

7 June 2016

Debbie Monaghan
Domain Name Commissioner
PO Box 11-811
Wellington 6142

By email: policies@dnc.org.nz

Dear Ms Monaghan

The .nz WHOIS Register – Review, Stage 3

Thank you for the opportunity to make a submission on the third public consultation on the .nz policy regarding the WHOIS register.

The consultation proposes that the WHOIS will remain a publicly available register, but with a process for individuals to have their details withheld from publication under certain circumstances. The New Zealand Law Society supports those proposals. They are consistent with the Law Society's recommendations in its submission on stage 2 of the review, that:

- the WHOIS system should provide additional protection for personal privacy where possible. In particular, there should be a well-publicised mechanism for registrants to be able to suppress their personal information where publication puts their safety at risk, and
- the identity of domain name registrants should continue to be publicly available, to support the purposes and the integrity of the registration system.¹

The Commission has drafted a proposed process for withholding registrant information in the WHOIS. It involves collecting the following information from the applicant:

- a. Their full and correct details
- b. Which details they wish to be withheld, why they want them withheld and why this outweighs the default position of it being public
- c. Any relevant supporting documents or statements supporting their application including copies of any protection, trespass or restraining orders
- d. Why their interests can't be protected in any other way
- e. What other measures they have taken to protect their information

It should not be necessary for the applicant to explain, in relation to paragraph (b), why the need for suppression outweighs the default position of the information being public. The fact that the applicant has been judged sufficiently at risk to obtain a protection, trespass or restraining order is sufficient.

Paragraphs (d) and (e) may also be perceived as a barrier by victims of family violence, by appearing to suggest they should be exploring other options. Whether or not they have or should explore other options is not something the Commission is in a position to assess. It would also give rise to

¹ .nz WHOIS Register, Review, stage 2:
http://www.lawsociety.org.nz/data/assets/pdf_file/0009/98208/I-DNC-WHOIS-review-2-2-16.pdf

difficulties if the victim has had legal advice or advice from police in respect of a certain course of action and the Commission questions their consideration of other options.

In short, it should be sufficient for the applicant to identify the details to be withheld and provide relevant documents in support. The Commission could reserve the right to ask for further information if it considers the applicant has not provided satisfactory or sufficient information.


Accordingly, the Law Society recommends the following amendments to the application process:

- a. Their full and correct details
- ~~b. Which details they wish to be withheld, and why they want them withheld and why this outweighs the default position of it being public~~
- c. Any relevant supporting documents or statements supporting their application including copies of any protection, trespass or restraining orders
- ~~d. Why their interests can't be protected in any other way~~
- ~~e. What other measures they have taken to protect their information~~

The amended process would provide an appropriate level of protection to persons at risk (including victims of family violence), as evidenced by a protection, trespass or restraining order.

This submission was prepared with assistance from the Law Society's Human Rights & Privacy Committee. If further discussion would assist, please do not hesitate to contact the Law Society's Law Reform Manager Vicky Stanbridge (vicky.stanbridge@lawsociety.org.nz / 04 463 2912).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Kathryn Beck', written in a cursive style.

Kathryn Beck
President