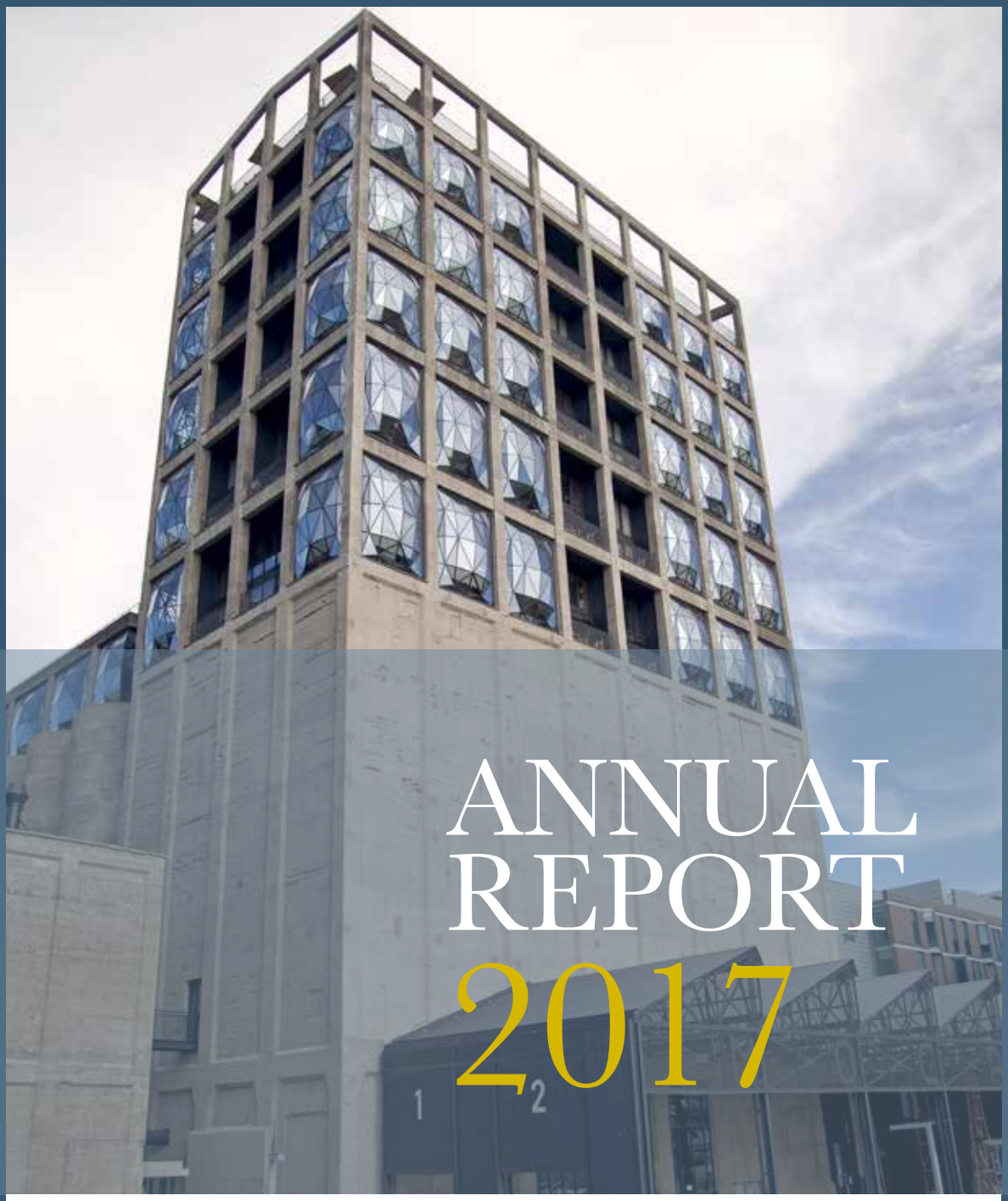

ANNUAL REPORT 2017

OMBUDSMAN
FOR LONG-TERM INSURANCE

KEY FIGURES

Chargeable complaints received
5 435

Full cases finalised
3 371

Percentage of complaints finalised within six months
85%

Percentage of cases resolved wholly or partially in favour of complainants
29%

Total expenses
R24.406m

Cost per standard case
R3 707

Recovered for complainants
R193.3m
in lump sums

Compensation awarded
R531 429
in 150 complaints

Written requests for assistance received
10 768

Transfers settled in favour of complainants
831

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APPENDICES

The photograph on the front cover of the Zeitz Museum of Contemporary Art Africa is by Mohammed Hoosain.

FOREWORD BY THE CHAIRPERSON OF THE OMBUDSMAN'S COUNCIL

In terms of section 10(1)(b) of the Financial Services Ombud Schemes Act, 37 of 2004, ("the Act") the Council is obliged to "monitor the performance and independence of the Ombud … the continued compliance by the scheme with its constitution, the provisions of the scheme and this Act".

In the performance of its corporate governance oversight function the Council met twice during 2017. At each of these meetings the Council received a comprehensive overview of the office's activities from the management team.

