

# ICANN | GNSO

Generic Names Supporting Organization

**WG Name:** Policy Development Process to Review the Transfer Policy

## Section I: Working Group Identification

<b>Chartering Organization(s):</b>	Generic Names Supporting Organization (GNSO) Council	
<b>Charter Approval Date:</b>	24 March 2021	
<b>Name of WG Leadership:</b>	Roger Carney	
<b>Name(s) of Appointed Liaison(s):</b>	Gregory DiBiase	
<b>WG Workspace URL:</b>	<a href="https://gns0.icann.org/en/group-activities/active/transfer-policy-review">https://gns0.icann.org/en/group-activities/active/transfer-policy-review</a>	
<b>WG Mailing List:</b>	<a href="https://mm.icann.org/pipermail/gns0-tpr/">https://mm.icann.org/pipermail/gns0-tpr/</a>	
<b>GNSO Council Resolution:</b>	<b>Title:</b>	Approval of the Charter for the Working Group to Conduct a Policy Development Process to Review the Transfer Policy
	<b>Ref # &amp; Link:</b>	20210324-3 <a href="https://gns0.icann.org/en/council/resolutions/2021#202103">https://gns0.icann.org/en/council/resolutions/2021#202103</a>
<b>Important Document Links:</b>	<ul style="list-style-type: none"><li>• <a href="#">Annex A GNSO Policy Development Process of the ICANN Bylaws</a></li><li>• <a href="#">GNSO PDP Manual</a></li><li>• <a href="#">GNSO Working Group Guidelines</a></li></ul>	

## Section II: Mission, Purpose, and Deliverables

**Mission & Scope:**

## Background

At its meeting on 18 February 2021, the GNSO Council unanimously adopted a motion to initiate a Policy Development Process (PDP) to review the Transfer Policy and determine if changes to the policy are needed to improve the ease, security, and efficacy of inter-registrar and inter-registrant transfers.

## Mission and Scope

The PDP to review the Transfer Policy Working Group (WG) is tasked to provide the GNSO Council with policy recommendations on the Transfer Policy; specifically, the WG is to conduct a review of the Transfer Policy and determine if changes to the policy are needed to improve the ease, security, and efficacy of inter-registrar and inter-registrant transfers. As part of this determination, the WG is, at a minimum, expected to consider the following elements of the Transfer Policy and answer the following charter questions during the course of its work.

## Phase 1(a)

As part of its deliberations, the PDP WG should, at a minimum, consider the following issues detailed in the [Final Issue Report](#). These are:

- Gaining Registrar FOA and Losing Registrar FOA
- AuthInfo Code Management
- Rec. 27, Wave 1 Report (as it relates to FOA requirements)
- Denying Transfers (Inter-Registrar Transfers)<sup>1</sup>

As a result, the WG should deliberate and consider the following Charter questions:

### a) Gaining Registrar FOA and Losing Registrar FOA

a1) Is the requirement of the Gaining FOA still needed? What evidence did the Working Group rely upon in making the determination that the Gaining FOA is or is not necessary to protect registrants?

a2) If the Working Group determines the Gaining FOA should still be a requirement, are any updates (apart from the text, which will likely need to be updated due to the gTLD Registration Data Policy) needed for the process? For example, should additional security requirements be added to the Gaining FOA (two-factor authentication)?

a3) The language from the Temporary Specification provides, “[u]ntil such time when the RDAP service (or other secure methods for transferring data) is required by ICANN to be

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<sup>1</sup> This topic was moved from Phase 2 to Phase 1(a) through a Project Change Request (PCR) approved by the GNSO Council on 16 December 2021.

offered, if the Gaining Registrar is unable to gain access to then-current Registration Data for a domain name subject of a transfer, the related requirements in the Transfer Policy will be superseded by the below provisions...”. What secure methods (if any) currently exist to allow for the secure transmission of then-current Registration Data for a domain name subject to an inter-registrar transfer request?

a4) If the Working Group determines the Gaining FOA is no longer needed, does the AuthInfo Code provide sufficient security? The Transfer Policy does not currently require specific security requirements around the AuthInfo Code. Should there be additional security requirements added to AuthInfo Codes, e.g., required syntax (length, characters), two-factor authentication, issuing restrictions, etc.?

a5) If the Working Group determines the Gaining FOA is no longer needed, does the transmission of the AuthInfo Code provide for a sufficient “paper trail” for auditing and compliance purposes?

#### **Additional Security Measures**

a6) Survey respondents noted that mandatory domain name locking is an additional security enhancement to prevent domain name hijacking and improper domain name transfers. The Transfer Policy does not currently require mandatory domain name locking; it allows a registrar to NACK an inter-registrar transfer if the inter-registrar transfer was requested within 60 days of the domain name’s creation date as shown in the registry RDDS record for the domain name or if the domain name is within 60 days after being transferred. Is mandatory domain name locking an additional requirement the Working Group believes should be added to the Transfer Policy?

#### **Losing FOA**

a7) Is the Losing FOA still required? If yes, are any updates necessary?

a8) Does the CPH Proposed Tech Ops Process represent a logical starting point for the future working group or policy body to start with? If so, does it provide sufficient security for registered name holders? If not, what updates should be considered?

a9) Are there additional inter-registrar transfer process proposals that should be considered in lieu of or in addition to the CPH TechOps Proposal? For example, should affirmative consent to the Losing FOA be considered as a measure of additional protection?

#### **b) Auth-Info Code Management**

b1) Is AuthInfo Code still a secure method for inter-registrar transfers? What evidence was used by the Working Group to make this determination?

b2) The registrar is currently the authoritative holder of the AuthInfo Code. Should this be maintained, or should the registry be the authoritative AuthInfo Code holder? Why?

b3) The Transfer Policy currently requires registrars to provide the AuthInfo Code to the registrant within five business days of a request. Is this an appropriate SLA for the registrar's provision of the AuthInfo Code, or does it need to be updated?

b4) The Transfer Policy does not currently require a standard Time to Live (TTL) for the AuthInfo Code. Should there be a standard Time To Live (TTL) for the AuthInfo Code? In other words, should the AuthInfo Code expire after a certain amount of time (hours, calendar days, etc.)?

### **Bulk Use of Auth-Info Codes**

b5) Should the ability for registrants to request AuthInfo Codes in bulk be streamlined and codified? If so, should additional security measures be considered?

b6) Does the CPH TechOps research provide a logical starting point for future policy work on AuthInfo Codes, or should other options be considered?

b7) Should required differentiated control panel access also be considered, i.e., the registered name holder is given greater access (including access to the auth code), and additional users, such as web developers would be given lower grade access in order to prevent domain name hijacking?

