

AFRINIC 35 PUBLIC POLICY MEETING

9:00 - 13:00 UTC 1 - 2 JUNE 2022



Staff Impact Assessments

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ORGANISED BY



PDP Working Group (WG) Guidelines and Procedures - (Draft-5)



AFPUB-2020-GEN-002-DRAFT05

<https://afrinic.net/policy/proposals/2020-gen-002-d5#impact>



Staff Interpretation & Understanding of the Proposal



This policy proposal brings in some changes to the functioning of the Policy Development Working Group (PDWG) as follows:-

- a. PDWG Co-chairs responsibilities
- b. Appointment of PDWG co-chairs
- c. Clarifies what needs to happen if one or both co-chairs are recalled
- d. Clarifies how to proceed should a co-chair resign
- e. Mentions that if the working group finds itself without a co-chair, AFRINIC CEO will lead the consensus process.
- f. Describes the operations of the PDWG such as the moderation of the PDWG discussions and sessions, individual behaviours in public policy meetings
- g. Appeals - Someone whose posting privileges have been suspended can appeal against these decisions to the appeal committee
- h. The Board appoints interim co-chairs within a prescribed timeline

Staff Interpretation & Understanding of the Proposal



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I. Clarifies on those eligible to be in the voting register, should the last resort online secret ballot be used to select the PDWG Chair(s).

J. In the case of recall of PDWG Chair(s), the proposal mentions the recall needs to be supported by at least 10 other persons from 10 different organisations and that these persons must have been subscribed to the working group mailing list for at least one(01) year and attended at least one (1) AFRINIC Public Policy Meeting during the last two (2) years, either in-person or remotely.

K. The proposal also mentions the criteria that the AFRINIC Board shall use to appoint the members of the Recall Committee, as well as guidelines for the consideration of a recall and a 4-week timeline for the recall committee to have done its work.

L. Active participation of candidates for the PDWG Chairs position will be determined by the PDWG when assessing the candidate.

Impact

Impact on Registry Functions

None

Meeting Platforms

Restriction of participation to be also implemented via the AFRINIC meeting platform for online/hybrid events.

Online voting Platform

An online voting platform will be required to host the online secret ballot.

The voting register is defined in the proposal and consists of past PDP WG co-chairs, past board of directors chairs, and past CEOs who completed at least one term and have not been recalled. The list of names is available and accessible to the online voting platform will be subject to identity verification.

Mailing Lists

PDWG Chairs will be subscribed to members-discuss mailing lists as observers.

Financial Assessment

Elections or Voting Platform is outsourced and therefore budget needs to be planned accordingly.



Impact (Legal Assessment)



(A) Under paragraph 3.3.3 of the proposed policy (5th paragraph), reference is made to – “*Any natural person residing in a country from the AFRINIC service region is allowed to volunteer*”.

It is apposite to state that whilst AFRINIC is a Regional Internet community, yet it is an acceptable practice at AFRINIC to allow persons not necessarily residing within the AFRINIC service region to subscribe and participate in its PDWG.

In view of the above therefore, refraining persons NOT residing in the AFRINIC service region from serving as PDWG’s co-chairs would appear to be unfair in these circumstances.

Impact (Legal Assessment)



(B) Under paragraph 3.3.3 of the proposed policy (9th paragraph), reference is made to “*If no consensus can be reached and more than one candidate is being evaluated, then an online secret ballot to appoint the new co-chair will be held within two weeks after the PPM. The secret ballot shall be opened to past PDPWG co-chairs, past board of directors chairs, and past CEOs who completed at least one term and have not been recalled*”

There is no legal rationale that for the purpose of finding consensus, it is the PDWG which is called upon to decide on the matter BUT in case of an eventual election for the selection of the PDWG co-chairs the voters should include past PDWG co-chairs, past board of directors chairs and past CEOs.

The authors are recommended to review this aspect of their proposition OR to clarify who the voters should be in these circumstances as well as to advise on the eventual voters' register to be used for this purpose.

Impact (Legal Assessment)



(C) Under 3.3.10 of the proposed policy, the following is observed “*The CEO’s decision shall be final and binding*”. I believe this is a typo and the authors intended to refer to the Appeal Committee instead.

Implementation



Timeline - Implementation can happen within the timelines prescribed by the Consolidated Policy Manual.

