



# STEDIN

## REGULATIONS

## COMPLAINTS BOARD

Tender complaint handling

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This document is an English translation for convenience purposes of 'Reglement Klachtencommissie – Klachtenafhandeling bij aanbesteden'.

## 1. DEFINITION OF TERMS

The following terms are defined in these regulations:

- a. a complaint: an expression of dissatisfaction of a party regarding the act or omission of another party to the extent that that act or omission falls within the scope of the Dutch Public Procurement Act 2012;
- b. complaints board: the board that handles complaints from suppliers.

## 2. PURPOSE AND DUTIES

The purpose of the complaints board is to contribute to the resolution of complaints relating to tenders by processing complaints quickly, carefully and easily.

The duties of the Complaints Board are:

- a. mediating between parties in response to complaints;
- b. providing non-binding advice in response to complaints.

## 3. COMPLAINTS BOARD

Stedin Netbeheer B.V. has set up a complaints board for complaints arising from a call for tenders issued by Stedin Netbeheer B.V. or by companies belonging to the same group as Stedin Netbeheer B.V.

### 3.1 Composition of complaints board

Stedin's complaints board consists of a minimum of 1 lawyer and a senior buyer. Any member may appoint a replacement within the same discipline.

### 3.2 Notification of the complaints reporting centre

At each call for tenders Stedin mentions in the tender documents where an economic operator can submit a complaint and how the complaints procedure will proceed after the complaint has been submitted to the complaints reporting centre.

It is up to Stedin ultimately to determine the manner in which it will substantively respond to the complaint. It is desirable that, as soon as the complaint has been assessed, Stedin informs the complainant as soon as possible and in an appropriate manner what he has decided (the complaint is justified, the complaint is not justified or the complaint is only partially justified) and what he is going to do with the complaint.

## 4. THE COMPLAINTS REPORTING CENTRE

The economic operator submits his complaint to the complaints reporting centre. This is a point of contact within Stedin that looks at the complaint independently and with a fresh perspective, and issues a recommendation to Stedin on the matter.

Independent means that the person staffing the complaints reporting centre is not directly involved in (the drafting of) the call for tenders. Independent does not for example mean that the complaint must be processed by someone outside the purchasing department.

The complaints reporting centre also does not always have to be staffed by the same person, but can vary per tender. A complaints reporting centre should preferably be staffed and positioned within the organisation in such a way that complaints can be resolved quickly and easily.

### 4.1 Address of complaints reporting centre

The economic operator must submit his complaint in writing to the complaints reporting centre of Stedin:

[FM.Klachtenmeldpunt@stedin.net](mailto:FM.Klachtenmeldpunt@stedin.net)

## 5. WHO CAN SUBMIT A COMPLAINT?

1. A complaint can be submitted by:
  - a. economic operators wishing to obtain an order, including:
    - (potential) candidates;
    - (potential) tenderers;
    - subcontractors of (potential) tenderers.
  - b. sectoral organisations of economic operators acting on behalf of one or more economic operators wishing to obtain an order, as appropriate without mentioning the name of the economic operator(s);
  - c. contracting authorities or special sector companies.
2. Subcontractors may complain about a contracting authority or a special sector company, but not about their relationship with a main contractor.
3. A complaint submitted by a complainant, as referred to in Article 5.1.a., who does not wish to reveal his identity, will not be considered.

## 6. COMPLAINTS PROCEDURE

### 6.1 Notification of a complaint

1. The complainant submits a complaint in writing by email. In this written complaint, he must make it clear that:
  - he is submitting a complaint;
  - what the complaint is about;
  - how, in his opinion, the bottleneck could be solved;The complaint further contains:
  - the date;
  - the name and address of the supplier;
  - the name of the invitation to tender.