### **c) Wave 1, Recommendation 27**

c1) How should the identified issues be addressed?

c2) Can the FOA-related Transfer Policy issues (identified in paragraphs 5 and 9 of Wave 1 Report),<sup>2</sup> as well as the proposed updates to the Gaining and Losing FOAs, be discussed and reviewed during the review of FOAs?

### **h) Denying Transfers (Inter-Registrar Transfers)**

h1) Are the current reasons for denying or NACK-ing a transfer sufficiently clear? Should additional reasons be considered? For instance, ICANN Contractual Compliance has observed difficulties from registrars tying transfer denials involving domain names suspended for abusive activities to the denial instances contemplated by the Transfer Policy; or should any reasons be removed?

h2) Should additional guidance around cases subject to a UDRP decision be provided to ensure consistent treatment by all registrars? If so, is this something that should be considered by the

RPMs PDP Working Group's review of the UDRP, or should it be conducted within a Transfer Policy PDP?

## **Phase 1(b)**

As part of its deliberations, the PDP WG should, at a minimum, consider the following issues detailed in the [Final Issue Report](#). These are:

### **d) Change of Registrant**

#### **Change of Registrant – Overall Policy**

d1) According to the Transfer Policy Review Scoping Team Report, the Change of Registrant policy “does not achieve the stated goals” and “is not relevant in the current & future domain ownership system.” To what extent is this the case and why? Are the stated goals still valid? If the Change of Registrant policy is not meeting the stated goals and those goals are still valid, how should the goals be achieved?

d2) Data gathered in the Transfer Policy Status Report indicates that some registrants find Change of Registrant requirements burdensome and confusing. If the policy is retained, are there methods to make the Change of Registrant policy simpler while still maintaining safeguards against unwanted transfers?

d3) The Transfer Policy Review Scoping Team Report suggests that there should be further consideration of establishing a standalone policy for Change of Registrant. According to the Scoping Team, the policy should take into account the use case where a Change of Registrar occurs simultaneously with a Change of Registrant. To what extent should this issue be considered further? What are the potential benefits, if any, to making this change? To what extent does the policy need to provide specific guidance on cases where both the registrar and registrant are changed? Are there particular scenarios that need to be reviewed to determine the applicability of COR?

- Gaining Registrar allows a new customer to input the Registrant information when requesting an inbound inter-registrar transfer. The information entered by the customer does not match Registration Data available in the Whois display.
- In the case of “thin” domain names, the Gaining Registrar obtains information from the Registry.

If it is determined that the Change of Registrant policy should be retained and modified, the following specific areas may be appropriate for further review.

#### **60-Day Lock**

d4) Survey responses and data provided by ICANN's Global Support Center indicate that registrants do not understand the 60-day lock and express frustration when it prevents them from completing an inter-registrar transfer. Does the 60-day lock meet the objective of reducing the incidence of domain hijacking? What data is available to help answer this question? Is it

the 60-day lock the most appropriate and efficient mechanism for reducing the incidence of hijacking? If not, what alternative mechanisms might be used to meet the same goals? Are there technical solutions, such as those using the control panel or two-factor authentication, or other alternatives that should be explored?

d5) Survey responses and data provided by ICANN's Global Support Center and Contractual Compliance Department indicate that registrants have expressed significant frustration with their inability to remove the 60-day lock. If the 60-day lock is retained, to what extent should there be a process or options to remove the 60-day lock?

d6) Due to requirements under privacy law, certain previously public fields, such as registrant name and email may be redacted by the registrar. Is there data to support the idea that the lack of public access to this information has reduced the risk of hijacking and has therefore obviated the need for the 60-day lock when underlying registrant information is changed?

d7) In its survey response, the Registrar Stakeholder Group indicated that the 60-day lock hinders corporate acquisitions, consolidations, and divestitures of large lists of domains to new legal entities. To what extent should this concern be taken into consideration in reviewing the 60-day lock?

d8) If the policy is retained, are there areas of the existing policy that require clarification? For example, based on complaints received by ICANN Contractual Compliance, the following areas of the policy may be appropriate to review and clarify:

- There have been different interpretations of footnote 4 in the Transfer Policy, which states: "The Registrar may, but is not required to, impose restrictions on the removal of the lock described in Section II.C.2. For example, the Registrar will only remove the lock after five business days have passed, the lock removal must be authorized via the Prior Registrant's affirmative response to email, etc." Is the language in footnote 4 sufficiently clear as to whether registrars are permitted to remove the 60-day lock once imposed under the existing policy? If not, what revisions are needed?
- Should additional clarification be provided in Section II.C.1.3, which addresses how the information about the lock must be provided in a clear and conspicuous manner? Does the policy contemplate enough warning for registrants concerning the 60-day lock where they are requesting a COR?
- Should clarification be provided in Section II.C.2 that the option to opt-out is provided only to the Prior Registrant? For example, would the following revision be appropriate: "The Registrar must impose a 60-day inter-registrar transfer lock following a Change of Registrant, provided, however, that the Registrar may allow the **Prior Registrant** to opt out of the 60-day inter-registrar transfer lock prior to any Change of Registrant request."?

#### **Change of Registrant – Privacy/Proxy Customers**

d9) A Change of Registrant is defined as “a Material Change to any of the following: Prior Registrant name, Prior Registrant organization, Prior Registrant email address Administrative Contact email address, if there is no Prior Registrant email address.” Registrars have taken the position that the addition or removal to a privacy/proxy service is not a Change of Registrant; however, there is not currently an explicit carve-out for changes resulting from the addition or removal of privacy/proxy services vs. other changes. To what extent should the Change of Registrant policy, and the 60-day lock, apply to underlying registrant data when the registrant uses a privacy/proxy service?

- Registrars have identified a series of specific scenarios to consider in clarifying the application of COR policy requirements where the customer uses a privacy/proxy service.<sup>3</sup> Are there additional scenarios that need to be considered that are not included in this list?

d10) Should the policy be the same regardless of whether the registrant uses a privacy service or a proxy service? If not, how should these be treated differently?

d11) Are notifications provided to privacy/proxy customers regarding COR and changes to the privacy/proxy service information sufficient? For example, should there be additional notifications or warnings given to a privacy/proxy customer if the privacy/proxy service regularly changes the privacy/proxy anonymized email address?

### **Designated Agent**

d12) In its survey response, the Registrar Stakeholder Group indicated that, “There is . . . over-use of the Designated Agent, which has basically circumvented the policy.” To what extent is this the case? What is the impact?

d13) If the Designated Agent function is not operating as intended, should it be retained and modified? Eliminated?

d14) Are there alternative means to meet the objectives of Designated Agent role?

d15) Based on complaints received by ICANN’s Contractual Compliance Department, there appear to be different interpretations of the role and authority of the Designated Agent. If the Designated Agent function remains, should this flexibility be retained? Does the flexibility create the potential for abuse?

d16) If the role of the Designated Agent is to be clarified further, should it be narrowed with more specific instructions on when it is appropriate and how it is to be used?

