

PAB Rules review

1. Introduction

The last revision of the rules was in August 2008. The PAB is governed by the PAB rules and as such it is critical that they are transparent and fair.

Recent events, including the 2009 PAB election and the proposal to dismiss the PAB Chair, have shown that some issues might not be sufficiently clearly addressed in the current version of the rules. The PAB is invited to review the rules and whether changes are needed.

Clive Feather has submitted two separate papers dealing with:

1. Drafting suggestions and rationale for the PAB rules; and
2. A proposed change to the election system.

This paper will not try to duplicate these issues

2. 2009 PAB election

On January 29, in accordance with the PAB rules, Nominet issued a call for nominations for the election of four candidates to the PAB. By the closing date for nominations on 17 February Nominet had only received three nominations therefore those three candidates were automatically appointed/re-appointed to the PAB.

The PAB rules state:

4.5. Eight PAB Members shall be elected by a ballot of the members

For the first time, through a lack of electoral candidates, the PAB is left with seven elected members and one vacancy.

2.1 The vacancy

The PAB rules identify how to deal with a vacancy if a PAB member leaves the PAB.

The PAB rules state:

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 year, but in all other respects this replacement shall be treated as a normal elected PAB Member.

However there is no mechanism in the rules for **how** the PAB should identify suitable candidates to fill a vacancy.

In the past, there has only been one case of a vacancy arising mid-term: in this case the new member was appointed from the list of candidates who had stood for the previous (and still recent) PAB election. In this case that is not an option as there were not enough candidates standing for the most recent election and referring back to the last election would mean appointing the second runner-up.

The proposal from Clive Feather for a new approach to the PAB election process proposal might also lead to fewer successful candidates from the election process, again without a clear mechanism for filling vacancies.

2.2 Definitions of the voting period

There is a question about the application of the rules for the 2009 PAB election and the interpretation of the definition of the 'closed period'.

The PAB rules state:

4.7. Elections of the elected PAB Members shall 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..."

The timetable for the 2009 Election was:

29 January 2009 – Call for nominations

17 February 2009 – Closing date for nominations

27 February 2009 – Voting planned to start (although no vote was held).

The number of days between the call for nominations and the time that voting was due to start was 29 days, and therefore deemed to be in accordance with rule 4.7.

Since 2006 the number of days between the call for nominations and the closing date for nominations has been 20 days:

2008

Call for nominations open from 31 January to 19 February – 20 days

Voting started on 29 February – 29 days from first call for nominations

2007

Call for nominations open from 1 February to 20 February – 20 days

Voting started on 2 March – 29 days from first call for nominations

2006

Call for nominations open from 1 February to 28 February – 28 days

Voting started on 20 March - 47 days after first call for nominations

The PAB is invited to consider how the rules could be clarified to better define the 'closed period'.

3. Motions of no Confidence

Recently one PAB Member proposed a motion to dismiss the PAB Chair. There are no rules as to whether such a motion (whether it be in connection with dismissal of a PAB member or the PAB Chair) needs to be seconded: this was questioned by the PAB. The PAB is invited to consider whether the rules need to be amended to clarify how a motion of no confidence can be proposed.

4. For Discussion

The PAB is invited to consider the following:

4.1 How to fill the vacancy

The PAB is invited to consider options for filling vacancies in the number of elected members.

- What should the method be for filling a vacancy?
 - What are the objective criteria for selection?
 - How do we ensure there is a transparent and fair mechanism for identifying and selecting candidates?
- Should any process aim to ensure a balanced representation of stakeholders (and if so, how)?
- Should the vacancy be filled, or should rule 4.5 be changed to: “**Up to** eight PAB Members shall be elected by a ballot of the members.”?

4.2 Definitions of the voting period

- Should the ‘closed period’ be defined separately in the rules under section 2. ‘Definitions’? (Clive Feather’s paper on Proposed PAB rules changes makes concrete proposals on this.)
- Should the PAB rules be amended to include the procedure of what happens when an election does not take place? (Clive Feather’s paper on the PAB election process proposal has a proposal for running an election whether or not there are sufficient candidates to identify whether the electorate would reject any of the candidates.)

4.3 Motions of no confidence

- Does a motion of no confidence need to be seconded?