB.

2. Definitions

2.1. In this document the following words shall have the following meanings unless the context requires otherwise:

2.1.1. "PAB", "Board", "membership", "executive", "staff" or "director" mean the relevant body or person(s) pertaining to Nominet UK;

2.1.2. "clear days" shall exclude both the events delimiting them; and

2.1.3. unless qualified by "calendar", the term "year" shall refer to the "PAB Year", which runs from one "PAB New Year" to the day before the next. "PAB New Year" is the later of (a) 1st April or (b) the day after the results of the elections for the elected PAB Members (see section 4.7) are published. The "Closed Period" runs from 1st March until the end of the "PAB Year".

2.1.4. "Dismissal" shall have the meaning as set out in paragraph 4.17 below.

3. Role

3.1. The PAB represents the interests of the different stakeholders in the .uk Top Level Domain. Many of its members are likely to be individuals associated with the corporate members of Nominet UK.

3.2. The PAB will operate in addition to the existing executive staff, Board and membership.

3.3. The PAB will develop proposals for policies and rules (as opposed to operational matters), for consideration by stakeholders and/or the Board, and consult with interested parties where appropriate. The PAB may discuss matters of its own motion, or matters suggested to it by the Board, membership or public.

3.4. The decisions of the PAB are not binding on the Board, but the Board will seriously consider them.

4. Membership

Types of Membership

4.1. There are three types of PAB Membership:

4.1.1. Nominated: up to two non-executive directors of Nominet (see paragraphs 4.2 to 4.4);

4.1.2. Elected: eight members elected by the membership (see paragraphs 4.5 to 4.11); and

4.1.3. Appointed: up to eight appointed organisations (see paragraph 4.12 to 4.15).

Nominated Board Members

4.2. Up to two of the PAB Members shall be non-executive directors, nominated by the Board from time to time.

4.3. They shall not be entitled to vote, but shall be entitled to attend and speak at meetings, and shall count for the purposes of the quorum.

4.4. They will cease to be PAB Members on:

4.4.1. notice in writing to the Board Chair;

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- 4.4.2. notice in writing by the Board Chair acting on a resolution of the Board;
 - 4.4.3. ceasing for whatever reason to be a member of the Board; or
 - 4.4.4. in accordance with paragraph 4.17.

Elected Members

- 4.5. Eight PAB Members shall be elected by a ballot of the members.
- 4.6. These PAB Members shall be entitled to vote, to attend and speak at meetings and shall count for the purposes of the quorum.
- 4.7. Elections of the elected PAB Members will be held once per year. Nominations for election will be sought by the PAB Chair, normally in February, and the vote shall take place during the Closed Period, and at least 28 days after the first call for nominations. Elections shall use the "single transferable vote" system, and each member will have one vote.
- 4.8. The term of office for each elected PAB Member shall be two years.
- 4.9. If an elected PAB Member ceases to be a member of the PAB for any reason, the PAB may appoint a person who is willing to act to fill the vacancy provided that the appointment is made before the start of the Closed Period. The term of appointment only lasts until the end of the year, but in all other respects this replacement shall be treated as a normal elected PAB Member.
- 4.10. The elected PAB Members will cease to be PAB Members on:
 - 4.10.1. expiration of their term of election;
 - 4.10.2. notice in writing to the PAB Chair; or
 - 4.10.3. in accordance with paragraph 4.17.
- 4.11. The elected PAB Members are elected as individuals, and accordingly they:
 - 4.11.1. need not be members, or employees of members;
 - 4.11.2. are not required to leave the PAB on a change in their employment, or on ceasing to hold any particular office; and
 - 4.11.3. may stand for election as often as they wish.

Appointed Members

- 4.12. Up to eight organisations shall be members of the PAB. Each shall be entitled to send one representative to each PAB meeting. The representative shall be entitled to vote and speak at meetings, and shall count for the purposes of the quorum.
- 4.13. In order to provide continuity, appointed member organisations are encouraged to ensure that the same individual represents them at all meetings.
- 4.14. At the first meeting of each year, the PAB shall decide which organisations shall be invited to be the appointed (or reappointed) PAB Members for the year. Any change of PAB Membership takes effect at the end of the meeting.
- 4.15. An appointed PAB Member will cease to be a PAB Member on:
 - 4.15.1. replacement in accordance with paragraph 4.14;
 - 4.15.2. notice in writing to the PAB Chair; or
 - 4.15.3. in accordance with paragraph 4.17.
- 4.16. If paragraphs 4.15.2 or 4.15.3 apply, and it is outside the Closed Period, the PAB should invite another organisation to replace them at its next meeting.

Dismissal of a PAB Member

4.17. The PAB may dismiss any PAB Member, or instruct an appointed PAB Member not to send a specific representative (either of which event shall be termed a "Dismissal"), upon a vote to this effect of at least 75 % of all PAB Members entitled to vote (excluding the PAB member under consideration for Dismissal). Such a motion shall only be considered at a duly convened meeting, and the pre-circulated agenda for such meeting must include the motion for Dismissal, together with full details as to how PAB Members may vote. It shall not be necessary for all PAB Members to attend such meeting. Voting may take place by attendance at the meeting in person, by telephone under paragraph 6.10, by post addressed to the PAB Chair or by proxy (duly completed in the form which is circulated prior to the meeting) and lodged in person, by post or delivered electronically to the PAB Chair. The PAB Chair must receive postal votes and duly completed proxy forms by the time of the commencement of the meeting. A Dismissal is not a bar to re-election of the same PAB Member at any time in the future.