- Should the Designated Agent be given blanket authority to approve any and all CORs? Or should the authority be limited to specific COR requests? Does the authority to

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<sup>3</sup> See Appendix A to the 1 December 2016 letter from the GNSO Council to the ICANN Board:  
<https://gnso.icann.org/sites/default/files/file/field-file-attach/bladel-to-crocker-01dec16-en.pdf>

approve a COR also include the authority to request/initiate a COR without the Registered Name Holder requesting the COR?

### **Additional Questions**

d17) The Registrar Stakeholder Group recommended the following in its survey response: “For a Change of Registrant, both the gaining and losing registrants should be notified of any requests, and should have the option accept or reject, over EPP notifications.” Should this proposal be pursued further? Why or why not?

#### **e) Wave 1, Recommendation 27**

e1) How should the identified issues be addressed?

e2) Can the Change of Registrant-related issue (identified in paragraph 6 of the Wave 1 report) be discussed and reviewed during the review of the Change of Registrant Process?

### **Phase 2**

As part of its deliberations, the PDP WG should, at a minimum, consider the following issues detailed in the [Final Issue Report](#). These are:

#### **f) Transfer Emergency Action Contact (Inter-Registrar Transfers)**

f1) Is additional data needed to support evaluation of the effectiveness of the TEAC mechanism? If so, what data is needed?

f2) The time frame (4 hours) for registrars to respond to communications via the TEAC channel has been raised as a concern by the Transfer Policy Review Scoping Team and in survey responses. Some have expressed that registries must, in practice, have 24x7 coverage by staff members with the appropriate competency to meet this requirement and the language skills to respond to communications from around the world. Is there merit to concerns that the requirement disproportionately impacts certain registrars, namely:

- i. Registrars located in regions outside of the Americas and Europe, because of significant time zone differences?
- ii. Small and medium-sized registrars, which may not have a sufficiently large team to have 24x7 staff coverage with the necessary competency?
- iii. Registrars in countries where English is not the primary language, who may, in practice, need to have English-speaking TEAC contacts to respond to requests in English?

f3) To what extent should the 4-hour time frame be revisited in light of these concerns? Are there alternative means to address the underlying concerns other than adjusting the time frame?



f4) Section I.A.4.6.2 of the Transfer Policy states that “Communications to a TEAC must be initiated in a timely manner, within a reasonable period of time following the alleged unauthorized loss of a domain.” The Transfer Policy Review Scoping Team noted that this timeframe should be more clearly defined. Is additional guidance needed to define a “reasonable period of time” after which registrars should be expected to use a standard dispute resolution process?

f5) According to section I.A.4.6.2 of the Transfer Policy, the TEAC may be designated as a telephone number, and therefore some TEAC communications may take place by phone. The Transfer Policy Review Scoping Team flagged this provision as a potential item for further consideration. Do telephone communications provide a sufficient “paper trail” for registrars who may later wish to request a transfer “undo” based on failure by a TEAC to respond? Such a request would require the registrar to provide evidence that a phone call was made and not answered, or a call back was not received within 4 hours. Noting this requirement, should the option to communicate by phone be eliminated? Is an authoritative “system of record” for TEAC communications warranted? If so, what are the requirements for such a system?

f6) The Transfer Policy Review Scoping Team indicated that there are several factors that make a Registry Operator’s obligation to “undo” a transfer under Section 6.4 of the Transfer Policy challenging:

- i. Registry Operators do not have access to the designated TEACs for each Registrar, making validation of an undo request nearly impossible.
- ii. There is no way for Registry Operators to independently verify that a Registrar did not respond within the required time frame or at all since Registry Operators are not a party to, or copied on, communications between the Registrar TEACs.
- iii. Transfer “undo” requests associated with the failure of a TEAC to respond are unilateral so there is no validation required prior to a Registry Operator taking action. This has, on occasion, led to a “he said”, “she said” scenario.
- iv. Follow on to f6 iii., if the policy were to be updated to allow for some level of validation by the Registry Operator prior to taking action, the requirement to “undo” a transfer within 5 calendar days of receiving an TEAC undo request leaves little to no time to attempt to validate the request prior to taking the action.

f7) To what extent are changes to the policy needed to address these concerns? Are there other pain points for Registry Operators that need to be considered in the review of the policy in this regard?

**g) Transfer Dispute Resolution Policy (Inter-Registrar Transfers)**

g1) Is there enough information available to determine if the TDRP is an effective mechanism for resolving disputes between registrars in cases of alleged violations of the IRTP? If not, what additional information is needed to make this determination?

g2) The ADNDRC reported to the IRTP Part D Working Group that in some of the cases it processed, appellees and appellants failed to provide sufficient information to support arbitration. Is this an issue that needs to be examined further in the context of the policy?

i. Are the existing informational materials about the TDRP sufficient to ensure that registrars understand the process and the requirements for filing a dispute, including the information they need to give to the dispute resolution provider?

g3) If the TDRP is considered to be insufficient:

i. Are additional mechanisms needed to supplement the TDRP?

ii. Should the approach to the TDRP itself be reconsidered?

g4) Are requirements for the processing of registration data, as specified in the TDRP, compliant with data protection law?

g5) Are requirements for the processing of registration data, as specified in the TDRP, appropriate based on principles of privacy by design and data processing minimization?

i) **ICANN-approved Transfers**

i1) In light of these challenges described in section 3.1.7.2 of the Final Issue Report, should the required fee in Section I.B.2 of the Transfer Policy be revisited or removed in certain circumstances?

i2) Should the scope of voluntary bulk transfers, including partial bulk transfers, be expanded and/or made uniform across all registry operators? If so, what types of rules and considerations should govern voluntary bulk transfers and partial bulk transfers?

j) **Wave 1, Recommendation 27 Report (Inter-Registrar and Inter-Registrant Transfers)**

j1) How should the identified issues be addressed?

j2) Can the identified Transfer Policy Dispute Resolution Policy Issues (noted in TDRP questions 1-5 of the Wave 1 report) be discussed and reviewed during the review of the TDRP?

j3) Are there any Transfer Policy or Transfer Dispute Resolution Policy issues that were not captured in the Recommendation 27 Wave 1 Report that need to be considered?

j4) Should these issues, or a subset of these issues, be resolved urgently rather than waiting for the respective PDP Working Group?

## Deliverables:

To develop, at a minimum, a Phase 1a Initial Report, a Phase 1b Initial Report, a Phase 1 Final Report, a Phase 2 Initial Report and a Phase 2 Final Report regarding the WG's recommendations on the eight issues identified in the Final Issue Report relating to the Transfer Policy, following the processes described in Annex A of the ICANN Bylaws and the GNSO PDP Manual.

