

nominet<sup>®</sup>



## **The Dispute Resolution Service (DRS)**

Making a complaint about a .uk domain name registration

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The following information will guide you through the complaint process:

## 1. What is the Dispute Resolution Service (DRS)?

Nominet's DRS is an efficient and transparent way of resolving .uk domain name disputes.

The majority of .uk domain name registrations are problem-free, but about 1 in 2000 registrations causes someone to make a complaint.

Common reasons for a complaint are:

“trade mark law”

“it is registered to an old web designer”

“cyber-squatting”

“it is registered to a competitor”

“typo-squatting”

“it is registered by an ex-employee”

“it breaks an earlier agreement”

For most people the court system is too expensive and difficult, so we provide the DRS as a cheap, fair and quick way of dealing with these disputes.

## 2. How the DRS works

The DRS is based on the set of rules laid out in the [DRS Policy and Procedure](#).

The rules which explain the principles of the system are the [DRS Policy](#). These explain what you have to prove in order to succeed in or defend a DRS dispute.

The [DRS Procedure](#) explains the more detailed rules and administrative parts of the DRS.

### Stage 1: The Complaint

The person who complains about the domain name is the “Complainant”.

You submit it online.

We then send the complaint to the registrant of the domain name; they are called the “Respondent”.

### Stage 2: The Response

The Respondent has the opportunity to respond to the complaint.

We send their Response to you and you can comment on any new points the registrant has raised.

### Stage 3: Mediation

If the registrant responds, the case will be passed to one of our mediators.

Our **free mediation** service is a very successful process where a trained member of staff speaks to both parties to try and find an amicable solution to the dispute.

For more detailed information about the free mediation process please see section 10.

### Stage 4: Expert decision

If there is no resolution through mediation, or if the Respondent does not respond, you have the option to pay a fee to appoint an Independent Expert to make a binding decision.

The fees are £750 + vat for a full decision or £200+ vat for a summary decision.

The summary decision is only available in cases where the Respondent does not respond.

If you do not pay the fee a decision cannot be made and the domain name will remain with the Respondent.

The Expert decides whether the complaint should succeed on the basis of the arguments made by each side, and the DRS Policy and Procedure.

#### Stage 5: Publication

All decisions are published on our web site one working day after they have been sent to the parties.

#### Stage 6: Implementation of Expert decision

After the expert makes their decision, there are 10 working days in which the losing party can appeal the decision.

If there is no appeal we will make the necessary changes to the domain name registration, send confirmation to the parties and close the DRS case.

#### Stage 7: Appeal

If the losing party is unhappy with the decision they have a chance to pay £3000 + vat to appeal the decision. For more information on the Appeal Process please go to section 13.

**PLEASE NOTE - The colour-coding of the stages is followed on throughout the booklet, i.e. the parts relating to the complaint are **BLUE**, and the response information is **ORANGE** etc.**

**Other general information will be in **PURPLE**.**

### 3. Is the DRS right for me?

The DRS is intended to be a cheap and quick way of resolving clear cases of domain name abuse, either by mediation, or a binding adjudication.

To be successful with a DRS complaint, you will be required to prove two things. These two tests (the Rights and Abusive Registration) are covered in more detail later in this guide.

There may be some situations where the DRS will not be able to offer a solution to your problem, or it won't be necessary to use the service.

#### 3.1 The domain name is already registered to you

If you are in a dispute with a web designer, registrar or registration agent, and want to move your domain name to another agent, we offer a separate process which may help you. Please see the [Change registrar](#) page on our web site.

#### 3.2 Other domain name endings

If the domain name you are complaining about does not end in .uk, Nominet's DRS will not be able to help. Domain names with different endings (either generic top level domains such as .com or .biz, or country code top level domain such as .de or .fr) will be dealt with by other processes not managed by Nominet. We will be happy to help you find the appropriate service.

#### 3.3 Domain names and online security

If your complaint involves a domain name that you believe has been used to attempt to commit a crime you can find information on scams, fraud, phishing and spam on our [Online Security](#) page.

#### 3.4 Objecting to website content

We are often called by parties who object to the content of a web site, and believe that the correct course of action is for us to suspend the domain name. This is not something we do simply on a third party request. The [Objecting to content or use](#) page explains how to deal with this situation.

### 3.5 Getting a .uk domain name cancelled outside of the DRS

The Registrant of a .uk domain name has a contract of registration with Nominet. The terms and conditions of that contract mean that the Registrant has an obligation to ensure that any identity and contact information they send us must be **correct**.

This means that the information must be good enough to allow us to contact them quickly at any reasonable time without having to get information from anywhere else, it must not be deceptive, and (if possible for that type of information) must clearly identify who the domain name is registered to. The information must be detailed enough that we can tell exactly who the Registrant is (in legal terms, exactly which legal entity we have this contract with).

