



Independent Complaints Adjudication Service for Nominet

Service Rules

These rules apply to completed application forms received by CEDR on or after **5th June 2023**.

If you require this document in an alternative format, please contact CEDR for further details.

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1. Introduction

- 1.1. The Independent Complaints Adjudication Service for Nominet (“the Service”) is administered by Centre for Effective Dispute Resolution (“CEDR”). The Service is delivered by way of a non-binding adjudication process (“the Adjudication”), which provides an informal and independent way of investigating:
 - 1.1.1. the manner in which Nominet UK (“Nominet”) took the decision that one of its members (“the Complainant”) breached its Members’ Code of Conduct (“the Code”); or
 - 1.1.2. the manner in which Nominet (including any agent acting on behalf of Nominet) took the decision to moderate one or more submissions of text and/or material (“a Contribution”) made by the Complainant to the Nominet Member Online Community under the Nominet Member Online Community Terms of Service (“the Online Community Terms”).

The Complainant and Nominet together will be known as “the Parties”.

- 1.2. To use the Service, the Complainant must send a completed application form (“the Application”) to CEDR setting out their complaint. Use of the Service is free of charge to the Complainant.
- 1.3. Where applicable under these Rules, an independent adjudicator will be appointed by CEDR from its Adjudication Panel to decide the outcome of the complaint (“the Adjudicator”). The Adjudicator’s decision (as set out at Rule 4.4) is not binding on the Parties. Nominet will have the discretion to action any or none of the recommendations made by the Adjudicator. If Nominet refuses to comply with any of the Adjudicator’s recommendations, they must state their reasons for doing so.
- 1.4. A ‘Complainant’ is a member of Nominet who has either been found by Nominet to have breached the Code, or who has had a Contribution moderated by Nominet (including any agent acting on behalf of Nominet) under the Online Community Terms.

- 1.5. The Complainant can only use the Service if the following conditions are met:
- 1.5.1. they have contacted Nominet's Company Secretary within 10 working days of receipt of Nominet's decision that the Complainant has breached the Code or of the date on which the Contribution was moderated, in order to challenge the manner in which that decision was taken (unless the Parties agree to extend this timeframe); and
 - 1.5.2. CEDR has received the Application within six weeks of the date of the Complainant's receipt of written confirmation from Nominet's Company Secretary that they can use the Service (unless the Parties agree to extend this timeframe).
- 1.6. Applications to the Service will be accepted from Complainants or their appointed representatives. A representative can only be appointed if:
- 1.6.1. the Complainant provides, with their application to the Service, signed authority confirming that they agree to the representative acting on their behalf; or
 - 1.6.2. the representative provides, with the application to the Service, a valid legal document giving them authority to act on the Complainant's behalf (e.g. a valid will or lasting power of attorney).
- 1.7. An adjudicator appointed under these Rules will make a decision by considering the information received from the Parties, the Code or the Online Community Terms, and any applicable guidance. This decision will be either to make one or more recommendations to Nominet to improve its systems and practices for dealing with complaints, or to make no recommendation. The Adjudicator cannot overturn any substantive decisions by Nominet, nor can the Adjudicator award any financial compensation or other remedies directly to the Complainant.

1.8. Any decision made by an adjudicator applies only to the specific complaint referred to the Service. Under no circumstances do decisions made by adjudicators set precedents for other complaints.

2. What the Service covers

2.1. The Service can be used to adjudicate complaints about:

2.1.1. the manner in which Nominet took the decision that the Complainant was in breach of the Code, in the following ways:

- 2.1.1.1. a failure by Nominet to follow the Member Code of Conduct complaints procedure correctly and/or fairly;
- 2.1.1.2. a failure by Nominet to respond to the Complainant in a timely manner;
- 2.1.1.3. discourtesy by Nominet's staff;
- 2.1.1.4. a failure to accept and/or apologise for mistakes;
- 2.1.1.5. that Nominet's Member Code of Conduct complaints procedure is unfair.

