

## PDP 3.0 Improvement #3: Criteria for Joining of New Working Group Members

Section 2.2.1 of the GNSO Working Group Guidelines describes the expectations for the participation of Working Group members. The Guidelines do not differentiate between existing or new members who join after a Working Group's formation, so the expectations and requirements are presumed to apply to members who join at any time after a Working Group has been established.

There are several reasons Working Group members may join after a Working Group is established, provided that this is permitted by the Charter, as some types of Working Groups -- Expedited PDP, Cross-Community Working Group, or others -- may have Charter restrictions relating to membership. For example, prospective members may not have been aware of the effort, or they were of the view that their perspective was not well represented. However, new members may not join for reasons that the GNSO Council does not procedurally support, such as reopening old conversations or delaying certain conversations in bad faith to delay the progress of the Working Group. As such, this document outlines a number of considerations that Working Group Leaders and Working Groups may want to factor in as they consider whether or not to accept members after the start of the effort, and if so, what can be done to ensure that new members get quickly up to speed and are aware of the expectations.

The existing practice as stated in the Working Group Guidelines is that anyone can join a Working Group at any point as long as they get up to speed and do not reopen previously closed topics, unless they provide new information. (Going forward, this will be dependent on the model of Working Group chosen as most appropriate for the subject. All members will also be expected to agree to the Statement of Participation<sup>9</sup>).

In particular, Section 3.3 Process Integrity states:

“WG members should be mindful that, once input/comment periods have been closed, discussions or decisions should not be resurrected unless there is group consensus that the issue should be revisited in light of new information that has been introduced. If the reopening is perceived as abusive or dilatory, a WG member may appeal to the Chair (see Section 3.7).”

In addition, Section 6.1.3 Purpose, Expectations, and Importance of the Chair states:

“In addition, the Chair should be able to ensure that anyone joining a Working Group after it has begun has reviewed all documents and mailing list postings and agrees not to reopen previously decided questions. However, if there is support from the Chair to reopen an issue

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<sup>9</sup> See PDP 3.0 Improvement #1 Statement of Participation

in light of new information that is provided either by a new member or an existing member of the Working Group, this should be possible.”

Nonetheless, the Working Group Guidelines do not prevent Working Group Leaders from deciding, in consultation with the Working Group, that a Working Group has progressed too far along in its work for a new member to develop the requisite knowledge and skill level to contribute as required by Section 2.2.1. If the Working Group finds that the Leaders are not being impartial in this determination, it may appeal according to section 3.7 of the Working Group Guidelines. The Working Group could decide to suspend new membership for several reasons. Examples include:

- The Working Group has produced its Initial Report, analyzed public comments, and is in the midst of a consensus process for its Final Report;
- The Working Group is nearing the end of a complex and lengthy policy development process and although it has not produced a Final Report, the status of the work is that the Working Group is too close to finalize its work such that new members would not be able to meaningfully contribute;
- Someone wishes to join a Sub Team/Subset of the Working Group, but that Sub Team/Set has completed its work and passed its recommendations to the full Working Group;
- The Working Group Charter dictates levels of representation and the new member would alter that level of representation.

There could be exceptions, such as when a member from a particular SO/AC wishes to stay involved after they move to another job, or if the working group has a Representative Model or a Representative & Open Model, and an appointed member has left and thus must be replaced. In the case where levels of representation may need to be maintained, the relevant group that appoints the member who can no longer participate for any reason may nominate a replacement at any time during the lifespan of the working group, so long as the replacement should have the skills and capacity to participate. The group appointing the replacement should make the effort to appropriately prepare the new member.

The Working Group Guidelines do not prevent any member from changing his or her affiliation (e.g. to a different SO/AC) during the life of the Working Group, although a Working Group leader may question the timing of such a change if it happens (e.g.) just prior to the start of a Consensus Call, unless the Working Group is based on a particular shape of representation in its Charter.

The GNSO Council is not expected to play a role in determining whether or not new members may join after a Working Group is established, but may provide advice if requested by the Working Group leaders via consultation with the liaison.