Section 5 of this guide explains how you can use the WHOIS domain name search facility to identify the Registrant.

If you don't think that you can tell exactly who the registrant is, we may be able to start a process that can result in the cancellation of the domain name in question. If a cancellation of the domain name would resolve your problem, please contact our [Customer Support](#) team.

### 3.6 Contacting the Registrant directly

Domain names can be transferred from one registrant to another using Nominet's Online Services. You may be able to negotiate directly with the current registrant. If you have a solicitor or legal advisor they may be able to send a letter outlining your claim to the domain name.

### 3.7 Going to court

Whilst the DRS can offer a cheap, quick and transparent alternative to the court system, the process requires the Complainant to prove that the domain name is an Abusive Registration in accordance with the Policy and Procedure. Some cases may be better suited to the courts. If your dispute involves the finer points of trade mark law, or complicated contract issues, or you require an injunction, costs or damages, you may wish to consider taking independent legal advice on taking the matter to court.

## 4. What are my options for dealing with a disputed domain name?



## 5. WHOIS - What is this?

The WHOIS service can be used to find out who has registered the disputed domain name. You could use this address information to initially try and contact the registrant and negotiate the transfer.

It displays information about domain names that are currently registered, including:

- Registrant name
- Registrant address (if not opted out as an individual)
- Registrar
- Registration date
- Registration status
- Name servers associated with the domain name.

It is not a directory of email addresses or web sites. You can search for information on a domain name i.e. [nominet.org.uk](http://nominet.org.uk), but not for an email address such as [nominet@nominet.org.uk](mailto:nominet@nominet.org.uk) or for the web site [www.nominet.org.uk](http://www.nominet.org.uk).

The WHOIS can be found on our [homepage](#), for more information about it please go to the [WHOIS](#) page on our web site.

## 6. Do I need legal advice?

No, legal advice isn't necessary, though some people may find it helpful.

Making a DRS complaint is not the same as being involved in a court case, though there are some similarities.

The DRS is designed to be accessible to those who don't have professional advice.

The guidance information and the layout of the online forms are intended to make it as straightforward as possible for you to highlight the relevant facts in your submissions.

The DRS team is always available to help with queries (though they cannot advise on the merits of a case).

Some parties do prefer to have the assistance of an independent advisor who is familiar with the DRS, to give advice on the procedure or to help draft submissions.

There are a number of advisors out there who are familiar with the DRS (both lawyers and non-lawyers). Nominet must remain independent and so cannot recommend any particular advisor – a search of the web should help you find one quickly. They can be from the UK or abroad.

## 7. Dispute Resolution Service

If you need to proceed with the Dispute Resolution Service you will find advice and guidance on how to submit your complaint to us here.

### 7.1 Before you begin

The DRS is a formal process you should familiarise yourself with the process and what you need to prove in your complaint. To do this you need to read:

- DRS Policy
- DRS Procedure
- Making a complaint booklet (this document)
- Complaint Guidance Questions
- Expert Overview

When you have read the guidance information you will be ready to draft and submit your complaint.

**TIP** You must submit all your information and evidence in the Complaint, you do NOT get another chance to bring in new information at a later stage in the process.

### 7.2 How do I draft my complaint?

Our advice is to draft it in a word document.

You could use the structure of questions in the [Complaint Guidance Questions](#) document - this can be found in the Guidance Information box on the [DRS pages](#) of our web site - to help you begin drafting your complaint.

When you have typed up your complaint in the word document you can then begin the online submission process.

When completing the online form you can copy and paste your complaint into the two boxes - Rights and Abusive Registration - on the 'Describe your complaint' page. You have up to 5,000 words to explain your complaint about the domain name registration. Remember an Expert will not do any background reading, you need to explain the situation in full and back up your submissions with supporting evidence.

**TIP** It will be useful at the drafting stage to start thinking about what documents, emails, invoices, screen shots etc. you could add as your supporting evidence.

### 7.3 Where do I find the complaint form?

**Question:** Do you have an existing email address on Nominet's Online Services?

If the answer is 'Yes' please log in with your email address and password, on your "Dashboard" you will see the 'Dispute Resolution Service' click on this and you will see the option to 'Make a complaint'.

If the answer is 'No' you will need to set up your email address on Online Services. To do this please go to the [Complaint form](#) page on our web site, and click on the 'complaint form' link at the bottom of the page.

You will be asked to submit a valid email address and you will then receive a verification email from us.

There will be a secure link and a password in the verification email which you need to click on to access the Online Services.