Update of PDP

AFPUB-2021-GEN-002-DRAFT03



<https://afrinic.net/policy/proposals/2021-gen-002-d3#impact>



Staff Interpretation & Understanding of the Proposal



This policy proposal modifies some aspects of the Policy Development Process (PDP) and brings in some changes to the functioning of the Policy Development Working Group (PDWG) as follows:

1. Definition of rough consensus has been explained to match the one defined in the RFC7282 (not a classic voting mechanism)
2. Participants of the PDWG must be real people (AFRINIC can investigate, taking into consideration the rights of Personal Data Protection)
3. Possibility to have more PPMs per year to to split the workload (shorter PPMs possible)

Staff Interpretation & Understanding of the Proposal



1. For every PPV/version, AFRINIC must publish an Impact Analysis (IA) in a maximum of 4 weeks (from the submitted date) and at least 1 week before the PPM.
2. A PPV expires after 6 months unless it has been submitted by the Chairs for ratification by the AFRINIC Board of Directors as a policy.
3. An appeal pauses the 6-months expiry counter until the Appeal is resolved by the Appeal Committee (AC).
4. Any PPV must be discussed on the RPD List a minimum of 8 weeks before it is presented in the PPM.
5. The Chairs have a maximum of 2 weeks to determine whether rough consensus has been achieved (considering both list and meeting). Consensus can be determined outside the PPM.

Staff Interpretation & Understanding of the Proposal



8. The Chairs must publish the minutes of proceedings of the PPM not later than 2 weeks after the meeting.
9. All possible actions during the Last Call have been clarified, and the Chairs have 1 week after the end of the Last Call, to confirm whether consensus is maintained.
10. If consensus is declared, the Chairs will submit the PPV to the AFRINIC BoD for ratification. The Board of Directors can ratify or send the proposal back to the list for further discussion. The latter clarifies the status of the proposal in case it is not ratified by the AFRINIC Board.
11. Conditions in which the AFRINIC Board of Directors can intervene in the Policy Development Working Group discussion are explained.
12. Amendments are being proposed for Section 3.6 Varying the Process

Impact: AFRINIC Secretariat Duties



There is no limit to the number of proposals that can be put on an AFRINIC PPM²² agenda. Impact Assessments are comprehensively prepared and require the contributions of internal stakeholders.

The timing of these assessments to be prepared and published 1 week of the PPM needs to take into consideration the number of proposals on the agenda and the fact that updated versions of the proposal are also submitted by authors closer to the PPM

Impact: Legal Assessment



a. Under paragraph 3.4.2 of the proposal, reference is made as follows – “Once the minimum 8 weeks of discussion in the list and a presentation at the PPM ... are met, the Chairs have a maximum of 2 weeks to determine whether rough consensus has been achieved”.

Section 11.3 of the bylaws state, *inter-alia*, that policy proposals are discussed and agreed at a Public Policy Meeting and that within the framework of the PDP. Therefore, it is only fair to all those attending and participating to the PPM that any declaration of "rough consensus (or not)" be made during the PPM itself.

Having said that editorial changes can be made during the Last Call before a final declaration is made by the Co-Chairs.

Impact: Legal Assessment



b) Under paragraph 3.4.3 of the proposal, reference is made as follows – **“A final discussion of the PPV is initiated by the Working Group Chairs by sending an announcement to the RPD List”**. Furthermore, reference is also made as follows – **“The purpose of the "Last call" is to provide the community with a brief and final opportunity to comment on the PPV.”**

These proposed amendments are IMHO inconsistent with section 11.3 of the bylaws for the reason stated above.

For obvious reasons, Last-Call must be restricted to changes to the policy that are purely editorial and nothing substantive in nature.

Allowing further discussions on the merits of policy proposals during the Last-Call is unfair to those participants who attended and participated at AFRINIC Public Policy Meeting, be it in person or virtually. Therefore, allowing further discussions on the merits to be held on the mailing lists post the PPM is too risky as it may allow a consensus (or non-consensus) prevailing during the PPM to be overturned by discussions occurring on the RPD mailing post the PPM.

Impact: Legal Assessment



As regard paragraph 3.4.5 of the proposal, one may question the need for same since the bylaws already provide for same in articles 11.4 and 11.5 of the bylaws.

Implementation



Timeline of implementation can be within 6 months of Last Call as prescribed by the CPM.