If the WG concludes with any recommendations, the WG shall (or recommend the subsequent policy Implementation Review Team to) conduct a policy impact analysis and identify a set of metrics to measure the effectiveness of the policy change, including source(s) of baseline data for that purpose. The following draft policy goals and metrics may be refined further by the Working Group.

- **Identification of policy goals**

The previous IRTP WGs reviewed and suggested improvements to the Transfer Policy based on the following underlying goals:

- (1) Enabling registered name holders to move their domain names to a new provider, thereby increasing consumer choice and competition;
- (2) Ensuring the IRTP includes sufficient protections to prevent fraudulent domain name transfers and domain name hijacking;
- (3) Clarifying the language of the IRTP so that ICANN-accredited registrars consistently interpret and apply the policy;
- (4) Clarifying the language and visibility of the Transfer Dispute Resolution Policy so that providers/panelists consistently interpret and apply the policy.

The Working Group may consider whether these previously identified policy goals are still appropriate or whether new are goals needed.

- **Identification of metrics used to measure whether policy goals are achieved**

### Phase 1(a)

Based on the above-referenced policy goals, the following metrics may be helpful in identifying if a change to FOA or auth-code requirements has resulted in a change to the portability of domain names or the security of domain name transfers:

- Number of inter-registrar transfers successfully completed, i.e., could less successful inter-registrar transfers indicate the policy changes have resulted in an unintended domain name portability issue?
- Number of inter-registrar transfers denied/NACKed
- Number of times the TEAC was contacted due to an improper transfer
- Number of ICANN Compliance complaints related to domain name hijacking (has there been an increase?)
- Number of ICANN Compliance complaints related to inability to retrieve AuthInfo Code

- Online survey to groups within the ICANN Community to gather input on the specific changes to the Transfer Policy - have the changes resulted in increased security? Are the changes being applied consistently by registrars and registries?

Based on the above-referenced policy goals, the following metrics may be helpful in identifying if a change to reasons for NACKing/denying transfers has resulted in a change to the portability of domain names or the prevention of fraudulent transfers:

- Number of successful inter-registrar transfers vs. number of inter-registrar transfers denied/NACKed
- Number of NACK-related compliance complaints
- Number of UDRP-NACKing related compliance complaints

#### Phase 1(b)

Based on the above-referenced policy goals, the following metrics may be helpful in identifying if a change to the Change of Registrant process has resulted in a change to the portability of domain names or the prevention of fraudulent transfers:

- Number of Change of Registrants successfully completed, i.e., could a decrease in the number of Change of Registrants indicate the policy changes have resulted in an unintended domain name portability issue?
- Number of ICANN Compliance complaints related to domain name hijacking (has there been an increase?)
- Number of ICANN Compliance complaints related to the 60-day inter-registrar transfer lock?
- Online survey to groups within the ICANN Community to gather input on the specific changes to the Transfer Policy - have the changes resulted in increased security? Are the changes being applied consistently by registrars and registries?

#### Phase 2

Based on the above-referenced policy goals, the following metrics may be helpful in identifying if a change to the TEAC requirements has resulted in a change to the portability of domain names or the prevention of fraudulent transfers:

- Total number of TEAC requests
- Number of TEAC requests responded to within the required timeframe vs. number of TEAC requests NOT responded to within the required timeframe
- Number of TEAC requests resulting in a “transfer undo”
- Number of TEAC-related compliance complaints

Based on the above-referenced policy goals, the following metrics may be helpful in identifying if a change to the TDRP requirements has resulted in increased visibility and consistent interpretation of the TDRP:

- Number of TDRP cases filed before and after changes (if any) go into effect
- Number of TDRP-related compliance complaints

Based on the above-referenced policy goals, the following metrics may be helpful in identifying if updates (if any) to ICANN-approved transfers has resulted in a change to the portability of domain names and protection of registrants:

- Number of ICANN-approved bulk transfers
  - Number of requested bulk transfers not approved by ICANN
  - Number of complaints received by ICANN Compliance related to ICANN-approved bulk transfers
- **Identification of potential problems in attaining the data or developing the metrics**
    - Obtaining survey responses from registrants may prove difficult
  - **A suggested timeframe in which the measures should be performed**
    - Approximately one year following the implementation of Transfer Policy changes
  - **Define current state baselines of the policy and define initial benchmarks that define success or failure**
  - **Metrics may include but not limited to (Refer to the [Hints & Tips](#) Page):**
    - ICANN Compliance data
    - Industry metric sources
    - Community input via public comment
    - Surveys or studies

#### **Data and Metric Requirements:**

The WG should as soon as practicable:

1. Determine a set of questions which, when answered, provide the insight necessary to achieve the policy goals.

Policy goal of domain name portability:

- (1) Have the recommended updates to the Transfer Policy (if any) resulted in a statistically significant change to the number of inter-registrar transfers? For example, if there is a statistically significant change to the number of requested inter-registrar transfers, the policy updates may have inhibited the underlying goals of domain name portability.
- (2) Have changes to the FOAs (if any) resulted in a statistically significant increase in the number of (i) ICANN compliance complaints regarding improper transfers (ii) TEAC communications regarding improper transfers or (iii) TDRP filings?

Policy goal of ensuring the IRTP includes sufficient protections to prevent fraudulent domain name transfers and domain name hijacking:

- (3) If security improvements are recommended to the AuthInfo Code, has there been a statistically significant decrease in the amount (i) ICANN compliance complaints regarding improper transfers (ii) TEAC communications regarding improper transfers or (iii) TDRP filings?
- (4) If security improvements are recommended to the Change of Registrant process, (i) ICANN compliance complaints regarding improper transfers (ii) TEAC communications regarding improper transfers or (iii) TDRP filings?
- (5) Have changes to TEAC requirements (if any) resulted in a statistically significant change to ICANN compliance complaints regarding improper transfers?

Policy goal of clarifying the language of the IRTP so that ICANN-accredited registrars consistently interpret and apply the policy:

- (6) Is there data, via audits or Contractual Compliance complaints, showing that registrars have applied the updated policy language, implemented as a result of these policy recommendations, inconsistently?

Policy goal of clarifying the language and visibility of the Transfer Dispute Resolution Policy so that providers/panelists consistently interpret and apply the policy.

- (7) If changes have been made to the TDRP, has there been a statistically significant change in the amount of (i) TDRP-related compliance inquiries or (ii) TDRP filings?

2. Determine whether certain data is required to help understand a specific issue or answer a charter question.

With respect to charter question a1, has there been a statistically significant increase in the number of contractual compliance complaints related to improper inter-registrar transfers following 25 May 2018, the effective date of the Temporary Specification (when the Gaining FOA requirement was eliminated in certain instances)?

3. Determine a set of data and metrics which can be collected and analyzed to help answer the specific question.
4. Submit a Working Group Metrics Request Form (see GNSO Working Group Guidelines Section 4.5), if data gathering at the charter drafting phase or during the working phase is deemed necessary.

