

AFRINIC Policy Development Appeal Committee Terms of Reference

Version 1

18 July 2017

1. Introduction

1.1. The **AFRINIC Policy Development Appeal Committee**, or the **Appeal Committee**, is a committee appointed by the AFRINIC Board, intended to adjudicate on appeals in terms of the Conflict Resolution section¹ of the AFRINIC Policy Development Process (PDP).² Any such appeal will involve a disagreement regarding the actions taken by the Chair(s) of the Policy Development Working Group (PDWG).

1.2. The Conflict Resolution section of the Policy Development Process states:

3.5 Conflict Resolution

A person who disagrees with the actions taken by the Chair(s) shall discuss the matter with the PDWG Chair(s) or with the PDWG. If the disagreement cannot be resolved in this way, the person may file an appeal with an Appeal Committee appointed by the AFRINIC Board of Directors. An appeal can only be filed if it is supported by three (3) persons from the Working Group who have participated in the discussions.

The appeal must be submitted within two weeks of the public knowledge of the decision. The Appeal Committee shall issue a report on its review of the complaint to the Working Group. The Appeal Committee may direct that the Chair(s) decision be annulled if the Policy Development Process has not been followed.

¹ “Conflict Resolution”, section 3.5 of the AFRINIC Consolidated Policy Manual.
<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_5>.

² “The Policy Development Process (PDP)”, section 3 of the AFRINIC Consolidated Policy Manual.
<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_0>.

Anyone may request the recall of a Working Group Chair at any time, upon written request with justification to the AFRINIC Board of Directors. The request must be supported by at least five (5) other persons from the Working Group. The AFRINIC Board of Directors shall appoint a recall committee, excluding the persons requesting the recall and the Working Group Chairs. The recall committee shall investigate the circumstances of the justification for the recall and determine the outcome.

1.3. The Conflict Resolution section of the Policy Development Process (PDP) requires that an Appeal Committee be appointed by the Board. It also requires a complainant to file an appeal with the Appeal Committee, within two weeks of the public knowledge of the decision under appeal.

1.4. The PDP is silent about the size and composition of the Appeal Committee, and the Board therefore has the discretion to decide these factors. This document sets out the Board's decisions.

1.5. The PDP is silent about whether the Appeal Committee is a standing committee, appointed in advance of any possible appeal, or an ad hoc committee, appointed only when there is an appeal to be heard. However, the requirement that the appeal be filed with the committee (not with the Board) implies that the committee must already be in place at the time that the appeal is filed, which will be no later than two weeks after a decision that triggers the appeal. The Board has therefore decided to appoint the Appeal Committee as a standing committee.

1.6. This document sets out the processes and guidelines to be used in the short term, beginning in July 2017. The Board expects to revise the processes and guidelines for the longer term.

2. Composition

2.1. The committee shall be appointed by the Board and be composed of the following members:

- a) Seats 1 and 2: Two of the past chairs or past co-chairs of the AFRINIC policy development working group (PDWG).
- b) Seats 3 and 4: Two of the current or past chairs, co-chairs, vice chairs, or equivalent, of other RIRs' equivalents of the policy development working group. These two shall not both be associated with the same RIR.
- c) Seat 5: A current or past chair or vice chair of the NRO NC/ASO AC, who is not from the AFRINIC region.

2.2. The following are not eligible for membership of the Appeal Committee:

- a) Employees of AFRINIC.
- b) Members of the AFRINIC Board of Directors.

- c) Current Chairs or co-chairs of the AFRINIC PDWG.
- d) Authors or co-authors of any policy proposal that is the subject of an appeal.

2.3. In the event that a member of the Appeal Committee subsequently becomes ineligible, then that person shall immediately resign or be removed.

3. Selection Process

3.1. Ordinary Selection Process

3.1.1. For seats 1 and 2, the names of past chairs or co-chairs from the past 5 years shall be considered, and any who are ineligible shall be excluded. Those who remain shall be ordered by a random permutation. The first two persons in the random permutation shall be approached, and if they consent then they will be appointed. Candidates later in the list will be approached if earlier candidates decline the position. In the event that insufficient candidates consent, then the search will be widened to any time in the past.

3.1.2. For seats 3 and 4, an attempt will be made to select two candidates who currently hold an appropriate office, using a random permutation similar to that described above. In the event that insufficient candidates consent, then the search will be widened to candidates who have held appropriate office in the past 5 years. In the event that insufficient candidates consent, then the search will be widened to any time in the past.

3.1.3. For seat 5, an attempt will be made to select a candidate who currently holds an appropriate office, using a random permutation similar to that described above. In the event that insufficient candidates consent, then the search will be widened to candidates who have held appropriate office in the past 5 years. In the event that insufficient candidates consent, then the search will be widened to any time in the past.

3.2. Insufficient Candidates

3.2.1. In the event that insufficient candidates with the necessary qualifications are available and willing to serve for any particular seat, the Board shall fill that seat by appointing a person from the AFRINIC community.