The following Working Group Member Skills Guide may help to ensure that new members are sufficiently prepared for full participation in a Working Group per section 2.2.1 of the Working Group Guidelines. Going forward, Working Group leaders could decide to set or enforce certain criteria: while this has not been the practice to date, please refer to the outcome of the GNSO’s PDP 3.0 project.

This guide is intended as an aide to Working Group leaders and members, but it should clearly not be applied in such a way that new members are discouraged from joining Working Groups, or feel excluded. If a new member does not feel qualified to participate in a Working Group, there is also the option to join as an observer.

According to **PDP 3.0 Improvement #2**, during the chartering process of a working group, the GNSO Council may require that members/participants must have a certain level of expertise to carry out the policy development activities, and independent evaluation (e.g., GNSO Council Standing Selection Committee) may be conducted as appropriate in the specific circumstances to confirm whether members do have the required expertise.

Working group members are also expected to abide by the **Statement of Participation** as an outcome from PDP 3.0 Improvement #1. The Statement of Participation, including ICANN's Expected Standards of Behavior, is enforceable and the Working Group leadership and GNSO Council Leadership Team have the authority to restrict a member's participation in the event of non-compliance

## [Annex 1 - Reference to the GNSO Working Group Guidelines \(Version 3.5 - 24 October 2019\)](#)

### **2.2 Working Group Member Roles and Responsibilities**

The following is a description of standard WG roles. Typically, the Charter will outline the desired qualities and skills a WG Chair should possess, the role and name of the official liaison to the Chartering Organization, and any key Staff or other experts assigned to the WG. Any additional roles that are not included here should be listed in the WG Charter, including a description and minimal set of functions/duties to the extent that the chartering organization might wish to specify them.

A suggested procedure to conduct elections may be:

- Nominations or self-nominations;
- Statements of qualifications from candidates, which sets forth the qualifications, qualities and experience that they possess that will serve the particular WG;
- Vote by simple majority;
- Notification of and subsequent confirmation by the Chartering Organization of results of actions.

#### **2.2.5 Members**

WG members as a whole are expected to participate, contribute and drive the work of the group. It is the responsibility of the WG members to make sure that any initial drafts represent as much of the diversity of views as possible. This may be done by either asking multiple WG members to contribute text that may be assembled with the help of staff, or for a drafting subgroup to be established to

produce such an initial draft. While staff may be asked to help in assembling initial drafts, the WG is responsible for driving the work. Examples of member responsibilities include:

- Develop and draft working-group documents;
- Contribute ideas and knowledge to working group discussions;
- Act as liaisons between the Working Group and their respective stakeholder groups or constituencies;
- Ensure that stakeholder group or constituency statements are developed in an informed and timely way; and
- Actively and constructively participate in the consensus decision making process.

### **3.3 Process Integrity**

WGs are encouraged to focus and tailor their work efforts to achieve the identified goals of the Charter. While minimum attendance and participation requirements are not explicitly recommended, a Chair is expected, as outlined above, to take the necessary measures to ensure that all WG members have an opportunity to provide their input on issues and decisions. WG members should be mindful that, once input/comment periods have been closed, discussions or decisions should not be resurrected unless there is group consensus that the issue should be revisited in light of new information that has been introduced. If the reopening is perceived as abusive or dilatory, a WG member may appeal to the Chair (see Section 3.7).

Members are expected to participate faithfully in the WG's process (e.g., attending meetings, providing input OR monitoring discussions) and should formally withdraw if they find that they can no longer meet this expectation. Working group members may request a review by the Chair if a member disrupts the work or decision-making of the group as a result of inconsistent participation. It should be noted that there are no rules or requirements as to what constitutes sufficient or adequate 'participation;' this is an assessment that each WG member should make individually.

Public comments received as a result of a public comment forum held in relation to the activities of the WG should be carefully considered and analyzed. In addition, the WG is encouraged to explain their rationale for agreeing or disagreeing with the different comments received and, if appropriate, how these will be addressed in the report of the WG