WG leaders shall review the Guidance document below to understand the need for performing due diligence before submitting a data gathering request to the GNSO Council.

**Guidance:** [Checklist: Criteria to Evaluate Request for Data Gathering](#)

## Section III: Project Management

### Work Product Requirement:

The WG shall respect the timelines and deliverables as outlined in Annex A of the ICANN Bylaws and the PDP Manual. The WG leadership, in collaboration with the WG support staff and GNSO Council liaison, shall use a standard set of project management work products that help plan, guide, track, and report the progress of the WG from start to finish, and include the necessary data and information to assess the progress of the WG. These work products include:

- Summary Timeline
- Project Situation Report
- Project Plan
- Work Plan
- Action Items

**Guidance:** [GNSO Project Work Product Catalog](#)

### Project Status & Condition Assessment:

The WG leadership, in collaboration with the WG support staff and the GNSO Council liaison, shall assess the Status and Condition of the project at least once a month. Such frequency is required in preparation for the GNSO Council monthly meeting, where At-Risk or In-Trouble projects are subject to review by GNSO Council leadership, and in some instances may be deliberated by the full GNSO Council.

The WG leadership, in collaboration with the WG support staff and the GNSO Council Liaison, shall use an escalation procedure (see Guidance documents below), which defines specific conditions that trigger the execution of a repeatable mitigation plan. The objective of this exercise is to return the project to an acceptable state ultimately achieving its planned outcomes.

**Guidance:** [Project Status and Condition Change Procedure](#)

### **Project Change Request:**

The WG shall submit a Project Change Request (PCR) Form to the GNSO Council when its deliverable and baseline delivery date are revised. The PCR shall include a rationale for why these changes were made, their impacts on the overall timeframe of the PDP or any other interdependencies, and a proposed remediation plan.

The use of the PCR mostly occurs when primary deliverable dates are changed due to unforeseen or extreme circumstance. However, it can also be used to document changes in the deliverable requirements that may not have been identified in the chartering process.

When the PCR is required, it should be completed by the WG leadership team and it will likely be presented to the GNSO Council for approval.

**Guidance:** [Project Change Request Form](#)

### **Resources Tracking:**

The purpose for resource tracking is to deliver its work according to the work plan and be responsible for managing these resources.

For projects where dedicated funds are provided outside of budgeted policy activities, the WG shall provide regular budget versus actual expense reporting updates using a GNSO approved tool to allow for a better tracking of the use of resources and budget.

**Guidance:** [GNSO Project Work Product Catalog](#)

## **Section IV: Formation, Staffing, and Organization**

### **Working Group Model:**



The WG will use a Representative Model. Please see the Membership Structure Section, below, for further details.

### **Membership Structure:**

The WG will use a member/alternate/observer model, comprised of:

**Members**, who are responsible for active participation, preliminary deliberations, and consensus;

**Alternates**, who only participate if a Member is not available, but will be responsible for keeping up with all relevant WG deliberations to ensure they remain informed and can contribute when needed;

**Observers**, who may actively follow the work of the Transfer Policy Review WG, but will not have posting or speaking rights during WG meetings.

Description of Transfer Policy Review Working Group roles:

- **WG Members:** Members are expected to commit to the Statement of Participation as well as participate in any WG consensus calls, as applicable. Members are required to represent the formal position of their appointing organization, not individual views or positions. Each GNSO SG/C and each SO/AC are encouraged to nominate at least one member to participate (see additional details about the WG composition below). In the event a GNSO SG/C or SO/AC is unable to nominate a member, at least one observer (defined below) should be responsible for keeping their respective group informed of milestones and potential recommendations that may affect the group.
- **WG Observers:** Anyone interested in this effort may join as an observer – observers are subscribed to the mailing list on a read-only basis but are NOT able to post. Similarly, observers are NOT invited to participate in WG meetings. Recordings / transcripts of meetings will be available to observers and are also posted publicly. Observers are asked to coordinate through their group’s appointed Members where appropriate, and, of course, may respond to all public comment proceedings.
- **Alternates:** Alternates will only participate if a Member is not available. Alternates will be responsible for keeping up with all relevant WG deliberations to ensure they remain informed and can contribute when needed.
- **GNSO Council Liaison:** The GNSO Council shall appoint a liaison who is accountable to the GNSO. The liaison must be a member of the Council, and the Council recommends the liaison be a Council member able to serve during the life of this WG. Generally speaking, the liaison is expected to fulfill the liaison role in a neutral manner, monitor the discussions of the Working Group and assist/ inform the Chair and the WG as required.

### Membership Structure

The membership structure of this PDP is based on a representative model taking into account the unique characteristics of this Working Group, including, expertise and technical knowledge of

the Transfer Policy, interest in the topic and impact of PDP outcome. However, the composition of this Working Group should not serve as a precedent for the composition of future PDP Working Groups, in particular with respect to the number of members representing each SO/AC/SG/C.

\*Note that some groups may choose not to appoint any members to the WG. The table below indicates the maximum number of members and alternates that groups may appoint.

<b>Group</b>	<b>Members</b>	<b>Alternates</b>
RrSG	10	10
RySG	3	3
IPC	2	2
BC	2	2
ISPCP	2	2
NCSG	2	2
GAC	2	2
ALAC	2	2
SSAC	2	2
RSSAC	2	2
ccNSO	2	2
ASO	2	2

**Membership Criteria:**

**A. Expected Skills for Working Group Members**

WG members shall review the full text of the Guidance document below to understand the responsibilities and skills that they are expected to have in order to fully participate in the WG activities.

**Guidance:** [Working Group Member Skills Guide](#)

Working Group Members and Alternates must possess:

- Knowledge of Transfer Policy issue, background and current work status (technical knowledge of inter-registrar transfers is strongly preferred);
- Commitment to participating in Working Group meetings on a regular and ongoing basis;
- Ability to create factual, relevant and easily understandable messages, and able to succinctly deliver them to the Working Group;
- Ability to deliver a point constructively and concisely;
- Familiarity with the following sections of the Working Group Guidelines:
  - Section 4.1 Session Planning – General Meeting Logistics
  - Section 4.2 Communication/Collaboration Tools
- Effective oral, written, and interpersonal communication skills (in simple, comprehensible English);
- Research skills with the ability to discern factual, factually relevant, and persuasive details and sources;
- Commitment to manage a diverse workload, while collaborating with a Working Group of individuals with different backgrounds and interests in driving objectives;
- In depth knowledge of Working Group discussions, actions taken at meetings, and deliverables;
- Understanding of the perspectives and interests of the members' own stakeholder group or constituency;
- Project management skills in driving the completion of SG/C statements in a timely manner.

## **B. Joining of New Members After Project Launch**

As this WG is using a representative model, new members will only join after the launch of the PDP if a current member is no longer able to continue in its membership, and no alternates are available to fill in. New 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.

