OMBUD ASSOCIATION SOUTH AFRICA

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STAKEHOLDER NEWSLETTER

www.toasa.org.za

info@toasa.org.za

ADVANCING FAIRNESS THROUGH UNITED ACTION: A CALL TO JOIN THE TOASA MOVEMENT

BUILDING A SHARED FUTURE FOR FAIRNESS

South Africa's consumers face a complex and evolving landscape of goods, services, and financial products. When things go wrong, they need clear, fair, and accessible channels for redress, without resorting to costly and time-consuming court processes.

This is where Ombudsman offices prove invaluable.

But strong, independent dispute resolution doesn't thrive in isolation. It requires collaboration, shared learning, and a united voice advocating for public trust and consumer rights.

This is the mission of TOASA – The Ombud Association of South Africa.

A BRIEF HISTORY OF TOASA

TOASA was established in 2015 in response to a clear need as South African Ombud schemes though effective, often operate in silos. To address this, TOASA was established to provide a vehicle for meaningful engagement between Ombuds that would cut across a range of different sector services that affect the consumer daily. It is through this collaboration that systemic and broader outlying concerns can be addressed that will impact consumerism as we see it today, in this fast-paced environment of transacting.

The platform is meant to:

- Share expertise and best practices
- Develop consistent ethical standards
- Educate the public on available Ombud services
- Act as a united voice to strengthen alternative dispute resolution from a South African and continental perspective.

TOASA represents a growing network of Ombud offices committed to:

- Independence from industry and government influence
- Fairness in process and outcomes
- Accessibility for all consumers
- Transparency and accountability

These principles are now a global standard to which many Ombud offices aspire to in the daily execution of consumer redress.

ABOUT TOASA

The Ombudsman Association of South Africa (TOASA) is a voluntary industry association bringing together accredited, independent Ombud schemes across various sectors. TOASA serves as a collaborative platform to promote best practices, support public education, and ensure consistent, high-quality dispute resolution.

Our mission is to uphold fairness, independence, accessibility, and transparency in consumer redress. We champion alternative dispute resolution as a vital tool for protecting consumer rights, fostering industry accountability, and strengthening public trust in South Africa's economy.

By uniting diverse Ombud offices under a shared vision, TOASA works to ensure every consumer knows their rights—and has access to free, fair, and effective redress when things go wrong.

A PERSUASIVE CALL TO ACTION: JOIN US

At TOASA, we believe that fair, accessible, and effective dispute resolution is a cornerstone of consumer protection and economic justice. But this work is bigger than any single Ombud office or sector.

That's why we're calling on other accredited Ombuds to consider joining our collaborative movement.

By aligning with TOASA, you'll be part of a trusted network that:

- Shares knowledge, training, and data to strengthen outcomes
- Promotes consistent, high-quality dispute resolution practices

- Coordinates public education to help consumers know their rights
- Acts as a collective voice for accountability and fairness in South Africa

In a world of growing complexity and risk for consumers, a strong Ombud community is more important than ever. By working together, we can make sure no consumer is left without recourse—and that industries remain accountable to the people they serve.

CASE OUTCOMES AT A GLANCE:

Below, see how some of our members embody these values in their sectors. These examples show the power of Ombud offices to deliver justice, promote accountability, and build public trust.

Fairness in Financial Services

The Office of the FAIS Ombud exists to give consumers a fair, accessible, and cost-free way to resolve disputes with Financial Services Providers. Where financial advice or service falls short of the standards set by the FAIS Act, we ensure that consumers have a path to redress, one that is impartial, efficient, and grounded in fairness.

But our role extends beyond resolving disputes. Through our work, we help promote responsible conduct in the financial services industry and play a key role in educating consumers about their rights and responsibilities.

www.faisombud.co.za

Determinations
N v B Determination

Due to confidentiality – all the parties are identified by letters only

1. Background

The Complainant's Toyota Fortuner was stolen on 2 July 2023. His insurer repudiated the claim, citing a new policy condition effective 1 April 2023 requiring high-risk vehicles to have a second tracking device. The Complainant had complied with original requirements: factory-fitted alarm, immobiliser, and CIB-approved tracker, arguing he was never notified of the new requirement. The insurer claimed it emailed policyholders on 1 March 2023, sending notice to the Complainant's wife's email. However, the Complainant was the sole policyholder since July 2020 and exclusively used his own email addresses. The insurer admitted using the wife's email and made no follow-up call to confirm receipt, despite this being intended for all affected clients.

