

# Complaint & Appeal Procedure

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## Complaint Procedure

This procedure describes how complaints related to the activities of the Foundation and operation of the FSSC 22000 certification Scheme will be managed.

In order for complaints to be dealt with promptly, it is important that they are directed to the most appropriate recipient. The following complaint categories are distinguished:

### 1. Complaints on functioning of Certification Body

Complaints about the activities or functions of a certification body (hereafter CB) in first instance are to be addressed with the accreditation body that accredits the CB. The complaints procedure of the relevant accreditation body must be followed.

The Foundation cannot formally deal with complaints of this nature, but will assist the accreditation body with its investigations as far as possible, if requested.

In cases where the complainant is not satisfied with the handling of their complaint by the accreditation body, they may inform the Foundation. Alternative actions may be discussed with the Foundation, but cannot be determined until all relevant case details have been made known to the Foundation.

### 2. Complaints on functioning of a certified organization

Complaints about a certified organization [for example, a failure to follow the requirements of the certification scheme] in first instance are to be addressed with the relevant CB. The complaints procedure of the CB must be followed.

The Foundation cannot formally deal with complaints of this nature, but will assist the CB with its investigations as far as possible, if requested.

In cases where the complainant is not satisfied with the handling of their complaint by the CB, they may inform the Foundation. Alternative actions may be discussed with the Foundation, but cannot be determined until all relevant case details have been made known to the Foundation.

### 3. Complaints on functioning of the Foundation and/or the Scheme

Complaints about the FSSC 22000 Foundation or any aspect of the operation of the FSSC 22000 certification Scheme are to be addressed to the Managing Director of the Foundation.

A template for registering a complaint is attached as appendix A of this procedure. Complaints are to be sent to [info@fssc22000.com](mailto:info@fssc22000.com).

## Conditions

1. Complaints may only be filed by persons or organizations that are directly affected by the activities of the Scheme or its licensed CBs, which must have a valid license with the Foundation and has paid all fees up to date.
2. Complainants are expected to attempt to find a resolution to their complaint with the defendant prior to file a formal complaint with the Foundation. Failure to resolve the complaint in a timely manner – within a maximum of 30 days – will justify escalation.
3. Complaints filed with the Foundation must:
  - a. be made within 30 days of failing to resolve the issue as described in point 2;
  - b. be accompanied by the completed complaints form as given in appendix A, or an equivalent document which provides all relevant details (in chronological order);
  - c. include any supporting evidence or documents, such as statements and explanations related to the issue;
  - d. not be repeated until a minimum of 6 weeks has passed.
4. The person or organization making the complaint cannot derive any rights from the fact that the Foundation has taken the complaint into account.
5. The Foundation accepts no liability for the nature, completeness or correctness of registered complaints. Any risk of damage resulting from claims remains completely with the complainant.

## Procedure

1. The Secretariat of the Foundation will acknowledge receipt of the complaint and initiate an appropriate investigation. Acknowledgement does not imply that the nature, completeness or correctness of the complaint is verified.
2. The Secretariat will assess the complaint and ask the defendant, if necessary, for a detailed reply on the filed complaint. The Secretariat will take advice from the retained technical experts and/or the Board of Stakeholders where necessary, in order to determine the facts of the case and an appropriate response or resolution. This investigation will be completed within 30 days. If more time is needed, the complainant will be notified of progress and estimated timescale.
3. Records of complaints, investigations and proposed resolutions will be maintained by the Secretariat. Proposed resolutions will be ratified by a representative of the Board of the Foundation prior to onward communication. Should both parties reach a resolution together, this will be deemed binding and will be confirmed by the Secretariat to both parties.
4. The Secretariat will communicate outcomes or proposed resolutions with both the person or organization that has filed the complaint and/or the defendant.
5. A summary of complaints registered and outcomes or resolutions will be reviewed by the Board of the Foundation a minimum of once per year.
6. Complaint outcomes or resolutions may be appealed (within 30 days) in accordance with the procedure given below.

## Appeal Procedure

### 1. General

This Regulation stipulates the way in which a complainer or defendant can appeal against a decision of the Board of the Foundation in a complaint. FSSC 22000 licensed CBs are subjected to the articles of this Regulation.