*PLEASE NOTE - If your email address already exists, but you cannot remember the password to log in then you can go to the [log in page](#) and click on 'Having problems logging in? When you type in your email address and click on submit you will be sent a password reset email.*

### 7.4 What will I need to show in the complaint form?

The DRS Policy states that you must prove, on the balance of probabilities, that:

- i. The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name;
- ii. The Domain Name, in the hands of the Respondent, is an Abusive Registration.

You must write up your explanation of both of these points in your complaint and also provide supporting evidence to back up what you have written.

**TIP** Providing evidence to prove your right to the domain name and to show abusive registration is a crucial part of the process. An Expert cannot find in your favour if you have not given them proof.

### Rights in a name or mark

The main point of this test is to make sure that the person who complains is someone with a proper interest in the domain name.

The Rights test is not a particularly high threshold test, however, **some complainants have failed this test and it is important to explain and provide evidence of the rights you are claiming.**

The Complainant should be the owner/licensee of the Rights in the name or mark, which the Complainant contends is identical or similar to the domain name in dispute.

### Do I need a trademark?

No. The DRS does not specifically require you have a trade mark (registered or unregistered). A trade mark of any type helps demonstrate rights in the disputed domain name, but other rights can also be used (see below).

Complainants with trademarks should remember that in order to be successful, a complainant must demonstrate both rights in the disputed domain name and that it is an abusive registration.

Trademark holders should also remember to include a copy of their trademark certificates with their submission.

### What other rights will do?

The definition covers 'enforceable' rights, and could include contractual rights. There is no geographical or jurisdictional restriction. The DRS has also been used for rights to the Complainant's own name. Where the personal name in question is a trade mark (registered or unregistered) then a name could be an enforceable right.

If the name in question is not the name under, and by reference to, which the complainant conducts a trade or business, the position is not so clear. Complainants seeking to assert rights in respect of personal names need to be able to establish that there is an enforceable right in respect of the name.

### When do I have to have rights?

In order to make the complaint you must have rights at the time of submitting the complaint.

You must also be able to show that you had rights at the time the abuse took place.

For example, it is unlikely that a domain name registration was made in order to prevent you having it if you set up business two years ago and the domain name was registered four years ago.

### What is Abusive Registration?

Our definition of this means that the domain name was either:

- registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to your Rights;
- OR
- has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to your Rights.

You need to prove one or both of these on the balance of probabilities. This means that you must convince the Independent Expert that it is more likely that your case is correct, than it is likely that the Respondent's case is correct.

### When does the abuse have to happen?

The abuse can have occurred at any time during the 'life' of the domain name - this can be that:

- there was an 'unfair' motive when it was registered;
- there was an 'unfair' use after registration but it has now stopped;
- there was an 'unfair' motive at transfer;
- there is something 'unfair' going on now;
- the domain name is inherently 'unfair'

Or any combination of these.

There are situations when the original registration of the domain name was 'fair' (because the parties agreed at the time, or did not object) but later becomes unfair (because there is a change of use, a falling out between the parties or a change of motive).

## Unfair Advantage and Unfair Detriment – what does this mean?

A true but perhaps unhelpful answer is "It depends on what the rights are and what has been done". The ways in which businesses and parties find to take advantage of each other's rights is almost infinite, and so there is no complete list.

More usefully, there are some common indicators which the DRS Policy sets out in paragraph 3 for why a registration might be abusive and then paragraph 4 sets out some reasons why it might not be abusive.

Please note that the DRS looks to see if a domain name was abusive at the time it was registered OR at any later time. It may not originally have been abusive, but may have become an abusive registration for one reason or another.

## Are there any examples of Abusive Registration?

The possible examples are set out in section 3 of the [DRS Policy](#) – please read through them.

They are non-exhaustive so even if your case does not slot nicely into one of these, and you feel that the registration of the domain name is in some way taking unfair advantage of your rights or being unfairly detrimental to you or your business, and can provide evidence to show this, please include this in your complaint.

### 7.5 Page by Page guide to completing the Complaint form

Here is a list of the pages you will find when you click on the option to 'Make a Complaint' on the Dispute Resolution Service section of online services:

*PLEASE NOTE - pages where actions are optional, i.e. adding additional complainants, representative or registrant details, will only appear if you click on the links to them.*

|   |   |
|---|---|
| Before you get started                                    | Basic information about what you need to be including in your complaint.  |
| Accept Terms  | Confirm that you have read, understood and accept the DRS Policy and Procedure.   |
| Add your own reference number                             | Your DRS case reference number will be at the top of this page and you can add your own reference if you need to.<br><i>Tip – Make a note of the complaint number for future reference.</i>   |
| Enter the Lead Complainant's details                      | The business name, contact name, email address, telephone number and postal address of the Lead Complainant.<br>If you are a representative these need to be your client's details.<br><i>Tip - If representatives are not sure who the contact will be they can add their own details because they can be changed at a later date.</i> |
| Adding additional Complainants/Representatives (optional) | If there is more than one complainant click on 'Add an additional complainant'.<br>If you are using a representative click on 'Add a representative'.   |
| Add additional Complainant (optional)                     | The contact name, email address, telephone number and postal address of the additional Complainant.<br>You can add as many as you need.<br><i>Tip - If representatives are not sure who the contact will be they can add their own details because they can be changed at a later date.</i>   |
| Add a representative (optional)                           | The contact name, email address, telephone number and postal address of your representative.  |

|   |   |
|---|---|
| Add disputed domain names                                   | Enter the domain name(s) you are disputing.<br><i>Tip - You do not need to add the www. at the beginning.</i>   |
| Add additional registrant details (optional)                | Notify us of any contact details you have for the registrant.   |
| Describe your complaint                                     | Where you get to add your written complaint details.  |
| Add supporting evidence                                     | You can upload word documents, PDF's, web site addresses, screen shots, brochures, accounts, invoices etc <b>or</b> let us know that you are going to be sending paper documents.<br><i>Note: the maximum upload file size is 20MB, if you are having problems uploading your evidence please contact us.</i> |
| <b>Warning from the Chairman of the Independent Experts</b> | <b>This will pop up if your complaint is under 500 words and/or has no supporting evidence.</b>   |
| Review your complaint                                       | Check through the contact information. Review your written complaint.   |
| Agree to jurisdiction and declarations                      | Read and tick the box, then submit your complaint.  |

### 7.6 Can I get someone to help me?

Yes. You can ask a friend, relative or colleague to help you draft your complaint.

Or you could get a Legal Representative, for more information about this please see section 6.

### 7.7 Can I resume editing the complaint?

Yes. The complaint form does not need to be completed all at once, if you click on 'Next' at the bottom of each online page this will save the information on that page. You can log out and log back in as many times as you need to before you submit your complaint to us.

To log back in you need to go to our secure [log in page](#), and use your email address and password to log in.

Go to the 'Dispute Resolution Service' section and here you will see '**Your Ongoing Complaints**' the complaint will be in the table under here.

Click on 'Resume Editing' and it will take you through the pages so that you can amend or add information, and continue through the submission process. We do not receive anything until you hit the 'Confirm and submit' button at the end.

### 7.8 Checking the dispute progress

At each stage we send out emailed notifications to you. However, you can log in to check on the progress at anytime.

Go to our secure [log in page](#), and use your email address and password to log in.

Go to the 'Dispute Resolution Service' section, here you will see '**Your Ongoing Complaints**' the complaint will be in the table under here.

Click on 'View details' to access the details for the complaint.

The boxes on the '**Details for complaint**' page will show you at what stage the complaint is at, your details, and the Respondent details – their Address and Contact will generally say [not yet determined] until they respond or until after the review date.

