# Memorandum for the RrSG

This document presents a response to Recommendation to Improve ICANN Staff Accountability. <https://www.icann.org/en/system/files/files/ccwg-acct-ws2-draft-recs-accountability-31oct17-en.pdf>

## Preface

It is vital not to conflate the proliferation of accountability mechanisms with increasing accountability effectively.

The tendency and temptation of all exercises in holding people accountable is to add to the number of mechanisms and thereby blur lines of authority. The incentives apply to both groups involved in this exercise: ICANN staff and the stakeholder groups. The people who are being held accountable, in this case ICANN staff, have incentives to add to the number of managers, institutions, and mechanisms to whom and by which they report, or at least not to resist them too hard. Why? Because the multiplication of interests, managers and mechanisms creates blurred accountability, which engenders a loss of clarity as to who is responsible to whom and for what. The temptation of stakeholder groups may also be to think that increasing the number and kind of accountability mechanisms will actually increase accountability. The result is budget bloat and a lack of effectiveness.

With that caution in mind, the RrSG makes the following observations.

## Our Understanding of the Accountability Draft Recommendations, October 2017

The [CCWG-Accountability-WS2 -Staff Accountability Draft Recommendations](https://www.icann.org/en/system/files/files/ccwg-acct-ws2-draft-recs-accountability-31oct17-en.pdf) is the subject of this commentary. Its introduction reads in part as follows:

The group considered the roles and responsibilities of ICANN’s Board, staff and community members and the links between them, sought input on issues or challenges relating to staff accountability matters, and assessed existing staff accountability processes in ICANN.

In general, these efforts revealed an extensive accountability system both within ICANN organization as well as in the mechanisms of review and redress afforded the Community, including the Board’s role, the Empowered Community Powers, Complaints Office, and Office of the Ombudsman. The group found that many of the issues or concerns identified by the group will benefit from simply making existing mechanisms more transparent. The group has identified a few important changes that will further enhance these accountability mechanisms. The changes proposed are designed to work with existing systems and processes, and to help establish mechanisms to support continuous improvement within the ICANN system.

The Staff Accountability Subgroup then observes:

5. Formally speaking, staff accountability is through the Chief Executive to the ICANN Board.

6. Informally speaking, relationships between and among staff, board and community are integral to the successful work of the ICANN system. ICANN needs to hold staff accountable for succeeding in those relationships and in dealing with any problems.

7. In thinking about Staff Accountability, the important point is that collaboration is essential to ICANN’s success. The community needs to be sure, when appropriate, that ICANN staff will be congratulated and thanked when things are working well, and also to be sure, when appropriate, that staff are held accountable through the usual set of Human Resources (HR) and performance management approaches where things don’t go well.

The subgroup then concludes that the principal problems appear to be (in our paraphrase):

* Lack of knowledge of and understanding of staff accountability codes
* Lack of understanding of how the organization sets department and individual goals
* Lack of an effective diagnostic mechanism “to clearly identify and then address accountability concerns between community and organization”

The report of the CCWG identified

a consistent theme of the desire for a safe forum for expressing concerns regarding Organizational performance in a less formal or alarmist fashion than the current mechanisms of sending “formal” correspondence directly to the Complaints office, CEO or Board. Another consistent theme was the concern about how to best address perceived inconsistencies or concerns regarding implementation of community recommendations.

## RrSG Observation #1

The RrSG notes the contradiction between the elaborate mechanisms already in place and the apparent reluctance of people to use them (as the Study Group avers in its Issues section on page 6). It might be asked why, if the mechanisms are in place, and they are considered “formal” and “alarmist”, the addition of more mechanisms and procedures would improve accountability.

The answer may be that the specific recommendations of the CCWG may lessen confusion, and increase the general understanding of members of stakeholder groups and of ICANN staff of what they may reasonably expect from one another.

## RrSG Observation #2

The staff of the ICANN Organization are responsible to the chief executive officer, and the CEO is in turn responsible to the Board. The ICANN organization acts as a supplier of services to the constituencies or stakeholder groups. Accordingly, the relationship of the ICANN Organization and ICANN Board to its Community is one of supplier to customers. This relationship came into being when ICANN severed its relation to the US Department of Commerce.

## RrSG Observation #3

Measures to increase or make more effective the accountability relationship of ICANN organization staff to the Stakeholder Groups need to be considered in the light of the customer-supplier relationship.

Stakeholder groups must be able to know what they may reasonably expect from staff, and what the limits are of their respective roles.

Keeping in mind these three observations, it is now appropriate to examine the CCWG’s recommendations.

**CCWG recommendation #1**

To address the lack of understanding of the existence and/or nature of existing staff accountability mechanisms, by posting on icann.org in one dedicated area the following

a) ICANN organization should improve visibility and transparency of the organization’s existing accountability mechanisms, by posting on icann.org in one dedicated area the following:

1. Description of the organization’s performance management system and process

2. Description of how departmental goals map to ICANN’s strategic goals and objectives.

3. Description of The Complaints Office and how it relates to the Ombuds Office

4. Organization policies shared with the CCWG Accountability during the course of the WS2 work

5. ICANN Organization Delegations document

6. The roles descriptions included in this overall report

7. Expectations and guidelines regarding the development of staff reports for Public Comments, or staff response to Community correspondence.

b) ICANN organization should also evaluate what other communication mechanisms should be utilized to further increase awareness and understanding of these existing and new accountability mechanisms.