2.1.2. the manner in which Nominet (including any agent acting on behalf of Nominet) took the decision to moderate a Contribution made by the Complainant to the Nominet Member Online Community, in the following ways:

- 2.1.2.1. a failure by Nominet (including any agent acting on behalf of Nominet) to follow the complaints procedure set out in the Online Community Terms correctly and/or fairly;
- 2.1.2.2. a failure by Nominet (including any agent acting on behalf of Nominet) to respond to the Complainant in a timely manner;
- 2.1.2.3. discourtesy by Nominet's staff (including any agent acting on behalf of Nominet);
- 2.1.2.4. a failure to accept and/or apologise for mistakes;

- 2.1.2.5. that Nominet's Online Community Terms complaints procedure is unfair.

When an application is received that meets the requirements of this Rule, and none of the exclusions in Rule 2.2 apply, it will be considered to be a valid application.

2.2. The Service cannot consider complaints, or parts of complaints, which fall into one or more of the following categories:

- 2.2.1 applications that are made to the Service by (or, in the case of nominated representatives under Rule 1.6, on behalf of) someone who does not fall within the definition of a 'Complainant' in Rule 1.4;
- 2.2.2 applications that are not made against Nominet (including any agent acting on behalf of Nominet);
- 2.2.3 where the Complainant has not met the requirements set out at Rule 1.5;
- 2.2.4 complaints that contain no aspect relating to the issues set out at Rule 2.1;
- 2.2.5 complaints about one or more of the following matters:
 - 2.2.5.1 fraud or other criminal matters;
 - 2.2.5.2 data protection;
 - 2.2.5.3 discrimination;
 - 2.2.5.4 a substantive decision taken by Nominet (including any agent acting on behalf of Nominet), including the decision that the Complainant has breached the Code or that the Complainant's Contribution be moderated;
- 2.2.6 complaints that are the subject of either:
 - 2.2.6.1 an existing application made by the Complainant; or
 - 2.2.6.2 a previous valid application that reached a resolution through the Service;
- 2.2.7 complaints, which in the opinion of CEDR, are more appropriately dealt with by a court, regulatory body, or other formal process;
- 2.2.8 complaints that have been, or are, the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless

- such proceedings or alternative procedure have been abandoned, stayed or suspended);
- 2.2.9 complaints that CEDR considers to be frivolous and/or vexatious;
- 2.2.10 complaints that would seriously impair the effective operation of the Service if considered by CEDR.
- 2.3 If the whole complaint falls outside the scope of the Service, it will be withdrawn from CEDR. If part of the complaint falls outside the scope of the Service but part is in scope, only the part that is in scope will proceed (unless it is not practicable to do so).
- 2.4 Any complaint, or part of a complaint, that falls outside the scope of the Service can proceed if Nominet gives its express agreement for this to happen.
- 2.5 Making an application to the Service does not take away the Complainant's duty to pay Nominet any amounts billed or charged.

3. Applying to use the Service

- 3.1. To apply to use the Service, the Complainant must send to CEDR a completed application form, which can be done by post or online. If a Complainant requires any special assistance with their application they can contact CEDR and reasonable adjustments will be made in line with CEDR's reasonable adjustments policy, which can be found [here](#).
- 3.2. In the Application, the Complainant should provide the following:
- 3.2.1. the precise issues that form the nature of the complaint;
- 3.2.2. the recommendation(s) that the Complainant requests the Adjudicator to make; and
- 3.2.3. any supporting documents on which the Complainant wishes to rely.
- 3.3. The Complainant should provide with the Application any relevant documents and/or evidence that supports their complaint. It is the Parties' responsibility to provide the

documents and/or evidence that they wish to rely on. CEDR only has access to information and evidence that the Parties have specifically provided in connection with the complaint.

- 3.4. The Complainant is encouraged to clarify the complaint in as much detail as possible, but a failure to do this will not make the Application invalid.