### 2. Definitions

Appeal	Dispute about/with a decision of the Board of the Foundation in a complaint.
Committee	The independent Appeal Committee established by the Foundation.
Complainer	The organization that issued the complaint and can only be those directly involved in a disputed case.
Defendant	The organization which is accused of a disputed case.

### 3. Filing

- 3.1 Notice of appeal has to be lodged within 3 working days after the decision date on the disputed complaint. The official appeal must be filed within 14 days after the decision date on the disputed complaint.
- 3.2 The complaint resolution will only come into force when the Appeal Committee has taken its decision on the filed appeal, notwithstanding the possibility for the Appeal Committee to adjust the proposed decision or formulate a new one.
- 3.3 The appeal must be sent to the Secretariat, Postbus 693, 4200 AR Gorinchem, The Netherlands by post or email: [info@fssc22000.com](mailto:info@fssc22000.com), and will contain to the following information:
  - the name and address of the complainer;
  - the date of the appeal;
  - the name of the defendant;
  - the description of the complaint, including the undertaken actions to find a solution with the accused, possible witnesses and other relevant documentation.

### 4. Acceptance

- 4.1 The complainer or defendant can only file an appeal after the Board of the Foundation has made a decision on the complaint.
- 4.2 When the appeal has been accepted by the Appeal Committee the appeal is formal and will be dealt with according to this procedure.

### 5. Committee

- 5.1 As soon as possible, but within 30 days after receiving the appeal, the Board of the Foundation will establish an Appeal Committee.
- 5.2 Appeals must be reviewed by persons who have not been involved in the complaint process.
- 5.3 The Committee must formally agree to follow this Appeal Procedure.

5.4 The Committee will be assisted by the Secretariat.

## **6. Correspondence**

6.1 Correspondence, statements and judgments must be in writing.

6.2 All correspondence from or to the Committee will be dealt with by the Secretariat.

6.3 All correspondence, written documents and announcements will be filed with reference to a case number.

6.4 The complaints-appeal file will be available for the involved persons at the Secretariat for 5 years after the verdict of the Committee.

## **7. Process**

7.1 The Committee will be notified of the filed appeal.

7.2 The Secretariat will send a receipt confirmation and a copy of the appeal to the defendant with the request to give a written reaction within 2 weeks. Both parties will be informed of the Appeal Procedure to be followed.

7.3 After receipt of the motivated written defense of the defendant the Secretariat will send a copy to the complainer.

7.4 If certain points of the appeal are not clear to the Secretariat additional information will be requested from the complainant or defendant.

7.5 The Secretariat will send a copy of the appeal including all relevant documents to the Committee within 2 weeks after the case is completed (meaning a reply is received from the defendant -8.2, the complainer has had the chance to reply as well – 8.3 and details are clear to the Secretariat – 8.4).

7.6 The Committee will deal with the appeal through e-mail and/or an online meeting and will judge the appeal within 2 weeks after receipt of the complete case.

## **8. Hearing**

8.1 After receiving all the documents from the complainer and the defendant, the chair of the Committee or one of the parties may, within 6 weeks after receiving the documents, request for a hearing. When the Committee wants to hear both parties separately this is possible. In principal hearings of the Committee are not public. The Committee can under certain circumstances decide to allow third parties to be present at the hearing.

8.2 The chair of the Committee will decide the day, the time and the place of the hearing. As a rule the hearing will take place within 6 weeks after the committee decided to a hearing. When a hearing is only possible after the 6 week period, both parties will be informed as soon as possible.

8.3 The Secretariat will send the invitation for the hearing within a reasonable time, at least 3 weeks before the hearing date.

8.4 Parties must be present or represented by an authorized person and may be assisted by an adviser.

8.5 Complainer and defendant will be enabled to explain their points of view during the hearing.

- 8.6 The Committee is authorized to request information, hear witnesses, do research (at the location), ask for expert advice and act in any way necessary for dealing with the appeal. The Committee can record a verbal statement and have this signed by the same person.
- 8.7 When witnesses and/or experts will be heard on request of one of the parties the possible costs will be paid in advance by the party who is calling the witnesses and/or experts. On request of the complainer or the defendant the Committee will calculate the cost and will include this in the total costs of the procedure in accordance with article 17.
- 8.8 The Secretariat will make a report of the hearing.