### 6.2 The decision to process a complaint

1. The complaints board will not process a complaint if:
  - a. the complainant did not first make the complaint known to the defendant in writing and did not make it sufficiently clear that it concerns a complaint as referred to in Article 1(c) of these regulations;
  - b. the complainant did not first give the defendant the opportunity to respond to the complaint within a reasonable period of time;
  - c. the complaint is not or insufficiently substantiated and/or documented;
  - d. the complaints board does not attach sufficient relevance to the complaint submitted;
  - e. the complaint cannot be processed due to the number of complaints being processed by the complaints board, partly in view of the relevance that the complaints board attaches to the complaint submitted and the extent to which its processing serves the pursuit of the complaints board's objectives;
  - f. the complaint concerns a tendering procedure (or lack thereof) which is already subject to legal proceedings or on which a court has already ruled;
  - g. the complaint concerns Stedin's procurement policy in general;
  - h. the complainant has not agreed to the processing of the complaint in accordance with the content of these regulations.
2. The provisions of subsections 1(a) and 1(b) also apply if the regulations in the tender documents restrict the complainant's right to lodge a complaint with the defendant.
3. If one of the cases referred to in paragraph 1(a) to (e) occurs, the complaints board may nevertheless decide to process the complaint due to special circumstances.
4. If the complaints board does not process a complaint, this will be communicated to the complainant in writing, stating the reasons.
5. When deciding to process a complaint, the complaints board or any member of it shall assess whether any business connection exists with the complainant or defendant or any

interest in the outcome of the complaint procedure exists which, objectively speaking, might adversely affect the independence and/or impartiality of the complaints board or any member of it or that, objectively speaking, (appearance of) bias arises in the complaint handling. In the event of such a connection, the complaints board or a member thereof shall refrain from processing the complaint.

### 6.3 Processing complaints

1. If the complaints board processes a complaint, it will inform the complainant and the defendant in writing and will provide an indicative description of the further course of the procedure.
2. As a rule, the complaints board will give priority to processing complaints or partial complaints in respect of which, according to the complaints board's expectations, the advice may be of importance with a view to the course of the tendering procedure to which the complaint or partial complaint relates.
3. The complaints board determines whether the complaint will be processed by one or more members and whether the support of one or more experts will be called upon.
4. If the complaints board brings in one or more experts in the processing of a complaint, it shall communicate the name(s) of the expert(s) to the parties. When processing a specific complaint, the complaints board will only appoint experts who have declared in writing that they are independent and impartial and that they will act in accordance with the Stedin Code of Conduct.
5. When processing complaints, the right to be heard will in principle be applied. In principle, the complainant and defendant will be given one opportunity to express their reasoned position(s).
6. When processing complaints, the complaints board strives for a good balance between the speed with which a complaint is processed and the care that must be taken in processing the complaint.
7. The complaints board can request additional information from the complainant and/or defendant. However, it is the responsibility of the parties to voluntarily provide the complaints board with any information that may be relevant in the processing of complaints.
8. The parties shall inform the complaints board without delay if a complaint submitted to the complaints board no longer exists or if the subject of the complaint is the subject of legal proceedings.
9. The complaints board may terminate the processing of a complaint submitted to it in the following cases:
  - a. if the complaint no longer exists;
  - b. if the tendering procedure to which the complaint relates has been withdrawn or terminated prematurely;
  - c. if the complainant no longer responds to messages from the complaints board;
  - d. once a court has ruled on the complaint;
  - e. in special cases, to be determined by the complaints board.
10. After completion of the processing of the complaint, all parties concerned shall be notified in writing. This is to prevent favouring of one of the parties.
11. In the event that a complaint processed by the complaints board relates to a tendering procedure, or a lack of one, in connection with which proceedings have subsequently also been brought before a court, the complaints board will stay processing the complaint until the court has ruled on the matter. Contrary to this, the complaints board may decide to resume processing the complaint in the event that a request to do so is made by the court in response to a request made to it by one of the parties or both of them jointly, provided that in such a case the court stays processing of the case.
12. At the request of the complainant or Stedin, the complaints board may propose that the complaint be submitted to the Committee of Procurement Experts for mediation or advice before it is decided by Stedin. (For further information see <https://www.commissievanaanbestedingsexperts.nl>)
13. If Stedin has informed the economic operator how he addresses the complaint, or if Stedin fails to respond to the complaint within a reasonable period of time, a complainant may submit the complaint to the Committee of Procurement Experts.