4. The Adjudication process

4.1. The Application

- 4.1.1. When the Application is received along with any supporting documents, CEDR will make an initial assessment within 15 working days as to whether or not the Application appears to meet the requirements of Rules 2 and 3 (NB. This initial assessment does not prevent the complaint from being withdrawn from the Service at a later date in line with the objection process (at Rule 4.2) or an adjudicator's powers (at Rule 5.2)).
- 4.1.2. When the Application is processed by CEDR, a case reference number will be given to the Parties. The Parties must quote this case reference number in all communication with CEDR regarding the complaint.
- 4.1.3. If the Application is initially assessed as appearing to meet the requirements of Rules 2 and 3, CEDR will notify Nominet by sending an electronic copy of the Application, and any supporting documents that the Complainant has provided, to Nominet ("the Notification").
- 4.1.4. If CEDR sends the Notification to Nominet before 4.00pm, Nominet is considered to have received it on that day. If CEDR sends the Notification at or after 4.00pm, Nominet is considered to have received it on the following working day.
- 4.1.5. Once Nominet is considered to have received the Notification, Nominet has 10 working days to take one of the following actions (in exceptional circumstances, CEDR may, at its own discretion, grant Nominet an extension to this deadline):

- 4.1.5.1. object, in line with Rule 4.2, to the complaint being considered by CEDR to fall within the scope of the Service; or
- 4.1.5.2. submit to CEDR its written response to the Complainant's complaint ("the Response") in line with Rule 4.3.
- 4.1.6. Once the Application is submitted to CEDR, an amendment to any aspect of it, or addition of further evidence or submissions, can only be requested by the Complainant if none of the following apply:
 - 4.1.6.1. the complaint has been withdrawn in line with Rule 4.2 because it is out of scope;
 - 4.1.6.2. Nominet has submitted the Response to the complaint in line with Rule 4.3.

If the Complainant requests to amend any aspect of the Application or to add further evidence or submissions, they must contact CEDR with the amendments and/or additions and give reasons why they should be taken into account. It will be at the sole discretion of CEDR whether or not to allow this. If it is allowed, Nominet will be sent the updated information and the timeframe for Nominet to take one of the actions in Rule 4.1.5 will be restarted.

4.2. Objections

- 4.2.1. Within the timeframe at Rule 4.1.5, Nominet can object to the complaint being considered by CEDR to fall within the scope of the Service. For clarity, Nominet can object if it considers the complaint to fall partly or entirely outside the scope of the Service.
- 4.2.2. In making an objection, Nominet must contact CEDR and specify one or more reasons in Rule 2.2 as to why part or all of the complaint falls outside the scope of the Service. Nominet must show why part or all of the complaint falls outside the scope of the Service.
- 4.2.3. An adjudicator will consider the objection and decide whether or not they agree that Nominet has shown that part or all of the complaint falls outside the scope of the Service. CEDR will aim to communicate this to the Parties within two working days of the objection being received.

- 4.2.4. When an objection is made, the timeframe at Rule 4.1.5 will be put on hold until the outcome of the objection is communicated to the Parties by CEDR.
- 4.2.5. If an adjudicator does not agree that Nominet has shown that any part of the complaint falls outside the scope of the Service, the objection will be rejected. If the objection is rejected, the complaint will remain active and an additional two working days will be added to the remaining timeframe in Rule 4.1.5 for Nominet to make a further objection or to submit the Response to CEDR. This time extension can only be applied once, and no time extensions will be given to any subsequent rejected objections. If an adjudicator is subsequently appointed to make a decision on the complaint, all details of the objection will be given to that adjudicator.
- 4.2.6. If an adjudicator agrees that Nominet has shown that all of the complaint falls outside the scope of the Service, the objection will be upheld. If the objection is upheld, the Complainant will be given 10 working days to provide reasons and/or further evidence as to why part or all of the complaint falls within the scope of the Service, if they wish to do so. An adjudicator will then consider whether or not to reject the objection (NB. The adjudicator may agree to only part of the complaint continuing). CEDR will aim to communicate this to the Parties within two working days. At this point, it is for the Complainant to show why part or all of the complaint falls within the scope of the Service.
- 4.2.7. If an adjudicator agrees that Nominet has shown that part of the complaint falls outside the scope of the Service, the objection will be upheld in relation to that part only. If the objection is upheld in relation to that part, the Complainant will be given 10 working days to provide reasons and/or further evidence as to why part or all of the complaint falls within the scope of the Service, if they wish to do so. An adjudicator will then consider whether or not to reject the objection (NB. The adjudicator may agree to only part of the complaint continuing). CEDR will aim to communicate this to the Parties within two working days. At this point, it is for the Complainant to show why part or all of the complaint falls within the scope of the Service.
- 4.2.8. Following the completion of the relevant process under either Rule 4.2.6 or Rule 4.2.7, if an adjudicator decides that part or all of the complaint falls within

the scope of the Service, the objection will be rejected and the timeframe will be restarted for Nominet to take one of the actions in Rule 4.1.5. If an adjudicator decides that no part of the complaint falls within the scope of the Service, the complaint will be withdrawn from the Service. The decision to withdraw the complaint from the Service is final and cannot be reviewed or appealed.