2. The Complaint / Legal Issue

Did the insurer properly notify the Complainant of the new tracking device requirement before repudiating his claim? Policyholders cannot be bound by conditions they were not reasonably informed of.

3. Findings

The Ombud found that the Respondent had breached the General Code of Conduct under Section 2 (honestly, fairly, with due skill) and Section 6(a) (act honourably and professionally). The insurer failed to update the contact information and sent critical notification to outdated details without verification.

4. Outcome

The Ombud upheld the complaint, ordering R681,250 (sum insured) plus 11.25% annual interest. The insurer paid in full.

5. Why This Matters

Insurers must maintain accurate client contact details and verify receipt of policy changes before enforcing conditions affecting claims.

Key Takeaway: Providers cannot enforce policy conditions if they fail to reasonably confirm clients received proper notification using current contact information.

M v LF Determination

Background

The Complainant took out funeral cover in December 2018 with a R20,000 benefit. In November 2022, he submitted a claim after the death of an assured life, but it was not paid. The Provider refused payment, claiming a dispute with the policy's underwriter and blamed the underwriter for non-payment. The Provider had failed to remit policyholder premiums from August to November 2022 to the underwriter.

The Complaint / Legal Issue

Who was liable for paying the funeral claim: the Provider or the underwriter? Policyholders cannot be denied coverage due to disputes between intermediaries and underwriters.

Findings

The Office found the Provider was solely responsible and liable. Coverage confirmation required receipt of the first premium; no premiums were remitted from August–November 2022, meaning no risk cover existed. The Provider appeared to be unlawfully issuing policies and accepting premiums without being underwritten. The underwriter submitted the Provider was unlawfully sending claims and falsely blaming the underwriter. The Provider's dispute with the underwriter regarding premium payments did not constitute a valid defence against the policyholder. The Provider's subsequent license suspension did not affect the Office's jurisdiction.

Outcome

The Ombud ordered the Provider to pay R20,000 plus interest. The Provider did not file for reconsideration with the Financial Services Tribunal, and the determination was filed as a court order.

Why This Matters

Providers cannot evade liability by blaming underwriters for premium non-payment disputes. Policyholders are protected regardless of backend disputes between providers and underwriters.

Key Takeaway: Financial services providers are solely liable to policyholders for claims and cannot use internal disputes with underwriters as a defence for non-payment.

MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA

The MIOSA is an independent ombud scheme accredited under Section 82 of the Consumer Protection Act No. 68 of 2008 (CPA). We provide a free, impartial dispute resolution service between consumers and businesses operating in the automotive and related industries in South Africa. While funded by the industry, MIOSA operates independently, with no external influence over its operations or decision-making.

MIOSA facilitates dispute resolution when a deadlock has been reached between consumers and suppliers, or between industry participants. We make objective recommendations in line with the CPA, prevailing law, and industry code of conduct. MIOSA does not intervene in matters under the jurisdiction of other ombuds, in cases involving legal action or criminal elements, or in product liability.

www.miosa.co.za

Hydraulic Lock Engine Damage Dispute

Background

The consumer purchased a vehicle as a brand-new unit. Approximately eleven months later, a knocking noise developed in the engine. The vehicle was taken to the supplier for inspection, where extensive engine damage was discovered. The supplier determined that the damage resulted from water entering the engine and declined the consumer's request for assistance. The consumer subsequently lodged a complaint with MIOSA, alleging that the vehicle had been sold with the defect and requesting a replacement vehicle.

The Complaint / Legal Issue

The key issue was whether the engine defect existed at the time of sale, thereby entitling the consumer to a replacement vehicle, or whether the damage occurred after delivery due to an external event.

Findings

At the consumer's request, MIOSA appointed an independent technical expert to inspect the engine. The assessment found that the damage was caused by a hydraulic lock condition, which occurs when water enters the combustion chamber.

The resulting pressure bent a connecting rod, and continued operation caused the rod to strike the cylinder wall, producing the knocking sound reported by the consumer. The expert concluded that hydraulic lock is an instantaneous event that causes immediate symptoms and is not indicative of a pre-existing defect.

Outcome

MIOSA found no evidence that the vehicle was defective when sold and therefore did not support the consumer's request for a replacement vehicle.

Why This Matters

The case highlights the importance of technical evidence in determining the cause and timing of vehicle failures. Independent expert assessments can distinguish between manufacturing defects and damage arising after purchase.