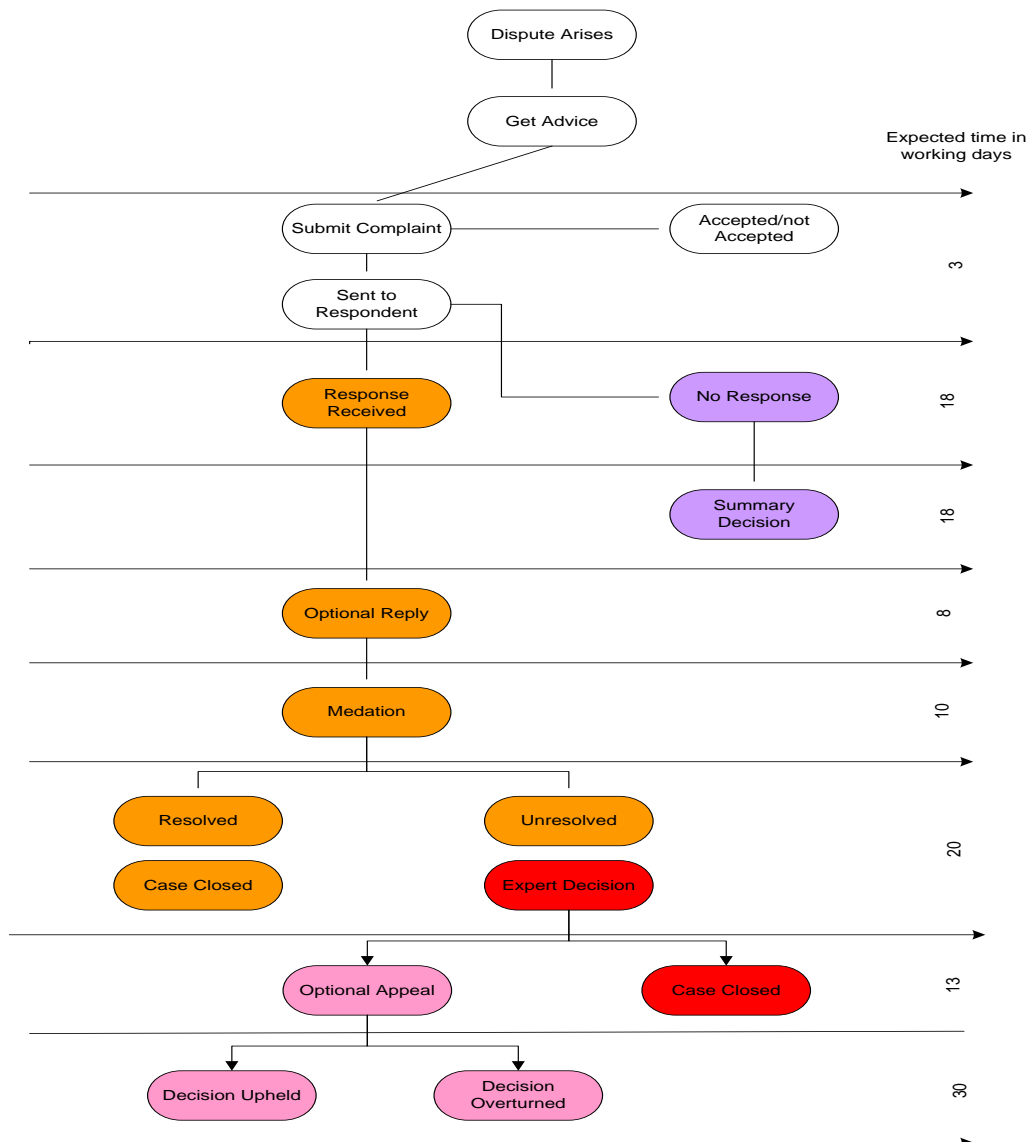
If you scroll to the bottom of this page you will see some buttons. Here is a brief explanation of what each page contains:

|                           |   |
|---------------------------|---|
| <b>Document Summary</b>   | Here the case documents are split into Key Documents, Recent Emails, Returned Correspondence and Notes. |
| <b>View all Documents</b> | You can download several or all documents at once, to view or print off.                                |
| <b>Your Complaints</b>    | Takes you back to the table of 'Your Ongoing Complaints'.   |

### 7.9 What happens to my complaint from once it is submitted?

The following flow chart shows the process and timescales

**Complaints Process**



## 7.10 How much will it cost me?

|   |                        |
|---|------------------------|
| To file a complaint   | FREE                   |
| To file a response  | FREE                   |
| To file a reply   | FREE                   |
| To file a non-standard submission                                   | FREE                   |
| Mediation   | FREE                   |
| Transfer of a domain name in mediation                              | Discussed in Mediation |
| <b>Decisions</b>  |                        |
| Summary decision (1 - 5 domain names, 1 complainant)                | £200 + VAT             |
| Summary decision (6+ domain names or 2+ complainants)               | By discussion          |
| Full decision (1 - 5 domain names, 1 complainant)                   | £750 + VAT             |
| Full decision (6+ domain names or 2+ complainants)                  | By discussion          |
| <b>Appeals</b>  |                        |
| Notice of intention to appeal (non-refundable)                      | £300 + VAT             |
| Notice of appeal (where there was a notice of intention to appeal)  | £2,700 + VAT           |
| Notice of appeal (where there was no notice of intention to appeal) | £3,000 + VAT           |

## 8. What happens if the respondent chooses not to respond?

It won't be possible for mediation to take place between the complainant and respondent.

You can choose whether to pay for a full decision or a summary decision from one of our independent adjudicators ("Experts").

### 8.1 Full decision or Summary decision? - Differences and Similarities

| Differences                              |                                 |
|--|---------------------------------|
| Full Decision                            | Summary Decision                |
| £750 + vat                               | £200 + vat                      |
| Only option after mediation has failed   | Only available if no response   |
| Expert writes up discussion and findings | Tick boxes                      |
| Reviewed by an Expert Reviewer           | No review by an Expert Reviewer |

### Similarities

- The Expert gets 15 working days to make their decision.
- Both decided on the basis of the tests set out in the DRS Policy and Procedure.
- The expert decides whether the Complainant has succeeded in showing that they have rights, and that the domain name, in the hands of the respondent, is an abusive registration.