## **9. Withdrawal**

The complainer can withdraw the appeal at any time. The Committee will in that case decide on the costs in accordance to article 17 and will decide what costs the complainer could reasonably be charged with.

## **10. Default**

- 10.1 When the defendant remains negligent to defense without any reasons, within the term decided by the chair of the Committee, it is authorized to judge in favor of the complainer, unless this is expected to be unreasonable.
- 10.2 The same is applicable if the complainer or the defendant will not appear at the hearing without giving any reasons, provided that the hearing was properly announced.

## **11. Decision making**

- 11.1 The Committee considers and decides based on the content of the documents, the hearing information and its own expertise.
- 11.2 The Committee must decide by majority of votes.
- 11.3 The members and replacing members, as well as the Secretariat, are bound to complete secrecy.

## **12. Final Decision**

- 12.1 The Committee will judge within 2 weeks after the hearing.
- 12.2 The judgement will be written and signed by the chair of the Committee and the Secretariat.
- 12.3 The judgement will contain in any case:
- the names of the members of the Committee;
  - the names and the addresses of both parties;
  - a short overview of the progress of the procedure;
  - an overview of the complaint, the appeal and the defense;
  - the considerations of the Committee;
  - the judgement;

- the decision regarding paying the cost in accordance to article 17;
- place and date of the judgement.

### **13. Measures of discipline**

13.1 The Committee can take one or more of the following measures of discipline:

- a warning;
- a penalty with a maximum amount of € 10,000;
- an order to rectify the irregular actions which are not in line with the legitimate interests of the Foundation and its affiliated accreditation bodies, certification bodies or training organizations;
- a suspension of the affiliated certification body or training organization for maximum 6 months;
- a proposal for termination of certification body or training organization affiliation with the Foundation;
- make publicly available one of the above measures with motivation while keeping the anonymity of the affected parties by the measure, all in such a way as decided by the Committee.

13.2 When one of the measures of discipline is taken the Committee can decide to charge the one who is subject to the measure with the costs of same.

13.3 The measures of discipline and judgement costs may, when necessary, be executed by the Board of the Foundation.

### **14. Communication of decision**

14.1 Within 2 weeks after the judgement, the Secretariat will send a copy of the judgement to both parties and, if relevant, to their authorized adviser.

14.2 The judgement will be shared with the Board of the Foundation and the CB's AB when applicable.

### **15. Binding force of the judgement**

The judgement of the Committee is binding for all parties as of the date the judgement is made and signed.

### **16. Costs**

16.1 The costs of the procedure include the costs connected to the appeal, including the attendance fees, travel expenses of the members of the Committee and the Secretariat and other administrative costs. The Foundation will determine the rules for the attendance fees, travelling expenses of the members of the Committee and the Secretariat and other administrative costs.

16.2 In the determination of the costs of the procedure by the Committee also the costs for experts and witnesses are taken into account, as well as the expenses of the complainer for filing the appeal.

16.3 In her judgement the Committee decides in fairness which party will be charged with the costs for the procedure.

#### **17. Security deposit**

17.1 The Committee is authorized to decide that the complainer or the defendant has to pay a security fee into the bank account of the Foundation to make sure all costs are covered.

17.2 The amount of this security will be in reasonable proportion to the expected costs. The security shall be taken into account by the judgement.

17.3 Regarding the security of complainer the Committee is authorized to postpone the further treatment of the complaint till the deposit is paid. When after a second written reminder the complainer has not paid the security within 14 days, the complaint will be deemed to be withdrawn.

17.4 When there is no agreement between the Foundation and the complainer the complainer must sign a statement expressing that same submits to the stipulations of the regulation.

#### **18. Issues not covered**

On all relevant issues this regulation does not foresee the Committee has the power to decide.

#### **19. Exclusion of liability**

The Foundation FSSC 22000, the members of the Committee and the Secretariat or any other staff member or member of the Board of Stakeholders of FSSC 22000 cannot be held liable for any act or negligence resulting from or in relation to the regulation and its procedures.

#### **20. Change of regulation**

The Foundation can change this regulation on request of the Board of the Foundation after the Board has consulted the Committee. Changes in the regulation do not affect appeal procedures which are pending.