4.3. The Response

- 4.3.1. When CEDR receives the Response, a copy of it will be sent to the Complainant.
- 4.3.2. If Nominet does not submit the Response to CEDR within the timeframe set out at Rule 4.1.5 (including any relevant variations to this timeframe made in Rule 4.2), the Adjudicator will have the power to make a decision considering only the information provided by the Complainant as set out at Rule 5.2.3.
- 4.3.3. The Complainant has five working days from the date on which the Response is sent to them to provide any comments on the Response (in exceptional circumstances, CEDR may, at its own discretion, grant the Complainant an extension of the deadline for providing comments on the Response). The Complainant does not have to provide comments on the Response. If the Complainant does provide comments on the Response, those comments can only relate to points raised in the Response and must not introduce any new matters. Any new matters put forward by the Complainant at this stage will not be taken into account by the Adjudicator when making their decision.
- 4.3.4. If the Complainant makes any comments on the Response, CEDR will send a copy of those comments to Nominet for their information only.
- 4.3.5. Upon receipt of the Complainant's comments on the Response, or the expiry of the timeframe at Rule 4.3.3, CEDR will appoint the Adjudicator to decide the outcome of the complaint.
- 4.3.6. Any further comments, information and/or evidence received from the Parties after this point will be sent to the Adjudicator. However, the Adjudicator will have the power to decide whether or not to take some or all of the comments, information and/or evidence into account (as set out at Rule 5.2). If the Adjudicator decides to take such further comments, information and/or

evidence into account, these will be shared with the other party for their information only.

4.4. The Decision

- 4.4.1. The Adjudicator appointed under these Rules will produce a written decision on the complaint (“the Decision”) by considering the information received from the Parties, the Code or the Online Community Terms, and any applicable guidance. The Decision will generally be issued within 30 working days of the Application being initially assessed as falling within the scope of the Service in line with Rule 4.1.1.
- 4.4.2. The Decision will be set out in writing and will include full reasons for the outcome reached.
- 4.4.3. Once CEDR receives the Decision from the Adjudicator, it will be sent to the Parties simultaneously.
- 4.4.4. If the Decision makes any recommendations to Nominet, Nominet will notify CEDR within 20 working days of receipt of the Decision whether it will action any of the recommendations. Nominet has the sole discretion as to whether or not to action any recommendations. If Nominet refuses to action any of the recommendations, they must state their reasons for doing so.
- 4.4.5. If the Decision makes no recommendations to Nominet, Nominet will not have to take any further action.
- 4.4.6. The Adjudicator’s Decision is final. It cannot be reviewed or appealed.

5. Powers of an adjudicator

5.1. Adjudicators will be fair and unbiased throughout the Adjudication process and will make decisions that are based on the information received from the Parties, the Code or the Online Community Terms, and any applicable guidance. Adjudicators will act as quickly and efficiently as possible, considering complaints in a fair and reasonable way.