PLEASE NOTE - The Expert decision fees for complaints with more than 6 domain names and/or with 2 or more complainants may be higher. We will set the fee in consultation with the Expert.

## 8.2 What is a summary decision?

The Expert will decide the case based on the DRS policy, the complaint and any additional evidence that the complainant has submitted.  
From their findings the Expert will tick the boxes to confirm if the complaint has been successful.

## 8.3 What is a full decision?

The Expert will decide the case based on the DRS policy, the complaint and any evidence, the response and any evidence and the reply and any evidence.  
The Expert will set out any outstanding procedural matters, the contentions of the parties, what has been accepted as fact, what their views are on the arguments and their decision.

Some parties have found it helpful, even where they can opt for a summary decision, to ask for a full decision. For example, they felt that it would be useful to know the strengths and weaknesses of their complaint for reference in future complaints.

## 8.4 Must the expert give a summary decision if I ask for one?

No. An Expert will only give a summary decision where they are satisfied that it is not 'unconscionable' to do so.

This means that if the facts are particularly complex, or if there is some other reason that a summary decision would not be appropriate, the Expert may decline to give a summary decision.

In that case, the Complainant's only option is to either pay for a full decision or withdraw the complaint.

## 8.5 How do I let you know what type of decision I want?

Just pay the right invoice. Do not pay both of them!

### PAYMENT TIPS

#### BACS Payments

- Allow 5 working days for payment to reach us.
- Add your case number and invoice number as the reference
- Notify us that a payment has been made.

#### Overseas Payments

- You must pay all bank charges.
- Allow 6 working days for payment to reach us
- Notify us when the payment has been made.

## 9. What happens when a Respondent responds?

We will forward their response to you by email within 3 working days.

You will have 5 working days to submit a Reply.

Your Reply should be submitted through Online Services, in the same way as you originally submitted your complaint.

### 9.1 What is the purpose of a Reply?

To allow you an opportunity to address any new matters raised in the Respondent's Response, and which were not addressed in your original complaint.

You cannot use the Reply to raise any new matters, for example, if you neglected to mention a relevant factor in the Complaint.

The Reply must be no more than 2,000 words in length (excluding any annexes).

### 9.2 What happens after I Reply?

We will email the reply to both parties with a letter confirming the dates for Mediation.

If both parties agree to Mediation, one of Nominet's in-house mediators will conduct an informal mediation between the parties in an attempt to settle the dispute.

## 10. What is Mediation?

Mediation is one of the key features of the DRS process. It's an informal process directed by one of Nominet's non-lawyer, [CEDR accredited](#) mediators which aims to provide an opportunity for the two parties to explore possibilities for an amicable settlement to the dispute.

### 10.1 What are the key features of Nominet's mediation service?

Nominet's mediation service is:

- a. **Free.** Neither party has to pay any fees to enter into mediation.
- b. **Voluntary.** While we believe that mediation can often provide the best solutions for the parties, it is a voluntary process. If either or both parties do not wish to mediate, they do not have to.
- c. **Confidential on two levels.**
  - The parties can discuss things with the mediator that they wish to keep confidential from the other party. This can often help them to weigh up the value to them of any settlement options.
  - If a mediated settlement is reached, it remains confidential between the two parties. This means no details of the dispute itself or the settlement reached are made public. In sensitive disputes, this can be a major advantage for both parties.
- d. **Without Prejudice.** This means if a case does not settle in mediation and goes to an Expert decision nothing said by either party in mediation is seen by the adjudicating Expert. This means the parties can feel free to explore all options in mediation without the fear that this might affect their chances later should the case go to a decision.

## **10.2 How will mediation work?**

Once your case has moved onto the mediation phase one of our mediators will be assigned to the case. The mediator will then make contact with the two parties separately by telephone or email to explain the process and to make sure both parties are willing to mediate.

The mediator will then hold a series of discussions with the two parties in turn in order to help them explore and negotiate options for agreement. These discussions will be by telephone and/or email as the parties prefer.

## **10.3 Can I do anything useful to prepare for mediation?**

Mediation is an informal process, which works best when the two parties are willing to think flexibly about the problems that have led to the dispute and about possible ways of solving those problems. In preparation for mediation it can often be useful for the parties to think through where their interests lie, the potential costs and risks associated with any options available, and what might be negotiable for them and what is not.

This process can be difficult and our mediators are trained to aid the parties to do this. You will also be sent a 'preparation for mediation' questionnaire by the mediators, which you might find useful to complete to help you with the discussions.

## **10.4 Why should I mediate?**

The flexibility of mediation provides a number of advantages.