Membership will be confirmed at the start of each phase of this PDP. If a group chooses not to participate in the first phase, this does not disqualify the group from appointing members for future phases. Additionally, groups may choose to appoint new members or reconfirm the same members at the start of each phase of this PDP.

**Guidance:** [Criteria for Joining of New Members After a PDP Working Group is Formed or Rechartered](#)

### **C. Experts Contributors**

Expert contributors are not expected to participate in any consensus designation process, but provide perspective/expertise/knowledge to the PDP WG.

The Council may be able to use an independent evaluation process (e.g., GNSO Council Standing Selection Committee) to confirm whether those individuals have demonstrated the expertise/knowledge/perspective.

### **Leadership Structure:**

The GNSO Council will appoint a qualified Chair for the WG. The WG, once formed, may select one or two Vice Chairs to assist the Chair.

### **Leadership Criteria:**

WG leaders shall review the full text of the Guidance document below to understand the expectations for WG leaders, including their role & responsibilities as well as minimum skills/expertise required.

In short, a WG leader is expected to:

- Encourage representational balance
- Encourage adherence to ICANN's Expected Standards of Behavior & Community Anti-Harassment Policy
- Ensure WG documents represent the diversity of views
- Make consensus designation on working group recommendations
- Handle working group complaint process
- Be versed in GNSO Operating Procedures
- Assume a neutral and impartial role
- Build consensus
- Balance working group openness with effectiveness
- Make time commitment

The GNSO Council will appoint a qualified Chair for the WG. Below is a description of the qualifications and role of the Chair for this WG. The WG, once formed, will select one or two Vice Chairs to assist the Chair. Should at any point a Vice Chair need to step into the role of Chair, the same expectations with regards to fulfilling the role of chair as outlined in this charter will apply. The GNSO Council leadership and Standing Selection Committee leadership will jointly review the responses and will propose a Chair to the GNSO Council which will then either affirm the selection or

reject the selection and send the process back to the GNSO Council leadership and Standing Selection Committee leadership.

The Expression of Interest should address the following issues:

- What is the applicant's interest in this position?
- What particular skills and attributes does the applicant have that will assist him/her in chairing the WG?
- What is the applicant's knowledge of the Transfer Policy?
- What is the applicant's experience in and knowledge of the GNSO Policy Development Process and domain name registration process as it relates to ICANN?
- Is the applicant able to commit the time required and necessary work needed to chair the PDP?
- Conflict of Interest Statement – does the applicant have any affiliation with or involvement in any organization or entity with any financial or non-financial interest in the subject matter of this PDP?
- Also expected to be included:
  - A link to an up-to-date Statement of Interest (SOI) - <https://community.icann.org/x/c4Lg>
  - A statement confirming your commitment and ability to act neutrally.

As outlined in the GNSO Working Group Guidelines (WGG), the purpose of a Chair is to call meetings, preside over working group deliberations, manage the process so that all participants have the opportunity to contribute, and report the results of the Working Group to the Chartering Organization. These tasks require a dedicated time commitment as each week calls have to be prepared, the agenda concretized, and relevant material reviewed. The Chair shall be neutral. While the Chair may be a member of any group which also has representation on the Working Group, the Chair shall not act in a manner which favors such group. The Chair shall not be a member of the Working Group for purposes of consensus calls.

In addition, it is expected that interested candidates shall have considerable experience in chairing working groups, and direct experience with at least one GNSO Policy Development Process throughout its lifecycle. Familiarity with the functioning of a Working Group is important to understand the various leadership skills that are necessary to employ during a WG's lifecycle. For example, a Chair has to ensure that debates are conducted in an open and transparent matter and that all interests are equally and adequately represented within the Group's discussions. During the later stages of a working group when recommendations are drafted, the Chair will benefit from understanding the viewpoints of various members to ensure that an acceptable and effective outcome – ideally in the form of consensus – can be achieved.

In short, a WG Chair is expected to:

- i) Attend all PDP Team meetings to assure continuity and familiarity with the subject matter and the ongoing discussions;
- ii) Prepare meetings by reading all circulated materials;
- iii) Be familiar with the subject matter, including but not limited to GDPR and other relevant topics,

- and actively encourage participation during the calls;
- iv) Be active on the PDP mailing list and invite PDP WG members and liaisons to share their viewpoints;
  - v) Drive forward the PDP WG and assure that discussions remain on point;
  - vi) Work actively towards achieving policy recommendations that ideally receive full consensus;
  - vii) Ensure that particular outreach efforts are made when community reviews are done of the group's output;
  - viii) Underscore the importance of achieving overall representational balance on any sub-teams that are formed;
  - ix) Encourage and, where necessary, enforce the ICANN Standards of Behavior and Community Anti-Harassment Policy;
  - x) Coordinate with and ensure that the WG is supported as effectively as possible; and
  - xi) Conduct consistent, adequate and timely reporting to the GNSO Council on the progress of the PDP.

Finally, as also pointed out in the GNSO Working Group Guidelines, 'appointing a co-chair(s) or vice-chair(s) may facilitate the work of the Chair by ensuring continuity in case of absence, sharing of workload, and allowing the Chair to become engaged in a particular debate.' As a result, similar tasks and skills are expected from Vice-Chair(s), although the overall workload may be reduced as a result of being able to share this with the Chair.

**Guidance:** [Expectations for Working Group Leaders that Outline Role & Responsibilities as well as Minimum Skills / Expertise Required](#)

### **Leadership Review:**

WG leadership shall review the full text of Guidance documents below to understand the regular review of WG leadership performance by the GNSO Council, as well as the member survey that feeds into the review.

**Guidance:** [Regular Review of PDP Working Group Leadership by GNSO Council & PDP Working Group Member Survey on Leadership Performance](#)

### **GNSO Council Liaison**

The GNSO Council shall appoint a liaison who is accountable to the GNSO. The liaison must be a member of the Council, and the Council recommends that the liaison should be a Council member and be able to serve during the life of this WG.

The liaison shall review the Guidance documents below.