Case Summary: Engine Repair Warranty Dispute

Background

The complainant booked a vehicle in for engine repairs, which were covered by a 1,000 km warranty. Shortly after the repairs, the vehicle overheated and was returned to the repairer. A faulty radiator cap was identified as the cause. The vehicle later suffered a blown head gasket, and the complainant sought warranty cover for the additional damage.

The Complaint / Legal Issue

The issue was whether the blown head gasket was covered under the repair warranty despite the complainant not replacing the faulty radiator cap as advised.

Findings

The respondent argued that the warranty had been voided because the complainant failed to address the faulty radiator cap and continued driving the vehicle. MIOSA found that the respondent had also acted improperly by performing the initial repairs without obtaining the complainant's consent, contrary to Section 15(2)(a) and (b) of the Consumer Protection Act.

Outcome

Through conciliation, both parties accepted responsibility and agreed to share the repair costs equally.

Why This Matters

The case highlights that both suppliers and consumers have responsibilities. Repairers must obtain proper authorisation, while consumers must act reasonably to prevent further damage.

NFO
National Financial Ombud Scheme
South Africa

The National Financial Ombud Scheme is an independent scheme approved by the Ombud Council under the Financial Sector Regulation Act, ensuring fair and accessible dispute resolution in the financial services sector. The Ombud embodies our commitment to impartiality, respect, and transparency, serving as a trusted voice for both consumers and financial service providers.

The NFO combines expertise across Banking, Credit, Life and Non- Life insurance to resolve complaints fairly and efficiently. We strive to make the process simple and supportive, keeping all parties informed and heard. By focusing on timely, evidence-based decisions, we work to build trust and create a safer financial environment. In addition to dispute resolution, we are dedicated to promoting financial education among consumers and financial institutions, empowering all stakeholders to make informed decisions.

Ultimately, the NFO stands for fairness and accountability. We are proud to be a neutral, reliable partner that helps ensure justice and transparency for all South Africans in their financial dealings.

www.nfosa.co.za

Banking Division

Case Summary: Home Sold for R10,000 – Shortfall Debt Written Off

Background

The complainant's home loan account fell into arrears, prompting the bank to institute legal proceedings. Judgment was granted in the bank's favour, and the property was declared executable. The property was subsequently sold at auction for R10,000.00, leaving the complainant liable for a shortfall of R233,241.90.

The Complaint / Legal Issue

The key issue was whether it was fair and reasonable for the bank to hold the complainant liable for a substantial shortfall after selling a property for a fraction of its market value.

Findings

The NFO found that the property had been valued at R590,000.00, while the outstanding home loan balance was R234,541.06. Although significant municipal rates and taxes were owing, the NFO concluded that sufficient value remained in the property for a substantially higher selling price to have been achieved. While the bank had not breached any court order, as no reserve price had been set, the NFO considered the outcome inequitable and inconsistent with principles of fairness and reasonableness.

Outcome

The NFO recommended that the bank write off the full shortfall amount of R233,241.90. The bank accepted the recommendation and the debt was extinguished.

Why This Matters

The case demonstrates that legal compliance alone may not satisfy the standards of fairness expected of financial institutions. Ombud schemes can intervene where outcomes, though legally permissible, produce unreasonable prejudice to consumers.

Case Summary: Old Debt, New Justice Credit Division

Background

Mr Dlamini approached the NFO regarding a debt that had been sold to a third-party debt collector. He believed the debt had prescribed, as more than three years had passed since default.

The Complaint / Legal Issue

The issue was whether the debt remained legally enforceable or had prescribed under South African law.

Findings

The NFO confirmed that no payments, acknowledgements of debt, summonses, or judgments had interrupted the running of prescription since the initial default.

Outcome

The NFO recommended that the debt be written off as prescribed. The credit provider accepted the recommendation, wrote off R63,500, and updated Mr Dlamini's credit profile.

Why This Matters

Prescription protects consumers from indefinite liability for old debts where no recovery action has been taken.

Key Takeaway: Once a debt has prescribed, consumers cannot be held liable unless prescription was legally interrupted.

Case Summary: Hijack Claim Rejected for Alleged Recklessness

Non-Life Division

Background

The complainant's motor vehicle was hijacked and later recovered in a burnt state. The insurer rejected the claim, alleging that the complainant had acted recklessly by leaving the vehicle running on the roadside while he briefly stepped away.