5.2. An adjudicator has the power to do any of the following:

- 5.2.1. change any of the time limits set out in these Rules;
 - 5.2.2. request further comments and/or evidence from the Parties, and set time limits within which the Parties must provide such comments and/or evidence;
 - 5.2.3. proceed with the Adjudication process if either of the Parties does not keep to these Rules, or any instruction or direction made under these Rules;
 - 5.2.4. consult any evidence not provided by either of the Parties, which the adjudicator considers to be necessary to make a decision. If this power is used, the Parties must be given an opportunity to provide comments on this evidence (NB. This power does not apply to evidence that the Parties ought reasonably to be aware of or have access to; the law, any legal or regulatory requirements; and, any other published industry guidance);
 - 5.2.5. take into account any evidence provided by either of the Parties that the adjudicator considers to be relevant to matters already raised in the complaint. If this power is used, the party that did not provide the evidence must be given an opportunity to comment on it;
 - 5.2.6. withdraw a complaint from the Service if, in their opinion, the entirety of the complaint falls outside the scope of the Service (this decision cannot be reviewed or appealed).
- 5.3. Neither of the Parties can challenge an adjudicator's use or non-use of the powers set out at Rule 5.2.
- 5.4. If the Adjudicator finds that the manner in which Nominet (including any agent acting on behalf of Nominet) took the decision that either the Complainant breached the Code or that a Complainant's Contribution be moderated did not meet a reasonable standard, they can:
- 5.4.1. Make one or more recommendations to Nominet to improve its systems and practices for dealing with complaints; and/or
 - 5.4.2. In exceptional circumstances only, make a recommendation to Nominet that the Member Code of Conduct complaints process or the Online Community Terms complaints process is re-run.

NB.

- The Adjudicator cannot overturn any substantive decisions by Nominet, nor can the Adjudicator award any financial compensation or other remedies directly to the Complainant.

5.5. If the Adjudicator finds that the manner in which Nominet took the decision that the Complainant breached the Code or that the Complainant's Contribution be moderated did meet a reasonable standard, they will not make any recommendation to Nominet.

6. Costs

6.1. The use of the Service is free of charge to the Complainant. Nominet is therefore responsible for paying CEDR its fees. By using the Service, Nominet agrees not to take legal action against the Complainant to recover fees paid to CEDR.

6.2. Neither of the Parties needs to use legal representation, although either can do so if they wish.

6.3. The Parties must pay their own costs of using the Service.

6.4. If either of the Parties incurs costs through the use of legal representation and/or using the Service, the Parties agree not to claim the costs of doing so from each other, whether through the Service or through legal action.

7. Confidentiality and data sharing

7.1. Neither of the Parties will give details of the Adjudication or the Decision to any person or organisation not directly involved in the Adjudication, unless:

7.1.1. it is necessary in order to seek advice on pursuing the complaint in an alternative forum;

7.1.2. it is necessary in order to seek redress from an alternative forum; or

7.1.3. CEDR gives its express written consent for such details to be shared.

7.2. By using the Service, the Parties agree that CEDR may gather, retain and publish statistics and other information in relation to complaints, whilst preserving the anonymity of the Parties.

7.3. The United Kingdom General Data Protection Regulation (UK GDPR) applies to the Service, and all data provided to CEDR in relation to complaints may be shared with Nominet by CEDR or the Complainant, including all personal data.

7.4. By using the Service, the Complainant gives their consent for any relevant personal data held by Nominet to be shared with CEDR and the Adjudicator for the purposes of the Adjudication process.

8. Other rules

8.1. CEDR will appoint a substitute adjudicator if the Adjudicator originally appointed is unable to deal with the complaint for any reason. CEDR will inform the Parties if such an appointment is made.

8.2. With the exception of amending a decision following any minor error and/or providing clarification on a specific point in a decision, neither CEDR nor an adjudicator will enter into correspondence with the Parties relating to any decision.

8.3. If either of the Parties has a complaint about the quality of service provided by CEDR, the complaint should be made through the published complaints procedure, copies of which are available on the CEDR website (NB. the complaints procedure cannot be used to challenge the content or outcome of an adjudicator's decision, the decision process adopted by an adjudicator, or the content of these Rules).

8.4. If either of the Parties sends physical documents and/or evidence to CEDR, digital copies will be made and the physical documents and/or evidence will be immediately and securely destroyed, unless the party requests their return (this request must be

made at the same time as the physical documents and/or evidence are sent to CEDR). CEDR does not keep any physical documents and/or evidence on its premises.

8.5. Any reference in these Rules to 'working days' excludes Saturdays, Sundays and public holidays (i.e. bank holidays) celebrated in England and Wales. Any reference in these Rules to a specified time of day refers to United Kingdom local time.

8.6. The Service, including these Rules, may be updated from time to time. The Rules in force on the date CEDR receives the Complainant's Application will apply to the complaint.

