



Procedure for Objection and Appeal

The Better Life label Foundation

Procedure for Objection and Appeal of the Better Life label Foundation

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Introduction

Communication with the participants generally proceeds through the Certification Body. In the first instance, this is where complaints relating to the inspection/audit, assessment or certification should be dealt with. If this fails to lead to a solution, the Appeal Procedure may be initiated for the decisions specified in this procedure.

This document states the procedures for bringing an objection or appeal in response to (1) a written decision taken by or on behalf of the board of the Better Life label Foundation (hereinafter referred to as the BLLF): or (2) a refusal by the BLLF to take a written decision.

In the Appeal Procedure, a decision is reconsidered by the BLLF; this is an internal procedure.

In the Appeal Procedure, the decision is reconsidered and benchmarked by a Committee whose members have no direct relationship with the BLLF or the Dutch Society for the Protection of Animals. An objection must be lodged before an appeal is brought.

The processing of an objection or appeal each involves an individual procedure as described in the relevant chapter of this document. See Chapter 1 for the Objection Procedure and Chapter II for the Appeal Procedure.

Complaints relating to the methods (action or behaviour) of the Certification Body or the Control Body contracted by the participant are excluded from this Objection and Appeal Procedure.

Objection: an objection can be lodged against the following decisions:

- a refusal by the BLLF to grant the applicant the right of use of the collective logo as referred to in Article 2(6) of the Regulations on the use of the collective 'Better Life' logo;
- a sanction decision taken by or on behalf of the BLLF, as referred to in Article 7(1)(b) of the Regulations on the use of the collective 'Better Life' logo (suspension of the use of the collective logo);
- a sanction decision taken by or on behalf of the BLLF, as referred to in Article 7(1)(c) of the Regulations on the use of the collective 'Better Life' logo (revoking or exclusion from participation);
- a refusal of the BLLF to take a written decision.

Appeal: an appeal can be lodged against the following decisions:

- a decision taken by the BLLF regarding an objection.

This procedure harmonises with the text of the Regulations on the use of the collective 'Better Life' logo dated 12 December 2019.

Definitions

The terms written with a capital letter in the Procedure for Objection and Appeal of the Better Life label Foundation are defined as follows:

Board	:	Board of the BLLF;
Appeal	:	an Appeal lodged by a Complainant with the Appeal Committee;
Objection	:	an Objection lodged by a Complainant with the Board of the BLLF;
Certification mark or 'Better Life' label	:	the certification mark Better Life of the Dutch Society for the Protection of Animals filed with the Benelux Office for Intellectual Property under registration number 0968002;
CB	:	an accredited Certification Body (45011 accredited) contracted by the BLLF;
Appeal Committee	:	The Appeal Committee of the BLLF as referred to in 7(6) of the Regulations on the use of the collective 'Better Life' logo;
Certified Participant	:	The Certified Participant authorised to use the certification mark;
The Dutch Society for the Protection of Animals	:	The Dutch Society for the Protection of Animals, whose registered office is in The Hague;
Complainant	:	(1) the Certified Participant who lodges an Objection or Appeal in accordance with this procedure, or (2) the company that has submitted an application for the right to use the label, and of which the application has been refused, that lodges an Objection or Appeal in accordance with this procedure;
Manager	:	the manager of the BLLF;
Secretary	:	The (acting) secretary of the Appeal Committee;
BLLF:	:	the Better Life Label Foundation, whose registered office is in The Hague;
Chairman	:	The chairman of the Appeal Committee.

Chapter I: Objection

Article 1

An Objection may be lodged against:

- a. a refusal by the BLLF to grant the applicant the right of use of the 'Better Life' label as referred to in Article 2(6) of the Regulations on the use of the collective 'Better Life' logo;
- b. a sanction decision taken by or on behalf of the BLLF, as referred to in Article 7(1)(b) of the Regulations on the use of the collective 'Better Life' logo;
- c. a sanction decision taken by or on behalf of the BLLF, as referred to in Article 7(1)(c) of the Regulations on the use of the collective 'Better Life' logo;
- d. a decision taken by or on behalf of the BLLF, as referred to in Article 7(2)(a or b) of the Regulations on the use of the collective 'Better Life' logo;

Bringing an Objection before the Committee

Article 2

1. The Objection must be submitted in writing and by registered post to the Manager at the offices of the BLLF within one month after the date on which the contested decision was communicated, issued or sent to the Complainant.
2. Failure to comply with the time limit shall not result in inadmissibility if the Complainant proves to the satisfaction of the Manager that they are not reasonably responsible for that breach.
3. The Objection must state the following information;
 - a. the name and address of the complainant;
 - b. if a sanction is concerned:
 - i. the findings observed by the CB;
 - ii. how the shortcoming occurred;
 - iii. the extent of the shortcoming (e.g. how much product was erroneously supplied as BLL);
 - iv. if applicable, what corrective measures were implemented to rectify the shortcoming, and
 - v. if applicable, what preventive measures were implemented to prevent the same shortcoming in the future;
 - c. a most accurate possible description of the grounds for the Objection;
 - d. a most accurate possible description of the claim. If the Complainant has received a sanction letter specifying exclusion for the duration of one year, a request to have this sanction reconsideration may be submitted.
4. Each Objection must be accompanied by written documentary evidence, in so far as this is available to the Complainant.
5. Together with the Objection, the Complainant may submit a request to the BLLF to impose a sanction on the contested suspension decision or decision to revoke that is one category milder, until such time as a ruling has been made on the Complainant's Objection.