5. The PAB Chair

Appointment of PAB Chair

5.1. The PAB shall appoint its own Chair from among the PAB Members (or, in the case of Appointed Members, their representatives from time to time) in accordance with paragraphs 5.3 and 5.4.

5.2. The PAB Chair will be paid by Nominet UK at the level set by the Board from time to time, but shall not be an employee.

Election of the PAB Chair

5.3. At the first meeting in each year, and at any subsequent meeting at which the PAB Chair is (or becomes) vacant, the PAB shall elect a PAB Chair from their number. Having held the position of PAB Chair previously is not a bar to selection.

5.4. The election for PAB Chair shall be the first item of substantive business (unless paragraph 5.6 applies). The PAB Chair shall be deemed vacant for this item and a PAB Chair Pro Tem (paragraph 5.8) appointed who shall not be a candidate for the PAB Chair. The new PAB Chair shall take office immediately that the result is known.

Resignation of the PAB Chair

5.5. The term of office of the PAB Chair shall end only if the PAB Chair:

- 5.5.1. ceases to be a PAB Member;
- 5.5.2. resigns by notice to the Board Chair;
- 5.5.3. is removed in accordance with paragraph 5.6; or
- 5.5.4. is not re-elected at the first meeting of the year.

Dismissal of the PAB Chair

5.6. The PAB may consider a motion to dismiss the PAB Chair. Such a motion shall only be considered at a duly convened meeting and the notice of this meeting must include the motion to dismiss.

5.7. Discussion of the motion shall be the first substantive business of the meeting: the PAB Chair may retain his or her position (or may excuse him/herself from the debate) but shall not unreasonably restrict debate on the motion. The vote requires an absolute majority (see 6.14) and the PAB Chair is not entitled to their normal vote (but can vote to break a tie, as per paragraph 6.15). If the motion passes, the PAB Chair is immediately vacant and paragraph 5.3 shall apply.

Pro Tem PAB Chair

5.8. If the PAB Chair is absent or the position is vacant during any part of any PAB Meeting, the PAB Members present shall appoint a PAB Chair Pro Tem from among their number who shall carry out all the duties of PAB Chair until a formally appointed PAB Chair is present, or the end of the meeting, whichever comes first.

6. Meetings and Procedures

General

6.1. The PAB will hold at least two meetings a year.

6.2. The PAB may regulate its meetings and its decision making as it shall think fit, subject only to these Rules.

6.3. The PAB Chair will arrange for minutes of each meeting to be prepared and, after agreement, to be posted on the Nominet UK website.

Calling Meetings

6.4. The PAB Chair may summon a meeting of the PAB at any time.

6.5. If any five members of the PAB so request, the PAB Chair (or if the post is vacant, the Nominet Chair) shall summon a meeting of the PAB to be held no later than twenty eight clear days after receiving the request.

6.6. At least seven clear days notice of the date, time and place of PAB meetings, and the business to be transacted, must be given to PAB Members.

Quorum

6.7. The quorum necessary for a meeting of the PAB shall be eight members.

6.8. If for any reason the PAB has less than eight members, then the quorum shall equal the number of PAB Members, but only for the purpose of filling the necessary vacancies by appointment (see paragraph 4.9 and 4.16).

6.9. If a meeting becomes inquorate during proceedings, then the PAB Chair shall formally note that it has become inquorate, and then decide whether to suspend or close the meeting, or allow it to continue and discuss the matters before it. If the meeting continues, it may only make preliminary decisions or recommendations which must be brought before the next quorate PAB meeting to be confirmed or rejected.

6.10. A PAB Member entitled to attend a PAB meeting may participate by means of a telephone conference or other facility whereby all people participating in the meeting can hear each other, and shall be counted in the quorum while so participating.

Voting and decision making

6.11. The PAB should aim to reach its recommendations by consensus wherever possible.

6.12. If a matter should come to a vote, then each voting member will have one vote.

6.13. Unless a specific paragraph of these rules requires otherwise for a particular situation, the decision shall be by "simple majority" of the votes cast for or against, ignoring abstentions, vacancies and absentees.

6.14. Some paragraphs may require a "unanimous" vote or an "absolute majority". In these cases, any abstaining, non-voting or absent PAB Member (excluding nominated PAB Members and vacant posts) counts as a vote against the motion.

6.15. In the event of a tied vote, the PAB Chair (whether or not a voting member) shall decide.

7. Action without meeting

7.1. A majority of the PAB, may, without holding a PAB meeting, agree any resolution except those under paragraphs 4.17 or 5.6.

7.2. Any such resolution must be sent to all PAB Members and must be approved by an absolute majority (see 6.14).

7.3. Any such resolution may take immediate effect, but shall be confirmed or annulled at the next PAB meeting by simple majority (see 6.13).

8. Notices

8.1. Notices under these Rules may be given by Nominet and PAB Members by hand delivery, pre-paid post, fax or e-mail to the last known postal or e-mail address or fax number of the intended recipient.

8.2. Unless acknowledged as received earlier, notices shall be deemed to have been received on the second working day after they were sent.

8.3. An accidental failure to receive a notice shall not make a meeting or action invalid.

8.4. If the Board Chair position is vacant, notices which are to be given by or to the Board Chair may be given by or to the Chief Executive.