

Independent Complaints Adjudication Service for Nominet

Summary of Service Rules

This Summary has been created to provide a quick reference guide for users of the Service. It summarises the key rules in respect of the process and the scope of the Service, giving a simple overview of the core principles.

However, whilst this Summary is based upon the Service Rules, it is intended to act as guidance only. It is the Service Rules that apply to cases. In the event of a conflict of information between the Service Rules and this Summary, the Service Rules will prevail.

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1. Introduction

- The Service provides an independent way of investigating:
 - the manner in which Nominet took the decision that the Complainant breached its Code; or
 - the manner in which Nominet (including any agent acting on behalf of Nominet) took a decision to moderate a Contribution made by the Complainant to the Nominet Member Online Community under the Online Community Terms.

This is done by way of a non-binding adjudication process.

- To use the Service, the Complainant must 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.

2. What the Service covers

- The Service can be used to adjudicate complaints about:
 - the manner in which Nominet took the decision that the Complainant was in breach of the Code, in the following ways:
 - a failure by Nominet to follow the Member Code of Conduct complaints procedure correctly and/or fairly;
 - a failure by Nominet to respond to the Complainant in a timely manner;
 - discourtesy by Nominet's staff;
 - a failure to accept and/or apologise for mistakes;
 - that Nominet's Member Code of Conduct complaints procedure is unfair.
 - 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:
 - 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;
 - a failure by Nominet (including any agent acting on behalf of Nominet) to respond to the Complainant in a timely manner;
 - discourtesy by Nominet's staff (including any agent acting on behalf of Nominet);
 - a failure to accept and/or apologise for mistakes;
 - that Nominet's Online Community Terms complaints procedure is unfair.
- The Service cannot consider complaints, or parts of complaints, which fall into one or more of the following categories:
 - applications made by someone who is not a 'Complainant';
 - applications that are not made against Nominet (including any agent acting on behalf of Nominet);

- where the Complainant has not contacted Nominet's Company Secretary within 10 working days of receipt of Nominet's decision that the Complainant has breached the Code, or applications received over six weeks from the date of receipt of written confirmation from Nominet's Company Secretary that they can use the Service;
- complaints about something the Service does not cover;
- complaints about:
 - fraud or other criminal matters;
 - data protection;
 - discrimination;
 - 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;
- complaints that are the subject of either:
 - an existing, on-going application; or
 - a previous valid application that reached resolution;
- complaints that are more appropriately dealt with by a court, regulatory body, or other formal process;
- complaints that have been, or are, the subject of court proceedings or an alternative independent procedure for the determination of disputes;
- complaints that CEDR thinks are frivolous and/or vexatious;
- complaints that would seriously impair the effective operation of CEDR.

3. Applying to use the Service

- The Complainant must send CEDR a completed application form.
- In their application, the Complainant should give details of:
 - the precise issues that form the nature of the complaint;
 - the recommendation(s) that the Complainant requests the adjudicator to make; and
 - any supporting documents on which the Complainant wishes to rely.

4. The Adjudication process

➤ The Application

- CEDR will make an initial assessment within 15 working days as to whether or not an application meets the requirements of the Service.

- Once accepted, Nominet has 15 working days to take one of the following actions:
 - object to the complaint being considered as its outside the scope of the Service; or
 - submit its response to the complaint.

➤ **Objections**

- Nominet can object to the complaint being within the scope of the Service.
- An adjudicator will decide whether or not they agree that the Nominet has shown that part or all of the complaint falls outside the scope of the Service.
- 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 and the complaint will remain active.
- 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. An adjudicator will then consider this and make a final decision if the complaint can continue or not.
- The decision to withdraw the complaint from the Service is final and cannot be reviewed or appealed.

➤ **The Response**

- When CEDR receives the Response, a copy of it will be sent to the Complainant.
- If Nominet does not submit a Response, the adjudicator will have the power to make a decision considering only the information provided by the Complainant.
- The Complainant has five working days from the date on which the Response is sent to them to provide any comments. The Complainant does not have to provide comments. If the Complainant does provide comments, those comments can only relate to points raised in the Response and must not introduce any new matters.
- CEDR will then appoint the adjudicator to decide the outcome of the complaint.

➤ **The Decision**

- The adjudicator will produce a “Decision”. The Decision will generally be issued within 30 working days of the application being accepted.
- The Decision will be sent to the Parties simultaneously.

- If the Decision makes any recommendations to Nominet, Nominet will notify CEDR within 20 working days 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.
- If the Decision makes no recommendations to Nominet, Nominet will not have to take any further action.
- The adjudicator's Decision cannot be reviewed or appealed.

5. Powers of the adjudicator

- An adjudicator has the power to do any of the following:
 - change any of the process time limits;
 - request further comments and/or evidence from the Parties;
 - proceed with the Adjudication if the Parties do not keep to the Rules;
 - consult any relevant evidence not provided by either of the Parties;
 - take into account any evidence provided by either of the Parties that they consider relevant;
 - withdraw a complaint if the entirety of the complaint falls outside the scope of the Service;
- If the adjudicator finds that the manner in which Nominet (including any agent acting on behalf of Nominet) took the decision that the Complainant breached the Code or that a Complainant's Contribution be moderated did not meet a reasonable standard, they can:
 - make one or more recommendations to Nominet to improve its systems and practices for dealing with complaints; and/or
 - 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.