

# **Rules of Procedure for the Norwegian Financial Services Complaints Board (FinKN)**

Amended and adopted with effect from 21 March 2023.

In these Rules of Procedure, all types of enterprises against whom complaints are filed are referred to as institutions. Where natural, the type of institution concerned is specified.

## **1. General**

FinKN considers complaints relating to disputes with institutions about legal claims as mentioned in FinKN's Statutes section 1.5 and complaints against institutions engaged in debt collection (hereinafter referred to as debt collection companies). This does not apply to disputes that naturally fall under other complaints mechanisms or supervisory authorities. In addition to making advisory decisions in individual cases, FinKN shall help institutions and the public by providing general guidance and information about previous decisions by the complaints boards.

## **2. Who can lodge complaints?**

See FinKN's Statutes section 1.4.

## **3. Against whom can a complaint be lodged?**

Complaints may be lodged against institutions that are affiliated to the complaints scheme, cf. FinKN's Statutes.

## **4. What issues can a complaint address?**

See FinKN's Statutes section 1.3.

## **5. The right to reject a case**

See FinKN's Statutes chapter 4.

## **6. Requirements for complaint**

Complaints must be submitted in writing to the secretariat. The secretariat shall ensure that complaints can be submitted electronically and on paper. Upon request, the secretariat shall assist in preparing the complaint. The complaint must describe the basis for the complaint and provide relevant documentation. The secretariat may request any missing documentation.

The secretariat considers whether audio and video recordings can be presented as documentation.

Before a complaint case is taken under consideration, the complainant must have tried to resolve the matter directly with the other party. Otherwise, the case may be rejected, cf. See FinKN's Statutes section 4.1.

## **7. Assistance from third parties**

Complaints can also be considered in cases where the parties receive assistance from a third party. The secretariat shall inform the parties of this before the complaint procedure begins.

## **8. Right to withdraw a case**

Consumers and businesses with a right to complain, cf. FinKN's Statutes section 1.4, can withdraw their case from consideration at any time. The parties shall be informed about this before the proceedings begin.

### **9. The institution's response to complaints and the parties' right to comment**

Once it has been decided that the case will not be rejected, the secretariat shall send the complaint with appendices to the institution and request a written response explaining the factual and legal aspects of the case. The secretariat may decide how the institution's response shall be worded. The same applies if the institution is obliged to submit the complaint.

The institution is obliged to submit all the case documents that are necessary for consideration of a complaint.

All case documents shall be presented to the opposing party for comment. The parties may be asked to submit concluding remarks. The secretariat must set reasonable deadlines for comments and concluding remarks.

### **10. Rules of procedure for the secretariat**

If a case falls outside FinKN's remit, the secretariat shall inform the complainant about the appropriate complaints body.

The proceedings are in writing. The parties shall be able to exchange information about the case electronically or by post. The secretariat shall ensure that the case is elucidated as thoroughly as possible and may request further information from the parties.

The secretariat must contribute to finding solutions in accordance with applicable law. In cases where a decision is not made on the merits of the case, cf. section 11, the secretariate will carry out an assessment of the complaint.

The secretariat's consideration of the case is not limited to the arguments and sources of law that the parties have invoked in the case.

If the secretariat decides the case on its merits, the complainant shall be informed that the interrupted limitation period will apply for one year after the case has been closed by FinKN, cf. the Act relating to the Limitation Period for Claims Section 16 (2), cf. Sections 21 and 22.

For cases that are not decided by the secretariat or secretariat decisions that are appealed, the secretariat must submit the matter to the complaints board, together with a presentation of the facts of the case, the parties' submissions and claims, as well as a description of the prevailing law. This summary of the case is sent to the parties before consideration of the case.

The secretariat prepares the boards' meeting schedule, and ensures that the committee members receive the secretariat's case summary and the case documents in advance.

### **11. The secretariat's decisions on the merits of cases**

The secretariat may decide a dispute on its merits where there is established practice or where a decision on principle has been made by the complaints board in corresponding cases.

Decisions made by the secretariat may be appealed to the complaints board. An appeal fee of NOK 200 is charged for such an appeal. The appeal must be sent and the fee paid within 21 days of the secretariat's decision being sent to the complainant. Failure to meet this deadline means that the right to demand consideration by a complaints board lapses.

If the secretariat decides the case on its merits, the appellant shall, in connection with being sent the reasoned decision, be informed that the decision can be appealed to the complaints board and about the appeal fee of NOK 200. Information must also be provided about the consequences of failure to meet the deadline.

## **12. The secretariat's mediation proposals**

If the secretariat proposes a solution that one or both parties must accept or reject, the secretariat must inform the parties about the following:

- a) that the secretariat's solution may differ from that made by a court of law,
- b) that the parties may choose whether to comply with the secretariat's proposed solution or bring the matter before the complaints board,
- c) that the case will be deemed to have been amicably resolved if the proposal is accepted, and
- d) that the possibility of bringing an action before the courts for new claims or the validity of the amicable solution do not lapse if the secretariat's proposed solution is accepted.