The Complaint / Legal Issue

The issue was whether the complainant's conduct amounted to recklessness, thereby breaching his duty of care under the policy and justifying the rejection of the claim.

Findings

The Ombud considered established legal principles on recklessness, noting that the insurer bore the burden of proving that the complainant was aware of the risk of loss and consciously disregarded it. While the complainant may have been negligent in leaving the engine running, there was no evidence that he foresaw a hijacking or knowingly courted danger. Importantly, the vehicle was not stolen while unattended; the hijackers confronted him at gunpoint upon his return. The Ombud found that the loss would likely have occurred even if the vehicle had been switched off and locked.

Outcome

The Ombud concluded that the complainant's conduct was negligent rather than reckless and recommended that the claim be settled. The insurer accepted the recommendation and paid the claim.

Why This Matters

The distinction between negligence and recklessness is critical in insurance disputes. Insurers must demonstrate conscious disregard of a known risk before relying on policy exclusions based on recklessness.

Key Takeaway: Poor judgment alone does not constitute recklessness; insurers must prove that the insured knowingly accepted the risk of loss.

Life Division

Case Summary: Liberty Life Funeral Claim Repudiation

Background

The complainant was the beneficiary and premium payer on a funeral policy in which Ms R was both policyholder and life assured. Ms R died about 12 months after inception and the complainant submitted a claim. Liberty Life declined payment, relying on a contract clause requiring proof of the relationship between life assured and policyholder/ premium payer (to indicate insurable interest). The insurer's investigations, including family enquiries, produced conflicting accounts about whether the complainant and Ms R knew each other. The insurer alleged the policy was taken out for the

complainant's "self enrichment" and later claimed the premium payer had misrepresented the relationship to obtain the policy.

The Complaint / Legal Issue

Was the insurer entitled to repudiate the claim for lack of insurable interest or misrepresentation, and could it rely on alleged absence of consensus to avoid payment?

Findings

The adjudicators found the policy application showed Ms R as both life assured and policyholder, which satisfies the requirement that a policyholder must have an insurable interest in the life insured. A policyholder is entitled to nominate any beneficiary; there need not be an insurable interest between the policyholder and nominated beneficiary.

There was no evidence the complainant misrepresented the relationship. The application form bore the policyholder's signature, and the premium payer's debit authority bore the same date, providing prima facie evidence that the policyholder, premium payer and insurer were aware of and consented to the policy.

Outcome

The insurer could not rely on misrepresentation, lack of consensus or absence of insurable interest to decline the claim. The final ruling directed Liberty Life to pay the sum assured to the complainant.

Why This Matters

Insurers must assess contractual terms and evidentiary burdens carefully before repudiating claims on insurable interest or misrepresentation grounds. A policyholder's signature and contemporaneous premium payment authorisation can constitute prima facie proof of consent and validity of a policy.

Key Takeaway: Insurers cannot refuse valid funeral claims where the policyholder insured their own life and proper application signatures and payment authorisations demonstrate consent and a sufficient insurable interest.

JOBURG OMBUDSMAN

OMBUDSMAN
City of Johannesburg

Misallocated meter: Ombudsman helps balance the books

Case Summary: Municipal Billing Error and Proactive Infrastructure Intervention

Background

Two matters highlighted the impact of effective Ombud intervention. In the first, a Johannesburg resident challenged excessive municipal charges after discovering that his electricity meter had been incorrectly linked to a neighbour's account, resulting in unjustified charges of R43,900.41. In the second, residents of Abbess Drive in Bramfischerville endured years of unsafe road conditions caused by severe potholes and storm damage.

The Complaint / Legal Issue

The key issues were whether the City had administered municipal services fairly and accurately, and whether failures in municipal systems had caused undue prejudice to residents.

Findings

A detailed investigation into the billing complaint reviewed meter records, audits, billing histories and consumption data. The Ombud confirmed that the meter had been misallocated, causing inaccurate billing over an extended period. In the road matter, a trainee investigator, supported by senior staff, conducted a site inspection that confirmed the deteriorated condition of the road and its impact on the community.

Outcome

The resident's municipal account was credited by R59,850, eliminating the incorrect charges. Following engagement with the Johannesburg Roads Agency, repairs to Abbess Drive were completed within two months, restoring safe access for residents.

Why This Matters

These cases demonstrate the Ombud's role in correcting administrative errors, addressing service delivery failures and promoting accountability. They also show how proactive investigations and collaborative problem-solving can deliver meaningful outcomes for communities.