This request will be granted unless the BLLF considers that:

 - a. there is a direct adverse effect on the welfare of the animals and/or
 - b. this is a case of recidivism and/or
 - c. in the opinion of the BLLF, there is an extremely serious infringement of the right to use the Better Life label which could jeopardise the confidence in, or image of, the certification mark.

Conditions may be attached to granting this request.

Objection Procedure

Article 3

1. Upon receipt of the information as referred to in Article 2(3) and (4), the Manager may request further information from the CB concerned if required.
2. If, in the opinion of the Manager, the file is complete, the Manager will submit the entire file to the Board for reconsideration.
In the event of a (an animal) substantive shortcoming, an advice from the Dutch Society for the Protection of Animals can be appended.
3. On the basis of the information received and the accompanying advice, the Board will take a decision on the Objection within six weeks. This may be 'revision of the decision' or 'enforcement of the decision'.
4. The Complainant shall be informed of the decision of the Board as referred to in 3 within five working days of the decision.
5. An Appeal can be lodged against a decision regarding an Objection. See chapter II for more information: Appeal

Chapter II: Appeal

The Appeal Committee

Article 4

1. The Complainant can lodge an Appeal against a decision taken by the Board of the BLLF regarding an Objection with the Appeal Committee, whose office is in The Hague; at the offices of the BLLF.
2. The Appeal Committee is tasked with issuing a binding advice to the Board of the BLLF after the facts and circumstances have been investigated.
3. The Board of the BLLF shall decide in accordance with the binding advice issued by the Appeal Committee and shall communicate this decision to the Complainant.

Members of the Appeal Committee

Article 5

1. The BLLF appoints at least three persons to act as members of the Appeal Committee, these persons have no direct relationship with the BLLF, the Dutch Society for the Protection of Animals, the CB or with a company participating in a Better Life label scheme, other than as a result of this Appeal Procedure.
2. The Appeal Committee shall appoint a Chairman who is a master of laws and, preferably, is also a member of the judiciary.
3. The Appeal Committee consist of three members, including the chairman and two members, who are appointed by the Chairman on a case-by-case basis from the persons appointed in accordance with 4.
4. An official appointed by the BLLF acts as secretary of the Appeal Committee.

Bringing an appeal before the Committee

Article 6

1. The Appeal must be submitted in writing and by registered post to the Appeal Committee within six weeks after the date on which the contested decision regarding the Objection was communicated, issued or sent to the Complainant.
2. Failure to comply with the time limit shall not result in inadmissibility if the Complainant proves to the satisfaction of the Appeal Committee that they are not reasonably responsible for that breach.

Article 7

1. The Appeal must state the following information:
 - a. the name and address of the complainant;
 - b. a most accurate possible description of the grounds for Appeal;
 - c. a most accurate possible description of the claim;
 - d. The decision of the Objection Committee.
2. Each Appeal must be accompanied by written documentary evidence, in so far as this is available to the Complainant. The sum of € 250, as a fee for processing the appeal, must be transferred to a

specified bank account. This sum is due for payment at all times, irrespective of the advice given by the Appeal Committee.

3. If, in the opinion of the Secretary, insufficient information has been provided by the Complainant and/or payment of the sum referred to in paragraph 2 has not been transferred before the period referred to in Article 6 has expired, the Secretary shall give the Complainant the opportunity to supplement their Appeal or to arrange for payment of the amount, respectively, within a period to be set by the Secretary and to be observed on penalty of inadmissibility.
4. The Appeal will not be taken into consideration until, in the opinion of the Secretary, the necessary written documents have been submitted.
5. The Chairman shall, in agreement with the Secretary, declare the Appeal inadmissible in the event that the Appeal is not accompanied by the transfer of the sum as referred to in paragraph 2. No Appeal is possible against this decision.
6. Together with the Appeal, the Complainant may submit a request to the BLLF to impose a sanction on the contested suspension decision or decision to revoke that is one category milder, until such time as a ruling has been made on the Complainant's Appeal.
This request will be granted by the BLLF unless the BLLF considers that:
 - a. there is a direct adverse effect on the welfare of the animals and/or
 - b. this is a case of recidivism and/or
 - c. in the opinion of the BLLF, there is an extremely serious infringement of the right to use the collective logo which could jeopardise the confidence in, or image of, the certification mark.

