



Information Commissioner's Office

The Information Commissioner's response to Nominet's call for comments on the proposed Data Quality Policy

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 (DPA), the Freedom of Information Act 2000, the Environmental Information Regulations and the Privacy and Electronic Communications Regulations 2003. He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.

The Information Commissioner welcomes the opportunity to provide comments on the proposed Data Quality Policy (the Policy). We have considered the proposed Policy (and related narrative) from the perspective of the DPA, considering what, if any, effect there might be on personal data.

The quality of the data recorded

The DPA is founded on eight principles of good information handling and specifically includes requirements that personal data be accurate, up to date, and adequate for the task at hand. Personal data is data that relates to individuals – which under the DPA includes sole traders and ordinary partnerships. Data recorded about registrants who are domestic individuals, sole traders or ordinary partnerships would therefore be subject to the requirements of the DPA.

We therefore support Nominet's aim of improving the overall standard of the data which is being recorded about registrants, and believe that these minimum standards could assist Nominet's registrars in complying with the DPA.

An improved standard of data being recorded and included on the WHOIS database should also help to better equip individuals to protect and inform themselves when dealing with new websites. The DPA requires that individuals are made aware of who they are sharing their data with at the outset of a transaction – Nominet's WHOIS service is a valuable backstop for checking this information or, in the case of less compliant websites, for finding this information. Any improvements to the quality of

that data can only be a positive step in empowering consumers to protect themselves.

Consequences of (failed) validation

We note from the narrative that Nominet's WHOIS will indicate where data has been validated, and that where a domain has been suspended as a consequence of failed validation, that will be recorded on the WHOIS.

We have two main concerns around this which Nominet may wish to consider further.

We are concerned that the concept of 'validated' data could be misunderstood when viewed by the public on Nominet's WHOIS.

From the narrative and Policy we understand that the concept of validation means that the format of the data will have been validated, rather than the actual content of the data. By this we mean that in most cases, data will be checked for conformity to basic formatting rules (such as that email addresses must include the @ character, thereby denoting an email address) rather than any checking of the legitimacy or otherwise registrant behind those formatted details.

This is particularly crucial where a registrant entry has a validated address and, separately, a validated name, but it has not been validated that that name is linked to that specific address.

In our view it is important that this is made clear to users of Nominet's WHOIS, ideally at the point at which information about validation is provided. In particular, clarity is needed about whether validation means (i) validation of the format of information; or (ii) validation of format **and** content of information; or (iii) validation of both format and content and confirmation of a link between the contact details and the named contact. References to enhanced data quality in the existing 'data validation' registrar statement on the website could also be confusing.

If it is Nominet's intention to validate the format of the data and that those contact details are associated with the particular registrant this is not currently sufficiently clear in the Policy. We can foresee numerous valid instances where a registrant's main contact details have changed over the timeframe of a domain registration contract and suspension of a domain could have disproportionate consequences to such an individual.

This feeds into our second concern. WHOIS noting that a domain has been suspended due to failed validation could cause detriment to a registrant individual – for example, resulting in loss of business, missed contact or other consequences.

The Policy does not set specific time periods or frequencies for the first, or any subsequent, validation of registrant data. The potential impact on a registrant may differ significantly (and potential domain suspension) depending on the point at which validation occurs – whether at the start of a new domain name registration contract, during a renewal or at any point throughout the lifetime of the contract.

It is also unclear whether it is Nominet's intention to validate the data of all registrants and the expected timescale of validating existing data.

In the interests of fairness and lawfulness – and in compliance with the requirements of principle 1 of the DPA – it is important that any suspension only result from an appropriate trigger, and that steps are taken to ensure the accuracy of the suspension. This is aside from individuals having been made aware of the potential consequences of providing data which is inaccurate or which cannot be validated, and in addition to there being an appropriate and effective appeal process available.

An example might be a registrant's contact details being incorrectly transposed after being collected. If those details are not checked in some way during the registration process, the concern would be that any requests for validation to the registrant could not be met as the individual might not know about the issue until their domain had been suspended. Another example might be a registrant providing the postcode of a new development which is not yet included within the third party database being used for validation.

Our focus in responding to this consultation is the processing of personal information. Where we have made suggestions we are seeking to help ensure that the proposals enable personal data to be processed in compliance with the DPA. We are happy to offer further assistance or clarification on any of the points raised, if required.

December 2013