

Ombuds Panel Implementation Advice

24 June 2018

A. Original recommendation

5.8 - Ombuds Advisory Panel

5.8 ICANN should establish an Ombuds Advisory Panel

5.8.1 Made up of 5 members to act as advisers, supporters, wise counsel for the Ombuds and should be made up of a minimum of at least 2 members with ombuds experience and the remainder with extensive ICANN experience.

5.8.2 The Panel should be responsible for:

- Contribute to the selection process for new Ombuds which would meet the various requirements of the Board and community including diversity.
- Recommending candidates for the position of Ombuds to the Board.
- Recommending terms of probation to the Board for new Ombuds.
- Recommend to the Board firing an Ombuds for cause.
- Contribute to an external evaluation of the IOO every 5 years.
- Making recommendations regarding any potential involvement of the IOO in noncompliant work based on the criteria listed in recommendation 11.

5.8.3 The Panel cannot be considered as being part of the Ombuds office and cannot be considered additional Ombuds, but rather external advisors to the office.

5.8.4 Any such advisory panel would require the Ombuds to maintain its confidentiality engagements per the Bylaws.

B. Implementation Guidance

This implementation guidance was prepared following the Board raising concerns about the independence of the Ombuds function at the San Juan and Panama meetings. The guidance explains how the CCWG expects the recommendations to be implemented.

The Ombuds panel is not meant to be a decision making body – it is only there to assist the Board or relevant Board Committee with the specific tasks enumerated in the recommendation. The Panel is specifically prohibited from getting involved in any matter before the Ombuds; the Ombuds shall not seek, even on anonymized terms, guidance from the Panel on any matter before the Ombuds.

The Panel will only have the specifically enumerated powers set out in **Recommendation 5.8.2**.

In implementing **Recommendation 5.8.2.4** (Recommend to the Board firing an Ombuds for cause), **because under the Bylaws only the Board has the power to fire the Ombuds**, the CCWG advises **that the Board should implement this recommendation by preparing and publishing** information about the process any ICANN community participants can use to provide feedback about, or raise concerns regarding, the performance of the Ombuds. The Panel is welcome to offer feedback on the performance of the Ombuds, but can only provide any feedback through this process (aside from the regular external evaluation). The CCWG suggests this clarification to preserve the right of the Panel to raise any concerns with the performance of the Ombuds function while not interfering with the Board's responsibilities in managing the engagement of the Ombuds and considering concerns raised in an appropriate way.

In implementing **Recommendation 5.8.2.6** ("Make recommendations regarding any potential involvement of the IOO in noncompliant work based on the criteria listed in recommendation 11"), this should only occur at the request of the Board.

Additionally a formal process to select the panel members should be created to first ensure that candidates must have ~~extensive~~**sufficient**~~significant~~ **ICANN and/or ombuds** experience, and complete independence from the SO/ACs. The selection process may be designed in any appropriate means to achieve independence, such as by selection by the Board, an independent recruitment firm, or other appropriate process.

Regardless of the process which is selected the ICANN Board should post details regarding the process that will be utilized.