



## Revision of the JANET Acceptable Use Policy: REQUEST FOR COMMENTS

20 November 2007

1. JANET(UK) is revising the present version of the JANET Acceptable Use Policy (the "AUP" – version 9). This is a routine review, necessary to ensure that the AUP remains aligned both with current legislation and regulation and with current best practice.
2. In making this revision we have also taken into account comments made in the recent report to *JISC Legal* on barriers to business and community engagement<sup>1</sup>, as to the confusion that can exist as to the scope and interpretation of the AUP. This is particularly in respect of the nature of activities for which JANET may be used, and to which types of organisation and intended use are eligible for a JANET connection.
3. As part of this process we would welcome comments, in particular from those responsible for the implementation of the AUP within their organisations, as to the fitness for purpose and practicability of the draft text accompanying this note. Once such comments have been taken into account, a final draft will be presented to the JISC's Committee for Networking for its formal endorsement, and will then be brought into effect as version 10 of the AUP.
4. Although there are a significant number of changes to the layout and wording of the AUP represented in the draft text, the intent of the revision is to improve the clarity, currency and usability of the AUP. We have not introduced significant changes to the overall policy, as we do not consider the present AUP to have become in any way materially unfit for purpose.
5. Anyone wishing to comment should do so by e-mail in the first instance, and by no later than **21 December 2007**, to the JANET Service Desk:  
*service@ja.net*
6. The rest of this note summarises the main changes that have been made as a result of the revision. References to clause numbers are to the clauses in the draft text for version 10.

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### **Format and Layout of the Revised AUP**

7. The revised draft has been reformatted to make it as easy as possible to understand. Partly this has been a matter of rearranging the ordering of text, along with a tidying up of the wording to provide greater clarity wherever possible.
8. A convention has also been introduced of using explanatory notes to illustrate or otherwise supplement a particular clause without over-lengthening it. All such notes have been collected at the end of the document – although separated in this way for readability, they still form part of the overall AUP.

### **Legal Status and Scope of the Revised AUP**

9. The AUP is an integral part of the legally binding terms under which any organisation with a JANET connection uses the network. This relationship has been made clear in the revised text (clause 3).
10. The AUP applies not only to an organisation acting as a corporate entity in its use of its JANET connection, but also to each of those individuals whom it allows to use JANET over that connection. This joint applicability was implicit in the present (and previous) versions of the AUP, and has been made explicit here, via definition and use of the term "Members" of

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<sup>1</sup> This report may be found at: <http://www.jisclegal.ac.uk/bce/BCESStudy.pdf>

the organisation (clause 4). This definition is deliberately wide, and not limited to (for example) just staff and students.

11. In response to a common misperception that the AUP defines who may connect to JANET, as well as how it may be used, text has been introduced to explain that eligibility to connect is solely a matter for the JANET Connection Policy (clause 2). The AUP itself makes no statements in this regard.

### **Acceptable Use**

12. A note to clause 7 has been introduced to make it clear that the AUP does not in any way prohibit the use of JANET by the User Organisation for activities intended for commercial gain, if these are part of the organisation's aims and policies. This corrects another common misperception, that JANET may only be used for non-commercial purposes.

### **Unacceptable Use**

13. The various categories of unacceptable use have been reviewed to ensure that they remain aligned to the applicable legislation. For example, the prohibition of transmission of material "likely to cause annoyance, inconvenience or needless anxiety" has been amended to make it clear that this is unacceptable only where there is the intent to do so (clause 10). It is not intended that an isolated case of accidental or inadvertent transmission of such material be a violation of the AUP.

14. It has also been made explicit (via Note 2, clause 9) that the list of unacceptable uses cannot necessarily be taken to be exhaustive, as any activity, if unlawful, would of course also be unacceptable under the AUP.

15. A new category of unacceptable use has been introduced (clause 12) to prohibit any intent to defraud, for example by "phishing".

16. Clause 15 prohibiting "spamming" has been redrafted to bring it more in line with current (mal)practice, whilst not prohibiting bulk transmission where this has been solicited or otherwise consented to.

17. The prohibition on deliberate unauthorised access to networked facilities or services (clause 16) has been annotated to deal with a recent growing problem of interpretation and enforcement. This arises from the use of software that scans the Internet on an IP address and/or port basis. Where unauthorised, either explicitly or implicitly, this would be both against the AUP and unlawful.

18. However, it may be difficult to know when implicit authorisation has been given, and there are some scanning techniques that are both lawful and useful, provided that they are authorised. These include limited scanning for diagnostic purposes (e.g. via *traceroute* or *ping*), to audit network security, or for research purposes. The notes to this clause are intended to clarify this situation in the light of recent case law, and to give the JANET CSIRT and their peers in User Organisations greater clarity and powers to deal with inappropriate behaviour in this respect.

### **Access to Other Networks**

19. The fact that users of JANET will be often using the network to reach users or resources on other networks has been more overtly recognised. Clause 6, which defines in the broadest sense for what purpose JANET may be used, includes this, and the text in the present AUP relating to unacceptable behaviour towards other networks has been brought together in one section.

### **Passing On and Resale**

20. This section has been tidied up to make it clearer under what circumstances User Organisations may allow other than its staff or enrolled students to use its JANET connection. The existence of licensing schemes to regulate this is also made clearer.