## **13. Case processing by the complaints boards**

The complaints boards' case processing takes place in writing. Cases are considered in camera or in remote meetings. By remote meeting is meant a meeting where not all participants are present, but participate with the help of remote meeting technology. Cases can also be considered in digital meeting rooms.

Cases shall be dealt with on the basis of the factual information obtained during the preparation of the case, and such information shall be received by the complaints board before the meeting is held at the latest. If the other party has not made a statement, the complaints boards may decide the case on the basis of the presentation of the case set out in the appeal. The complaints boards may postpone the case to obtain additional information.

The complaints boards' consideration of the case is not limited by the arguments and sources of law that the parties have invoked in the case.

The complaints board forms a quorum when either the chair and at least one representative of each of the parties or two independent members are present. In cases of particular difficulty or importance or that concern matters of principle, the chair or a member of a complaints board may request that the board shall be composed of five members. This request can be made at any stage of the case processing before the complaints board makes its decision.

For the consideration of complaints that concern refusal to enter into a contract on medical grounds, the medical experts shall also participate, see the Statutes section 2.1(3).

Decisions are made by simple majority, but the chair has the casting vote in the event of parity of votes. The chair prepares draft decisions. If the chair is absent, the meeting is chaired by the deputy chair, who will then also draft the board's decisions.

The secretariat participates in meetings together with a person with legal qualifications who acts as secretary. The person concerned may contribute case information to clarify the facts of the case. The secretary shall ensure that it is recorded who is present, what cases are considered, the decisions made and any dissenting opinions.

If questions arise concerning the impartiality of a complaints board's chair or a complaints board member, they can be presented to the board chairs jointly for comment.

## **14. The complaints board's decisions**

The complaints boards' decisions must be reasoned. They are not legally binding.

A decision shall state whether it is unanimous and information shall be provided about the party affiliation

of any dissenting members. Grounds shall also be stated for the views of the minority. The decision must be approved by the members of the complaints board before being sent to the parties.

The boards are expected to base their decisions on a uniform understanding of the law. In the event of disagreement, the question may be presented to the chairs of the boards jointly for comment.

The parties shall be informed in writing or on a permanent medium of the result and the grounds for it.

#### **15. Decisions that are not accepted**

If the complaint is wholly or partly successful, the institution must provide reasoned feedback to the secretariat within 21 days if it does not intend to comply with the decision. If such feedback is not received within the deadline, the institution is bound by the decision. The same applies if the secretariat's decision on the merits of the case is not appealed within 21 days.

As far as possible, the secretariat shall ensure that the institution justifies in writing why it does not accept the decision.

Financial institutions that do not accept the complaints board's decision within the deadline are obliged to cover their own and the opposing party's reasonable and necessary legal costs before the court of first instance in the same dispute between the same parties. The same applies before the higher courts if the financial institution is the appellant. The rules concerning legal costs in connection with small claims proceedings do not apply.

The secretariat shall inform and guide the appellant if the institution does not accept a decision, which includes providing information about the statutory or contractual right to have necessary costs covered in the event of a subsequent court hearing.

The institution shall notify FinKN if the case is brought before the courts.

#### **16. Deadlines for FinKN's consideration of cases**

As soon as it has received the necessary and relevant documents from both sides, the secretariat shall inform the parties in writing that the complaint procedure will begin. Complaint processing normally begins when the complaint and response have been received. The result of FinKN's complaint process shall be made known to the parties within 90 days from this time. In particularly complex cases, the deadline may be extended. The parties shall be informed of the extension and of the new deadline.

The secretariat shall actively manage the complaint procedure in order to ensure swift and proper consideration without excessive procedural costs.

#### **17. The right to request reopening**

The parties may request the reopening of a case that has been decided and concluded by the secretariat or a complaints board. A request for reopening may be submitted once in the same case.

For a case to be reopened, the party requesting reopening must present new material information that is considered important to the outcome of the case and that could not have been presented earlier.

Financial institutions and debt-collection companies must request the reopening of a case decided by the secretariat within two months of the expiry of the deadline set out in section 15.

Institutions must request the reopening of a case decided by the complaints board before the expiry of the deadline set out in section 15 or within two months of the institution having given notification that it will not accept the board's statement.

Before the case is considered, the opposing party shall be given an opportunity to state its views.

The request for reopening is first considered by the secretariat. If the secretariat refuses a request for reopening, its decision may be subject to consideration by the complaints board, unless the chair of the board decides with final effect that the application shall be rejected.

#### **18. Correction of errors**

The secretariat may correct obvious clerical and computational errors, as well as other comparable obvious errors, in the decisions of the secretariat and the complaints boards. The secretariat may decide that, as a result of such an error, the case shall be reconsidered.

#### **19. Interpretation of these Rules of Procedure**

In case of doubt about the interpretation of these Rules of Procedure, the secretariat decides whether the matter should be presented to the complaints board represented by the chair of the board.

If there is any doubt about which complaints board should consider a specific case, the secretariat may refer the matter to one of the chairs of the boards before the case is further prepared.



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