**Guidance:** [New Liaison Briefing and Liaison Handover](#) & [GNSO Council Liaison Supplemental Guidance](#)

### **Role of the GNSO Council Liaison**

- The liaison shall serve as an interim WG Chair until a Chair is named. As per current practice, it would not be appropriate for the liaison to be considered for a permanent Chair or co-chair/vice-chair position;
- The liaison is expected to report to the GNSO Council on a regular basis (at a minimum, at or before the monthly meetings of the GNSO Council and as issues or significant milestones arise in the group's work) on the progress of the Working Group. Such report is expected to be coordinated with the PDP WG leadership;
- The liaison will assist the PDP WG Chair as required with his/her knowledge of policy development processes and practices;
- The liaison will refer to the GNSO Council any questions or queries the PDP WG might have in relation to its charter and mission;
- The liaison will assist or engage when the PDP WG faces challenges or problems, and will notify the GNSO Council of efforts in this regard;
- The liaison will assist the WG Chair in suspected cases of abuse of ICANN's Expected Standards of Behavior, ICANN's Community Anti-Harassment Policy and/or restricting the participation of someone who seriously disrupts the WG;
- The liaison will facilitate in case there is disagreement between the PDP WG Chair and PDP WG member(s) in relation to designation of consensus given to certain recommendations;
- The liaison is expected to be a regular attendee/participant of PDP WG meetings;
- The liaison is expected to fulfill his/her role in a neutral manner. It would not be appropriate for the liaison to intervene or participate in PDP WG deliberations in his or her personal capacity; the liaison is expected to channel such comments through the representatives of his or her Stakeholder Group, and to only speak on calls and meetings in their official liaison capacity;
- The GNSO Council liaison is responsible for ensuring that the PDP WG Chair is informed about activities of the GNSO Council that have an impact on the PDP WG. This includes not only actions taken with respect to substance related to the WG, but also any actions taken on matters upon which the PDP WG depends or on which the Council depends on the WG;
- The GNSO Council liaison should participate in regular meetings with the PDP WG Leadership and consult with PDP WG Leadership prior to providing updates or reports to the GNSO Council; and,
- The GNSO Council liaison should be the person upon whom the PDP WG relies to convey any communications, questions or concerns to the GNSO Council. Taking into account the role and responsibilities of the liaison identified above, the GNSO Council furthermore expects that the liaison:
  - Will stay up-to-date on the deliberations in order to be in a position to provide the GNSO Council with adequate updates at appropriate times;
  - Only participate in the PDP in their official liaison capacity;
  - Is alert to situations that may require liaison involvement and be prepared to act swiftly, as and when needed;

- Will notify the GNSO Council as soon as is practical if he/she is no longer able to take on these responsibilities so that another liaison can be identified; and
- Will notify the Council in a timely manner should there be any adjustment to the work plan and, in particular, any delay that may be likely to occur in adhering to the agreed PDP milestones.

The liaison shall complete the following actions for onboarding purposes:

- Review the [GNSO Council liaison to the WGs - Role Description](#);
- Review the [New Liaison Briefing and Liaison Handover](#) document;
- Consult the [supplemental guidance](#) developed to provide more precision in their responsibilities and the frequency in which they must be carried out;
- Familiarize with the provisions of the GNSO Operating Procedures relevant to liaisons;
- Subscribe to the PDP mailing lists and relevant sub teams;
- Subscribe to the PDP Leadership mailing list(s), if applicable. In addition, join the PDP Leadership Skype chat (or other communication channel) if applicable;
- Consider requesting a catch up call with the relevant GNSO policy support staff. This call should clarify the role of the liaison in terms of PDP conference call attendance, expected responsibilities and an update as to the current status of the PDP if already in operation (milestones and anticipated hurdles);
- Review links to the wiki workspaces and mailing list archives via email;
- (If the PDP is already in operation) Consider requesting that PDP Leadership and the outgoing liaison(s) share relevant briefing documents specific to the PDP, to highlight the scope of the PDP charter, current status, timeline, milestones, problem areas/challenges, anticipated hurdles, etc;
- (If the PDP is already operation) Participate in an onboarding conference call with the incoming and outgoing liaisons as well as PDP Leadership; GNSO policy support staff will also be present on the call.

Importantly, the liaison is expected to fulfill his/her role in a neutral manner. This means that everything the liaison does during his/her tenure, including but not limited to participating in WG calls, reporting status, conveying information, and escalating issues, should be done in that neutral manner.

In short, the GNSO Council liaison is expected to:

- Fulfill liaison role in a neutral manner
- Be a regular participant of WG meetings
- Participate in regular meetings with WG leadership
- Report to Council on the WG progress
- Serve as an interim WG Chair until a Chair is named
- Convey to Council on WG communications, questions, concerns
- Inform WG leadership about Council activities impacting the WG
- Refer to Council questions related to WG Charter
- Assist or engage when WG faces challenges



- Assist in case of abuse of ICANN's Expected Standards of Behavior
- Assist with knowledge of WG processes and practices
- Facilitate when there is disagreement regarding consensus designation
- Facilitate when a Section 3.7 Complaint Process is invoked

**Support Staff:**

The ICANN Staff assigned to the WG will fully support the work of the Working Group as requested by the Chair including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.

Staff assignments to the Working Group:

- GNSO Secretariat
- ICANN policy staff members

**Section V: Rules of Engagement**

**Statements of Interest (SOI) Guidelines:**

Each member of the WG is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures.

**Statement of Participation:**

Each member of the WG must acknowledge and accept the Statement of Participation (as provided below), including ICANN's Expected Standards of Behavior, before he/she can participate in the WG.

**Statement of Participation**

As a member of the Transfer Policy Review Working Group:

- I agree to genuinely cooperate with fellow members of the Working Group to reach consensus on the issues outlined in the Charter. I understand this does not mean that I am unable to fully represent the views of myself or the organization I represent but rather, where there are areas of disagreement, I will commit to work with others to reach a compromise position to the extent that I am able to do so;
- I acknowledge the remit of the GNSO to develop consensus policies for generic top level domains. As such, I will abide by the recommended working methods and rules of engagement as outlined in the Charter, particularly as it relates to designating consensus and other relevant rules in [GNSO Working Group Guidelines](#);

- I will treat all members of the Working Group with civility both face-to-face and online, and I will be respectful of their time and commitment to this effort. I will act in a reasonable, objective, and informed manner during my participation in this Working Group and will not disrupt the work of the Working Group in bad faith;
- I will make best efforts to regularly attend all scheduled meetings and send apologies in advance when I am unable to attend. I will take assignments allocated to me during the course of the Working Group seriously and complete these within the requested timeframe. As and when appropriate I shall seek to be replaced by my designated Alternate in accordance with the wishes of my appointing organization;
- I agree to act in accordance with [ICANN Expected Standards of Behavior](#), particularly as they relate to:
  - Acting in accordance with, and in the spirit of, ICANN’s mission and core values as provided in [ICANN's Bylaws](#);
  - Listening to the views of all stakeholders and working to build consensus; and
  - Promoting ethical and responsible behavior;
- I agree to adhere to any applicable conflict of interest policies and the Statement of Interest (SOI) Policy within the [GNSO Operating Procedures](#), especially as it relates to the completeness, accuracy, and timeliness of the initial completion and maintenance of my SOI; and
- I agree to adhere to the [ICANN Community Anti-Harassment Policy and Terms of Participation and Complaint Procedures](#).