Conditions may be imposed on the granting the request.

Objection of the Appeal Committee

Article 8

1. The Chairman determines the composition of the members of the Appeal Committee that will process the Appeal.
2. As soon as it is known which persons have been appointed as members of the Appeal Committee, the Secretary shall inform the BLLF and the Complainant.
3. The BLLF or the Complainant may object to one or more members of the Appeal Committee if there is justifiable doubt as to his or her impartiality or independence.
4. The objecting party shall submit the objection, stating the reasons, in writing to the Chairman and the other party, the other members of the Appeal Committee and, if applicable, the Complainant. Such notification shall be made within 14 days of the objecting party becoming aware of the reasons for objection.
5. The Appeal Committee shall suspend the processing of the case from the date of receipt of the notification.
6. If the member to whom the objection applies does not withdraw within two weeks of the date of receipt of the notification, a decision on the objection shall be made by the Court of The Hague delivering a judgement in preliminary relief proceedings at the request of the party raising the objection.

Appeal Procedure

Article 9

1. The Secretary shall send a copy of the submitted Appeal as soon as possible to the BLLF and informs them of the possibility to submit a written statement of defence to the Secretary within 21 days. The Secretary may, on their initiative, extend or shorten this time limit once, by a time limit that is in principle of the same duration.
2. The Secretary shall send a copy of the written statement of defence to the Complainant and, if the Secretary deems it appropriate, grant them the opportunity to respond to the defence within 21 days. The Secretary may, on their initiative, extend or shorten this time limit once, by a time limit that is in principle of the same duration.
3. If the Complainant takes advantage of this opportunity, the Secretary shall, by sending a copy of the statement of reply to the BLLF, enable them in the same way to submit a statement of rejoinder.

Article 10

The BLLF and the Complainant are obliged to provide the Appeal Committee with all the information requested and to submit documentation on request. The Appeal Committee may obtain information from the CB.

Article 11

1. The Chairman determines the day and time of the session, at which the parties may present their positions orally. The session shall take place within four weeks after the written statements of the positions of the parties have been exchanged with the Secretary. The Secretary shall call upon the members by sending them the documentation, and the parties, to attend this session and any subsequent sessions.
2. In principle, the proceedings of the Appeal will be conducted behind closed doors. If a party so requests and if in the opinion of the Appeal Committee reasons for that are present, the proceedings may be partially or fully conducted in public.
3. The Appeal Committee is authorised to hear witnesses and experts, including the Board of Experts. The Appeal Committee shall act accordingly in this respect.
4. Parties are authorised to be assisted by a legal counsel.
5. In cases where this decision is not provided for, the decision shall be taken by the Chairman.

Delivering binding advice

Article 12

The Appeal Committee shall adopt its binding advice within 6 weeks of the (last) session as referred to in Article 10, by a majority vote. In exceptional cases, the Appeal Committee may extend this period by a maximum of 6 weeks. The written advice shall include the grounds for the advice delivered. The opinion of any minority will not be stated in the advice. The Complainant and the BLLF shall receive a copy of the advice from the Secretary as soon as possible.

Article 13

In its advice, the Appeal Committee shall also determine the costs incurred in the Appeal proceedings and which party is to bear those costs, on the understanding that the successful party for whom the ruling is fully or largely in its favour cannot be ordered to pay the costs of the Appeal proceedings. The costs include the fees and disbursements of the members of the Appeal Committee. The amount paid in Article 7(2) shall, depending on the advice, be settled or refunded.

Final provisions

Article 14

1. The members of the Appeal Committee are obliged to maintain confidentiality regarding all matters and business secrets which they become aware of.
2. If a member of the Appeal Committee acts contrary to the provisions of paragraph 1, the Board may suspend or dismiss that member from his or her duties. Such a decision shall not be taken until the person concerned has been granted the opportunity to justify themselves.

Article 15

The remuneration fee for the members of the Appeal Committee shall be determined by the Board.

Article 16

1. This procedure can be cited as "Procedure for Objection and Appeal of the Better Life label Foundation 2020".
2. This procedure shall enter into force on 1 January 2020.

Explanation

The Better Life label aims to improve the welfare of more and more animals. The certification requirements imposed on the certified participant or participating companies in order to achieve this aim have been formulated as objectively as possible. These requirements are publicly available on <https://beterleven.dierenbescherming.nl/>.

Not being able to, or no longer being able to, supply Better Life products affects companies who (wish to) participate in the Better Life label scheme. It is therefore vital to exercise caution in the decision-making process of refusing participation and/or imposing any sanctions. In this context, an (internal) objection procedure that involves examining and reconsidering all the facts and (exceptional) circumstances is appropriate. The decision taken regarding the objection may, if wished, be submitted to the Appeal Committee, the composition of which is independent of the Dutch Society for the Protection of Animals, the BLLF, the CB or the Complainant. The Appeal Committee will issue a binding advice to the BLLF and the Complainant.