3.3. Terms

3.3.1. The Board has the right to replace any or all Appeal Committee members at any time.

3.3.2. Every three (3) years, or more often at its sole discretion, the Board shall replace the entire Appeal Committee.

3.3.3. Every one (1) year, or more often at its sole discretion, the Board shall consider whether or not to replace any Appeal Committee member who was appointed from the AFRINIC Community in terms of the “Insufficient Candidates” part of this selection process.

3.3.4. Whenever an Appeal Committee member who was appointed by virtue of currently holding some other office, ceases to hold that other office, the Board may decide whether or not to replace that Appeal Committee member.

3.3.5. In the event that an appeal is in progress at a time when the Board considers replacement of any or all Appeal Committee members, then the Board should delay any such replacement until such time as there is no appeal in progress; except that, if there continue to be appeals in progress after six (6) months, then the Board shall not delay any longer.

3.4. Filling of Vacancies

3.4.1. In the event of a resignation, or a Board decision to replace a member of the Appeal Committee, or any other reason for a vacancy, then a replacement member shall be selected using a random permutation process similar to the ordinary selection process.

4. Working Methods

4.1. Appeals must be submitted in accordance with the process under “Filing an appeal” elsewhere in this document.

4.2. Any member of the Appeal Committee who has a conflict of interest with respect to an appeal shall recuse themselves from considering that appeal. The Board shall appoint a temporary replacement for the purposes of considering the appeal in question.

4.3. After receiving an appeal, the Appeal Committee shall publish a timeline for starting and completion of their work.

4.4. Should the Appeal Committee need more time, it shall make a request to that effect to the Board, with relevant reasons for extension.

4.5. The committee shall deliberate via email and/or teleconference.

4.6. The committee shall ensure that any appeal received is in line with the requirements of the Conflict Resolution section³ of the AFRINIC Policy Development Process.

³ “Conflict Resolution”, section 3.5 of the AFRINIC Consolidated Policy Manual.
<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_5>.

- 4.7. The committee shall submit a report to the Policy Development Working Group, via the RPD mailing list <rpd@afrinic.net>, containing its assessment of the facts put before it and its ruling on the grounds of appeal raised by the Appellant.
- 4.8. The Appeal Committee may direct that the Chair(s) decision be annulled if the Policy Development Process has not been followed. Such a ruling shall be final and binding.
- 4.9. Appeals and reports of findings shall be published in the policy development section of the AFRINIC web site, in addition to their publication in the RPD mailing list.

5. Filing an Appeal

- 5.1. Before an appeal is filed, the following conditions must be satisfied:⁴
- a) There must be an action taken by the Chair(s) of the PDWG.⁵
 - b) A complainant must disagree with that action.
 - c) The complainant must discuss the matter with the Chair(s) of the PDWG, or with the PDWG as a whole.⁶
 - d) The discussion must fail to resolve the disagreement.⁷
- 5.2. When a complainant decides to file an appeal, the following requirements apply:
- a) The complaint must be supported by three (3) persons who have participated in the discussions relating to the matter under appeal.⁸ (That is, three (3) persons other than the complainant.)⁹
 - b) The appeal must be filed no more than two weeks (14 calendar days) after the action that is being appealed.¹⁰
 - c) In the event that, ten (10) days after the action to be appealed, there is still an ongoing discussion in an attempt to resolve the disagreement, then the complainant may proceed with filing an appeal as if the discussion had failed to resolve the disagreement.¹¹
- 5.3. An appeal must include the following information:
- a) Brief description of the topic under appeal.
 - b) Date of the appeal.

⁴ These conditions appear in the first paragraph of the “Conflict Resolution” section of the Policy Development Process
<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_5>.

⁵ “A person who disagrees with the actions taken by the Chair(s) ...”

⁶ “... shall discuss the matter with the PDWG Chair(s) or with the PDWG.”

⁷ “ If the disagreement cannot be resolved in this way ...”

⁸ “An appeal can only be filed if it is supported by three (3) persons from the Working Group who have participated in the discussions.”

⁹ The term “supported by” implies that the supporters and the complainant are distinct persons.

¹⁰ “The appeal must be submitted within two weeks of the public knowledge of the decision.”

¹¹ “Ten (10) days” is a limit decided by the Board, to balance the need for discussion with the need to file an appeal before the two-week deadline.

- c) Name and email address of complainant.
- d) Names and email addresses of three (3) persons, other than the complainant, who support the appeal and who participated in the discussions.
- e) Date of the decision made by the Chair(s).
- f) Link to an announcement of the decision which is being appealed.
- g) Evidence of a failed attempt to resolve the disagreement through discussion.
- h) Detailed description of the grounds for appeal.
- i) A list of additional material that the complainant will rely on, if any.

5.4. An appeal must be sent via email to the Appeal Committee <pdwg-appeal@afriinic.net>. A copy of the appeal must be forwarded via email (in a separate email message, not as a carbon copy or “cc”) to the RPD mailing list <rpdc@afriinic.net>.