- a. In cases where the matters in dispute extend beyond just the domain name, mediation provides an opportunity for the Parties to discuss all aspects of the dispute.
- b. A wide range of settlement options can be discussed beyond the outcomes that an Expert is able to order in the decision process.
- c. Mediation allows the parties to find a settlement where they jointly remain in control of the outcome. In the decision process it is the Expert who has control over the outcome and there will always be a loser.

In most disputes a successful mediation cannot mean both parties getting everything they want. It can, however, mean both parties getting something that is realistic, enforceable, and which they can live with.

## **10.5 What happens if mediation is successful?**

If the parties reach a settlement in mediation the mediator will then assist the Parties where possible in putting the agreement into practice. This may involve the drawing up and signing by the parties of a formal settlement agreement.

## **10.6 What happens if mediation does not work?**

If mediation is not successful then you will have the option to pay the fee required to appoint an Expert to make a binding decision on the case. You are not obliged to do this. If you opt not to seek a decision, in most cases the dispute will then close with the disputed domain name remaining with the Respondent.

It's not a common outcome, but if you as the Complainant do not pay the Expert decision fee the Respondent is then given the option to pay the fee themselves. They may do this if they feel strongly that their registration and use of the domain name is fair and they wish to seek a ruling to confirm this.

## 11. Further statements/Non-standard submissions

The Policy and Procedure has three submissions in the course of a normal DRS case: the Complaint, Response and Reply. Those will automatically be passed in full to the Expert.

Anything else is called a "non-standard submission" and [DRS Procedure](#) 13 (b) applies to these.

### 11.1 Can I make any further submissions to the Expert in addition to the Complaint and Reply?

If you want to send a non-standard submission, you **must** comply with the 13(b) paragraph in the DRS Procedure, otherwise your submission may not be sent on.

It is important that there is a single, separate, first paragraph that focuses on the **exceptional need** and reason for the extra submission.

*PLEASE NOTE - Experts do not look kindly on attempts to abuse this mechanism in order to raise points which you should have raised in the complaint or reply.*

The full submission should contain the information you would like the Expert to see.

The Expert will read the first explanatory paragraph before deciding whether they wish to see the full submission. The DRS team will let you know if the Expert has agreed to read the full non-standard submission.

**TIP** A 13(b) submission requires two documents – the explanatory paragraph and the full submission - please email them to [drs@nominet.org.uk](mailto:drs@nominet.org.uk)

The Respondent will be able to view the explanatory paragraph online, and, if the Expert asks to see the full submission we will then make this viewable to the Respondents online too. The same applies to you if the Respondent submits a further statement.

As it is entirely at the Experts discretion whether or not to look at the further statement, **we strongly advise you to ensure that the complaint and reply contain all the relevant facts and arguments that you wish to make.**

### 11.2 Questions from the Expert

The Expert may choose to ask questions or ask for additional information from either party. This is done in accordance with paragraph 13(a) of the [DRS Procedure](#).

They will send these requests to the DRS team and we will then email them out to you and the Respondent.

If the request was for you, we would send you an email with '13a expert request' in the subject line, copied to the Respondent, the email will contain;

- i. the instructions from the Expert,
- ii. a date by which you need to send the information to us,
- iii. a date by which the Respondent can to comment on any additional information/documents you have provided.

You would also be copied in on any 13a expert requests for the Respondent, and be sent the additional information to comment on.

*PLEASE NOTE - You do not have to respond, but please bear in mind that the Expert is asking these questions for a reason and the answer to the question may be important in persuading the Expert to decide in your favour.*

Please be aware that if the Expert requests some more information from you it may delay the final decision.

## 12. Decision

When we receive the decision from the Expert we will email it out to the parties.

With the decision you will also receive a letter confirming the date for the appeal deadline, and the appeal invoices addressed to the losing party.

Please read through the decision, this will explain what decision has been made, and with the full decisions you can read through the experts reasoning behind the decision.

## 13. Appeal Process

If you are unhappy with the decision the Expert has given (for whatever reason), you can appeal it. Likewise, if the Respondent is unhappy with the decision, they can appeal.

### 13.1 What should I do if I disagree with the expert's decision?

The only way an Expert decision can be changed is by successfully appealing it.

Appeals must be started within 10 working days of the parties being sent the original decision, if there is no appeal the original decision will stand and the DRS complaint will be closed.

Appeals cost £3,000 plus VAT and are decided by a panel of three Experts. Appeal panels consist of the Chairman of the Independent Experts and two of the Expert Review Group. They will not have had any involvement in the original decision.

### 13.2 How do I Appeal?

There are two ways to start an appeal:

- 1) If you need time to prepare a full Appeal Notice, you can choose to submit your Statement of Intent to appeal, along with a deposit of £300 plus VAT. **This deposit is non-refundable regardless of whether you decide to go ahead with the appeal.**

The statement of Intent to Appeal must be submitted to [drs@nominet.org.uk](mailto:drs@nominet.org.uk) on or before the deadline date set out in the notification of expert decision letter you receive from us with the completed decision.

