

Ombudsman Framework

Introduction

The Office of the Ombudsman and the work that the ICANN Ombudsman does are established by [Article V of the ICANN Bylaws](#).

The ICANN Ombudsman is independent, impartial, and neutral. The Ombudsman's function is to act as an Alternative Dispute Resolution (ADR) officer for the ICANN community who may wish to lodge a complaint about a staff or board decision, action or inaction. The purpose of the office is to ensure that the members of the ICANN community have been treated fairly. The Ombudsman will act as an impartial officer and will attempt to resolve complaints about unfair treatment by ICANN using ADR techniques.

The Office of Ombudsman reports only to ICANN's Board of Directors. The Ombudsman cannot be removed from office, except by a 75% majority vote of the board. The Ombudsman has the ability to access all ICANN documentation, files, etc, and can interview staff and board members about issues under ADR.

The Ombudsman has the ability in order to promote an understanding of the issues in the ICANN community; to raise awareness of administrative fairness; and to allow the community to see the results of similar previous cases, to post complaints and resolutions to a dedicated portion of the ICANN website. These postings will be done in a generic manner to protect the confidentiality and privilege of communicating with the Office of the Ombudsman.

The Ombudsman will provide an Annual Report to Board of Directors, and this will be posted on the website.

The Ombudsman will conduct appropriate outreach and consumer awareness with the ICANN Community to raise the level of understanding of the Ombudsman process, and to encourage the use of ADR processes.

The Ombudsman will adhere to the [standards of practice adopted by The Ombudsman Association](#).

The Ombudsman will act as a leader by modeling and promoting fairness, equality, clarity, innovation, and by providing assistance to ICANN and the community in developing an awareness of the Ombudsman role.

The Office of the Ombudsman will strive for certification and peer recognition with relevant Ombudsman bodies.

Jurisdiction of the Ombudsman

The ICANN Ombudsman will receive and have jurisdiction over complaints concerning:

- Decisions, actions, or inactions by one or more members of ICANN staff;
- Decisions, actions, or inactions by the Board of Directors which may be inconsistent with the Articles of Incorporation or the Bylaws.

The Ombudsman does not have jurisdiction over complaints concerning:

- Internal administrative matters;
- Personnel issues;
- Issues relating to membership on the Board; nor
- Issues relating to vendor/supplier relationships.

The Ombudsman may decline jurisdiction over a complaint in the following circumstances:

- The person making the complaint knew, or ought to have known of the decision, recommendation, act, or omission to which the complaint refers more than 60 days before the complaint was received by the Ombudsman;
- The subject matter of the complaint primarily affects a person other than the complainant and the complainant does not have sufficient personal interest in it;
- The complaint is repetitive, trivial, vexatious, frivolous, non-substantive, otherwise abusive, or not made in good faith;
- Having due regard for all the circumstances, further action by the Ombudsman is not necessary to resolve the complaint;
- The complaint is abandoned; or is withdrawn in writing by the complainant;
- The complainant revokes the ADR process by engaging in either a formal review process under [Article IV of the Bylaws](#); or engages in an outside legal process.

Powers of the Ombudsman

The Ombudsman shall use various ADR techniques to facilitate the fair, independent, impartial, and timely resolution of complaints made by persons (or on the Ombudsman's own initiative).

The Ombudsman does not have the power to make, change or set aside a policy, administrative or Board decision, act, or omission. The Ombudsman does have the power to investigate these events, and to use ADR technique to resolve them.

Where, in the conduct of an investigation of a complaint, the Ombudsman forms an opinion that there has been a serious breach of administrative fairness, or maladministration, the Ombudsman shall notify the Board of Directors of the circumstances (see key principles regarding administrative fairness in the "Code of Administrative Justice 2003" Ombudsman British Columbia, http://www.ombud.gov.bc.ca/reports/Public_Reports/Public%20Report%2042.pdf).

Where there exists no further opportunity of ADR techniques to be applied, or there is no likelihood of a successful Ombudsman resolution, the Ombudsman shall advise the complainant of the formal review procedures.

If the Ombudsman declines jurisdiction, he shall inform the complainant in writing of the decision.

The Ombudsman shall have the power to make recommendations to the Board of Directors with respect to matters arising from complaints reviewed by the Ombudsman. Where a recommendation has been made to the Board of Directors, the Board of Directors shall respond to the Ombudsman within 60 days following their next Board meeting following a recommendation.

Confidentiality

All matters brought before the Ombudsman shall be treated as confidential. The Ombudsman shall only make enquiries or advise staff and Board members at ICANN of the existence and identity of a complainant in order to further the resolution of the complaint. ICANN staff and Board members are to hold the existence of a complaint and the identity of a complainant as confidential, except to further the resolution of a complaint.

In general terms, due to the very nature of the work of the Office of the Ombudsman, the Ombudsman *will resist* testifying in any process which would reveal informal, confidential information given to the Ombudsman during the course of an investigation.

Receiving a Complaint

All complaints to the Office of the Ombudsman must be made in writing.

The Office of the Ombudsman shall provide an interactive form on the ICANN website to facilitate the filing of complaints.

Written complaints to the Office of the Ombudsman shall contain the following information:

- Information about the complainant:
 - Name, address, postal address, phone number, email contact, domain name;
- The date of ICANN act, omission, or decision, and a description of that act, omission, or decision;
- A description as to how the complainant has sufficient personal interest in the matter;
- The nature and basis of the complaint about the act, omission, or decision;
- A resume of contact between the complainant and the ICANN staff or Board on the issue, if applicable;
- Any other information the complainant wishes to provide.

Procedure after review

Complaints to the Office of the Ombudsman shall be dealt with in an informal, timely, and confidential manner (except as noted above). Communication with complainants

will normally be by email or telephone to expedite the exchange of information. When the Office of the Ombudsman closes a complaint, it will be in one of the following categories, and the complainant, where possible, will be notified by email:

- Decline jurisdiction;
- Withdrawn;
- Abandoned;
- Unresolved and escalated under Bylaw IV;
- Resolved;
- Resolved with a Notification to the Board;
- Resolved with a Recommendation to the Board.