Key Takeaway: Effective Ombud intervention can transform systemic failures into practical solutions that restore fairness, accountability and public trust.

CONSUMER GOODS & SERVICES OMBUD
Fairplay between consumer & supplier

The Consumer Goods and Services Ombud (CGSO) is South Africa's accredited, independent dispute resolution office for the retail and services sector, excluding those operating within the Automotive and related industries.

Established in terms of the Consumer Goods and Services Industry Code of Conduct (CGSI) , the CGSO offers a free, impartial service that resolves complaints relating to defective goods, unfair contract terms, poor service, and misleading advertising.

By holding suppliers accountable to the standards of the Consumer Protection Act of 2008, the CGSO promotes fair business practices, empowers consumers to assert their rights, and builds public confidence in a marketplace that is transparent, responsible, and consumer-centric.

www.cgso.org.za

Case Summary: Last-Minute Cancellation and Delayed Refund

Background

The complainant booked and paid R19,116 for a three-night lodge stay through a travel agent. Two days before check-in, the lodge cancelled the booking due to a power failure and advised the complainant to seek a refund through the travel agent. Despite repeated follow-ups, the refund was not processed for an extended period.

The Complaint / Legal Issue

The complainant sought a full refund and compensation for the inconvenience, time spent pursuing the matter, and emotional distress caused by the delay.

Findings

The service provider acknowledged cancelling the booking and attributed the refund delay to internal financial irregularities involving alleged fraud by former employees. The matter was assessed under Section 19 of the Consumer Protection Act, which requires suppliers to perform services as agreed or provide a full refund where performance is not possible.

The service provider's failure to deliver the accommodation and its delayed refund constituted a breach of these obligations. Internal operational difficulties did not excuse non-compliance with the Act.

Outcome

Following intervention, the service provider refunded the full amount of R19,116. The claim for additional compensation was not upheld, as the CPA does not generally provide for compensation for emotional distress or inconvenience unless quantifiable financial loss can be established.

Why This Matters

The case reinforces consumers' right to timely service delivery and prompt refunds when suppliers cannot perform as agreed. Businesses remain accountable for their statutory obligations, regardless of internal challenges.

Key Takeaway: Suppliers who cannot deliver a service must provide prompt refunds, and internal operational problems do not excuse delays or non-compliance with consumer protection laws.

Case Summary: Warranty Limitations on Repaired Goods

Background

The complainant took a faulty washing machine to a supplier for repairs. After diagnosing the problem, the supplier replaced the heating element and returned the appliance. A few days later, the machine displayed the same error message. A second inspection revealed that a different component, the PC board, had failed. The supplier issued a new quotation for the replacement of the PC board and offered a 30% discount as a goodwill gesture.

The Complaint / Legal Issue

The complainant argued that the original repair had not resolved the problem and requested a 50% discount on the new repair. The issue was whether the supplier was obliged to repair the PC board under the warranty applicable to the initial repair.

Findings

The matter was assessed under Section 57 of the Consumer Protection Act, which provides a three-month warranty on parts replaced during a repair and the labour used to install them. The Ombud found that the heating element and its installation remained covered by this warranty.

However, the PC board was a separate component that had not formed part of the original repair. As a result, the new fault constituted an unrelated defect and fell outside the scope of the statutory repair warranty.

Outcome

The supplier was found to have acted reasonably and was entitled to issue a separate quotation for the PC board replacement. The additional 50% discount requested by the complainant was not supported.

Why This Matters

The case clarifies that repair warranties apply only to the specific parts replaced and associated labour, not to unrelated faults that arise later.

Key Takeaway: A repair warranty protects consumers against defects in repaired components, but it does not extend to new or unrelated faults discovered after the repair

JOIN THE MOVEMENT FOR FAIR, ACCESSIBLE DISPUTE RESOLUTION

TOASA's vision is clear: A South Africa where every consumer knows their rights and has access to free, fair, and effective redress when things go wrong.

We believe this vision is only achievable through partnership.

If your organisation shares this commitment to justice, independence, and accountability, we invite you to join TOASA.

Together, we can build a stronger, more trusted Ombud community that serves the public good.

Contact TOASA

- **Email:** info@toasa.org.za
- **Website:** www.toasa.org.za
- **Phone:** +27 (0) 12 345 6789

Let's work together to strengthen consumer protection for all South Africans.

Your Rights. Our Mission. Because Fairness Matters.