I acknowledge and accept that this Statement of Participation, including ICANN’s Expected Standards of Behavior, is enforceable and any individual serving in a Chair role (such as Chair, Co-Chair, or Acting Chair or Acting Co-Chair) of the Working Group and GNSO Council Leadership Team have the authority to restrict my participation in the Working Group in the event of non-compliance with any of the above.

**Problem/Issue Escalation & Resolution Process:**

Please reference Sections 3.4 and 3.5 of the Working Group Guidelines and the Guidance document below.

**Guidance:** [Guidelines Concerning ICANN Org Resources for Conflict Resolution and Mediation](#)

**Formal Complaint Process:**

Please reference Section 3.7 of the Working Group Guidelines and the Guidance document below. The Complaint Process may be modified by the GNSO Council at its discretion.

**Guidance:** [Clarification to Complaint Process in GNSO Working Group Guidelines](#)

## Section VI: Decision Making Methodologies

### Consensus Designation Process:

Section 3.6 of the GNSO Working Group Guidelines, as included below, provides the standard consensus-based methodology for decision making in GNSO WGs.

Section 3.6 notably refers to the 'Chair' (singular) of a WG, which does not conform to the reality of current PDP WG leadership structures. References to 'Chair' shall include PDP WG Co-Chairs and/or Vice Chair(s) that form the WG leadership, if applicable.

WG leaders, members and liaison shall review the Capture vs. Consensus Playbook (Guidance document below) which provides a structured approach for consensus building and providing behavior insights, tools, and techniques to bridge differences, break deadlocks, and find common ground.

**Guidance:** [Consensus Playbook](#)

#### 3.6 Standard Methodology for Making Decisions

The Chair will be responsible for designating each position as having one of the following designations:

- **Full consensus** - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as **Unanimous Consensus**.
- **Consensus** - a position where only a small minority disagrees, but most agree. *[Note: For those that are unfamiliar with ICANN usage, you may associate the definition of 'Consensus' with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term 'Consensus' as this may have legal implications.]*
- **Strong support but significant opposition** - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.
- **Divergence** (also referred to as **No Consensus**) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.
- **Minority View** - refers to a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus**; or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

In cases of **Consensus**, **Strong support but significant opposition**, and **No Consensus**, an effort should be made to document that variance in viewpoint and to present any **Minority View**

recommendations that may have been made. Documentation of **Minority View** recommendations normally depends on text offered by the proponent(s). In all cases of **Divergence**, the WG Chair should encourage the submission of minority viewpoint(s).

The recommended method for discovering the consensus level designation on recommendations should work as follows:

- i. After the group has discussed an issue long enough for all issues to have been raised, understood and discussed, the Chair, or Co-Chairs, make an evaluation of the designation and publish it for the group to review.
- ii. After the group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should reevaluate and publish an updated evaluation.
- iii. Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the group.
- iv. In rare case, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:
  - o A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
  - o It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant Opposition** and **Divergence**.

Care should be taken in using polls that they do not become votes. A liability with the use of polls is that, in situations where there is **Divergence** or **Strong Opposition**, there are often disagreements about the meanings of the poll questions or of the poll results.

Based upon the WG's needs, the Chair may direct that WG participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls were taken.

Consensus calls should always involve the entire Working Group and, for this reason, should take place on the designated mailing list to ensure that all Working Group members have the opportunity to fully participate in the consensus process. It is the role of the Chair to designate which level of consensus is reached and announce this designation to the Working Group. Member(s) of the Working Group should be able to challenge the designation of the Chair as part of the Working Group discussion. However, if disagreement persists, members of the WG may use the process set forth below to challenge the designation.

If several participants<sup>4</sup> in a WG disagree with the designation given to a position by the Chair or any other consensus call, they may follow these steps sequentially:

1. Send email to the Chair, copying the WG explaining why the decision is believed to be in error.

<sup>4</sup> Any Working Group member may raise an issue for reconsideration; however, a formal appeal will require that that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Working Group member is seeking reconsideration, the member will advise the Chair and/or liaison of their issue and the Chair and/or liaison will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.

2. If the Chair still disagrees with the complainants, the Chair will forward the appeal to the CO liaison(s). The Chair must explain his or her reasoning in the response to the complainants and in the submission to the liaison. If the liaison(s) supports the Chair's position, the liaison(s) will provide their response to the complainants. The liaison(s) must explain their reasoning in the response. If the CO liaison disagrees with the Chair, the liaison will forward the appeal to the CO. Should the complainants disagree with the liaison support of the Chair's determination, the complainants may appeal to the Chair of the CO or their designated representative. If the CO agrees with the complainants' position, the CO should recommend remedial action to the Chair.
3. In the event of any appeal, the CO will attach a statement of the appeal to the WG and/or Board report. This statement should include all of the documentation from all steps in the appeals process and should include a statement from the CO<sup>5</sup>.

### **Who Can Participate in Consensus Designation:**

Consensus calls or decisions are limited to SG/C/SO/AC appointed members who may consult as appropriate with their respective appointing organizations. However, for the purpose of assessing consensus, groups that do not fulfil their maximum membership allowance should not be disadvantaged.

The subject matter of this PDP is not equally of interest to and impactful on all SG/C/SO/ACs. As a result, the membership structure more heavily represents ICANN's contracted parties, and specifically registrars. At the same time, the registrant's perspective will be important to factor into the Working Group's deliberations and final outputs. The Chair shall ensure that all perspectives are appropriately taken into account in assessing Consensus designations on the final recommendations.

Unless otherwise specified in this Charter, the GNSO Working Group Guidelines apply in full and Consensus designations are therefore the responsibility of the Work Group Chair and are to be made in accordance with the consensus levels described in Section 3.6 of the Working Group Guidelines.

**Guidance:** [A Comparison Table of Working Group Models](#)

### **Termination or Closure of Working Group:**

Typically, the WG will close upon the delivery of the Final Report, unless assigned additional tasks or follow-up by the GNSO Council.

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<sup>5</sup> It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process.

The GNSO Council may terminate or suspend the WG prior to the publication of a Final Report for significant cause such as changing or lack of community volunteers, the planned outcome for the project can no longer be realized, or when it is clear that no consensus can be achieved.

**Guidance:** [Project Status and Condition Change Procedure](#)

## Section VII: Change History

## Section VIII: Charter Document History

Version	Date	Description
1.0	12 March 2021	Version as submitted to GNSO Council for approval
1.1	15 April 2021	Metadata added on page 1 (Charter approval date, link to resolution, etc.)
1.2	16 December 2021	Charter updated in accordance with PCR approved by GNSO Council on 16 Dec 2021 moving NACK to Phase 1A. Chair and Vice Chair added on page 1.

<b>Staff Contact:</b>	Emily Barabas	<b>Email:</b>	<a href="mailto:Policy-Staff@icann.org">Policy-Staff@icann.org</a>
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**Translations: If translations will be provided please indicate the languages below:**

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