Once you have filed this statement of intent and paid the deposit, you will have a further 15 working days before you must submit your full Appeal Notice, and pay the balance of the appeal fee.

- 2) Alternatively, you can choose to submit your full Appeal Notice and pay the entire £3,000 plus VAT appeal fee without the Statement of Intent to appeal.

As before, the Appeal Notice must be submitted to [drs@nominet.org.uk](mailto:drs@nominet.org.uk), and the fee paid, on or before the deadline date set in the notification of expert decision letter.

### 13.3 What is a 'Statement of Intent' to appeal?

- A simple email notification to [drs@nominet.org.uk](mailto:drs@nominet.org.uk) that you intend to appeal the decision.
- It does **not** need to contain the actual grounds or reasons for appeal.
- Confirmation of this intent to appeal will be sent out to the parties.
- This must be followed within 15 working days by an appeal notice and the balance of the fee (£2,700 plus VAT), if not we will close the complaint and the original decision will stand.

### 13.4 What is the 'Appeal Notice'?

- It must set out the detailed grounds and reasons for the appeal.
- It must not contain any new evidence or annexes.
- It can be up to 1,000 words.
- The appeal notice will be sent to the other party and they will get a chance to respond.

### 13.5 What is the 'Appeal Notice Response'?

- It must set out the detailed grounds and reasons why the appeal should be rejected.
- It must not contain any new evidence or annexes.
- It can be up to 1,000 words.
- You have 10 working days to file an appeal notice response.
- The appeal notice response, if received, will be forwarded to the other party and the appeal panel will be approached and appointed.

### 13.6 The Appeal Decision

The appeal panel have 30 working days in which to consider the appeal. This means that they:

- i. will re-examine the complaint, response and reply;
- ii. will consider whether to examine any non-standard submissions;
- iii. will consider the contents of the appeal notice and appeal response;
- iv. may review procedural matters.

The panel will comment on any differences between their decision and the original decision, but will not otherwise base their appeal decision on it.

The appeal decision will be a full decision (regardless of whether the initial decision was a summary decision or a full decision). Nominet will forward the appeal decision to the parties within 3 working days of receiving it, and we will implement the decision 10 working days afterwards.

### 13.7 What can I do if I miss the appeal deadline?

Deadlines in the DRS are strict. We are unable to process the appeal if we do not receive the intent to appeal and deposit, or the appeal notice and the full payment on or before the appeal deadline date set out in your notification of expert decision letter.

If you miss your deadline there may be other options open to you outside of the DRS to resolve the dispute. Please seek your own independent legal advice on this.

### 13.8 Can I resubmit the complaint?

These are discouraged and only permitted in very exceptional circumstances.

If a Complainant is unhappy with a decision, ordinarily the appropriate step for the Complainant to take is to appeal the decision, not seek to have a "second bite of the cherry".

Whether or not a Complaint is a repeat or re-filed Complaint is a matter for the Expert, which means that you will have to pay the expert decision fee not knowing whether they will accept it or not.

The Experts will reject complaints without examining the submissions if they regard them as a resubmission of a previous complaint.

### 13.9 What can I do if I am unhappy with the Appeal Decision?

If you disagree with an appeal decision, then the DRS is unable to help you any further.

There may be other options open to you outside of the DRS to resolve the dispute. Please seek your own independent legal advice on this.

## 14. Implementing the Expert decision

The Expert's decision is binding, if there is no appeal here is what we will do after the appeal deadline has passed. In each case we will send out email confirmation to both parties and the DRS case will then be closed.

| Outcome      | Action  |
|--------------|---|
| Transfer     | <p>We will transfer the domain name to the complainant details you set up when submitting the complaint to us – <i>which is why it is important that this is set up correctly.</i></p> <p>When we confirm that the domain name has been transferred we will ask you for your new registrar tag.</p> |
| No Action    | The domain name will remain with the Respondent.  |
| Cancellation | The domain name will be scheduled for cancellation.   |
| Suspension   | The domain name will be suspended (this means that it is prevented from working) until it is due for renewal when it will be cancelled.   |

## 15. Transfer before Mediation or Expert decision

In some cases the Respondent will come back to us and say that the Complainant can just have the domain name. If this is the case with your complaint, here is what we will do.

We will ask for written confirmation from the Registrant, notify the parties that they have agreed to transfer the domain name to the complainant and then complete the transfer for you.

When we confirm that the domain name has been transferred we will ask you for your new registrar tag.

The DRS case will then be closed.