## RrSG Observation #4

The RrSG considers these ideas virtuous and to a degree desirable but not likely to be significant.

**CCWG Recommendation #2**

To address the lack of clearly defined, or broadly understood, mechanisms to address accountability concerns between community members and staff members regarding accountability or behavior:

1. ICANN organization should enhance existing accountability mechanisms to include:
2. A regular information acquisition mechanism (which might include surveys, focus groups, reports from Complaints Office) to allow ICANN Organization to better ascertain its overall performance and accountability to relevant stakeholders.

The group notes that several new mechanisms are now established but have not yet been exercised enough to determine effectiveness or potential adjustments. The evaluation mechanism proposed here would be helpful in determining effectiveness of these recent mechanisms before creating yet more mechanisms that may turn out to be duplicative or confusing for the organization and community.

2) Results of these evaluations should be made available to the Community.

## RrSG Observation #5

The RrSG considers this recommendation 2a to be without merit. It consists of needless complexity, and implies that accountability is achieved by mechanisms, and if one does not work, let’s add another.

**CCWG Recommendations 2 b and 2c**

b) ICANN organization should standardize and publish guidelines for appropriate timeframes for acknowledging requests made by the community, and for responding with a resolution or updated timeframe for when a full response can be delivered.

c) ICANN organization should Include language in the performance management guidelines for managers that recommends people managers of community-facing staff seek input from the appropriate community members during the organization’s twice-annual performance reviews.

## RrSG Observation #6

The registrars consider these two recommendations have real merit. Recommendation 2b is consistent with the idea that ICANN serves a clientele, which is composed of stakeholder groups, and that obligations are owed to the customers.

Recommendation 2c would have the effect of allowing ICANN management to measure the effectiveness of community-facing personnel by their relationships to the people they are supposed to serve. This is a radically sound idea.

**CCWG Recommendation #3**

In some situations, issues may be complex and require cooperation among several of the ICANN accountability mechanisms. An example might be a complaint about fairness filed by one or more parts of the empowered community. Another example might involve situations among the Board, Community and/or Organization that repeat regularly and are not susceptible to redress by any one of the accountability mechanisms. ICANN should investigate the creation of a mechanism for an ad-hoc four-member panel composed of the Ombudsman, the Complaints Officer, a representative chosen by the Empowered Community and a Board member. The panel could review concerns or issues raised by the community, ombudsman, staff or board that at least two panel members determine require further effort. This panel would have no powers beyond those of its members and their ability to cooperate.

While this panel should work transparently, it will, at its discretion, be able to treat issues that require it, as confidential. Examples of appropriate reasons include discussion of confidential topics such as:

a. trade secrets or sensitive commercial information whose disclosure would cause harm to a person or organization's legitimate commercial or financial interests or competitive position.

b. internal strategic planning whose disclosure would likely compromise the efficacy of the chosen course.

c. information whose disclosure would constitute an invasion of personal privacy, such as medical records.

d. information whose disclosure has the potential to harm the security and stability of the Internet.

e. information that, if disclosed, would be likely to endanger the life, health, or safety of any individual or materially prejudice the administration of justice.

## RrSG Observation #7

The RrSG considers this recommendation to be more a symptom of the problem besetting ICANN’s institutional style than its solution. The problem is the proliferation of processes, groups, subgroups, mechanisms and bureaucratic busy-ness, all of which raise costs, increase the opacity of the organization and reward insider knowledge. Surely with all the talent available someone or some people can pick up a phone and sort out a problem informally. Providing for every corner-case is unwise.

**CCWG Recommendation #4**

ICANN Organization should work with the community to:

1. Develop and publish service level guidelines (similar to the Service Level Agreement for the IANA Numbering Services) that clearly define all services provided by ICANN to contracted parties and the service level target for each service.
2. Develop and publish service level definitions that clearly define services provided to members of the community, and the expected service level target for each type of service.

## The RrSG also notes that it is written the ‘community needs to be sure…. that staff are held accountable through the usual set of Human Resources (HR) and performance management approaches where things don’t go well’. This wording could be read as referring to HR as a place where things don’t go well instead of the inferred situation of when there is an issue of staff performance.

## RrSG Observation #8

The Registrars consider these two ideas to be the best in the whole report. Our reasons are as follows:

* They are consistent with the customer – supplier arrangement that now characterizes ICANN’s relationship to its stakeholders;
* They require no new organizations;
* They establish clearer expectations of everyone in ICANN;
* They are practical;
* They cause a focus by management and staff on what needs to happen between ICANN and its stakeholders-customers;
* They shift attention away from a preoccupation with procedural fairness issues, which dominate too much of the internal workings of the organization
* The SLAs are the accountability mechanisms. The idea behind service level agreements provides the criteria by which to evaluate the other recommendations of this report.

The various mechanisms discussed in the Staff Accountability document make sense or not insofar as they re-inforce the idea of a service relationship between stakeholders and ICANN staff. The ones that the RrSG considers to be ineffective, or largely beside the point, were predicated on vagueness as to the accountability of ICANN to its customers.

Working out the details of the service level agreements will cause a salutary improvement in organizational focus and delivery of services, and implementing them will cause even more improvement.

The report under discussion reflects the changes in approach between the old ICANN and the new one: the old being focused on procedural fairness, with its quasi-judicial overtones, and multiplicity of mechanism and offices, and the new one on rational expectations for defined services within defined timeframes.