The Council has a standing Audit and Risk Committee, comprising the Deputy Chairperson, a member of the Council and another suitably qualified person. At its meeting on 23 March 2017 the Audit and Risk Committee ("the Committee") resolved to recommend to the office that it should take steps to review the efficacy of its data security, including the firewall of its case management system. Following this recommendation the office obtained an expert's report, the implementation of which was discussed at a meeting between the Committee and the office's management on 22 November 2017. It was reported to the Committee that the expert's suggestions had been implemented, save for the aspect relating to staff IT user policies, which was being attended to.

On 14 June 2017 the Committee expressed the view that the office should strive to adhere to the standards of "The King IV Report on Corporate Governance for South Africa 2016, Institute of Directors Southern Africa"; the Guidelines of the International Network of Financial Ombudsman Schemes and the provisions of Chapter 14 of the Financial Sector Regulation Bill. A resolution was taken that the Ombudsman and the Deputy Ombudsman should prepare and submit a report to the Committee on the matter. This comprehensive report was received, reviewed and accepted at the 22 November 2017 meeting to which I referred earlier. The Committee resolved that the report should be distributed to, amongst others, the members of the Council and that the Committee should annually review the report. It was further resolved that reference should be made to the report in the office's 2017 Annual Report, which has been done.

The aforegoing is ample testimony of the importance which the Council attaches to sound corporate governance.

On reflection, the Council was satisfied that during 2017 the Ombudsman and the office had fulfilled their mission, complied with their obligations under the scheme's rules and under the Act, and maintained the independence which is vital to their function.

I thank the members of the Council for their continued support and valued contributions during 2017.

Leona Theron

MEMBERS OF THE OMBUDSMAN'S COUNCIL

Justice Leona Theron
(Chairperson)
Justice of the
Constitutional Court

Mr Ken Baldwin
(Deputy Chairperson)
Retired senior partner of
KPMG

Adv Moses Moeletsi
Independent consultant;
Formerly Chairperson of the
Board of the Ombudsman for
Short-term Insurance

Mr Desmond Smith
Chairperson of Reinsurance
Group of America
(South Africa); director of
companies

Ms Mpho Lekala
Chief Operations Officer
Consumer Financial
Education Foundation

Ms Thandiwe Zulu
Regional Manager of the
Black Sash

Ms Farzana Badat
(ex officio)
Head of Department:
Insurance Compliance,
Financial Services Board

Mr Glenn Hickling
(ex officio)
Head of Legal Department:
Discovery Life Limited;
Chairperson of the
Ombudsman's Committee

Judge Ron McLaren
(ex officio)
Ombudsman

REPORT BY THE OMBUDSMAN

OVERVIEW

I think the degree of consistency of the work in the office shows that we are on the right track. There is, however, no room for complacency and we are continuously striving to improve the standard of the complaints resolution service which we render to consumers and to our subscribing members.

During a tumultuous year the office suffered a double setback as a result of the deaths of Eddie de Beer on 7 August 2017 and Cikizwa Nkhulu on 27 December 2017, each an experienced Adjudicator and Assistant Ombudsman. Appropriate in memoriam tributes to them appear on pages 10 and 11 of this Annual Report. I wish to pay homage to them by quoting the letters in which I informed the Council members of their deaths:

> "It is with great sadness that I bring you the news that Eddie de Beer passed away here yesterday morning. He returned to the office after he had undergone some tests. He was keen to resume the work which he loved and which he had been doing loyally and well for more than 20 years. He will be sorely missed by all of us at the office."

> "It is with great sadness that I have to let you know of the passing away of Ms Cikizwa Nkhulu in a Cape Town hospital on 27 December 2017. She was a loyal and much-loved stalwart in the office. At her funeral in Queenstown the office was represented by Mr Nceba Sihlali. The management team will immediately start looking for somebody to fill the huge gap which Cikizwa's death leaves in the adjudicative staff. We will be hard-pressed to find somebody who can, even remotely, fill her shoes."

STATISTICS

Comprehensive statistics for the year appear on pages 12 to 15 of this Annual Report. By way of synopsis of those statistics I refer only to the following: we received 10 768 written requests for assistance, including 5 435 chargeable complaints, and 3 371 cases were finalised, of which 29% were resolved wholly or partially in favour of the complainants.

INDEPENDENT EXTERNAL ASSESSOR

During 2014 Judge R Cleaver was appointed in the above position to receive and to consider service complaints against the office by complainants and insurers. A service complaint is about the practical handling of a complaint by the office and it does not relate to the outcome of a complaint. A special procedure is provided for dealing with such service-related complaints. Further information can be obtained on our website, www.ombud.co.za. One complaint against the office was lodged with Judge Cleaver. In dismissing this complaint, he said the following:

> "I have, for the benefit of the complainant, gone to the trouble of attempting to explain the reasoning adopted by the Ombudsman. As to the complaint to me, I am not concerned with the correctness or even the reasonableness of the Ombudsman's ruling. I must only decide whether the Ombudsman provided the complainant with a reasonable service in handling his complaint. I am satisfied that the service provided by the Ombudsman was eminently reasonable and there are no grounds for complaint."

APPEAL

One appeal was finalised during the year.

The complainant claimed an award for compensation of R50 000 for poor service in terms of our Rule 3.2.5 and, on contractual and delictual grounds, he claimed a policy benefit higher than the one for which the insurer had admitted liability. These claims were dismissed in a provisional ruling and in a final determination. The complainant's application for leave to appeal against the dismissal of his claim for compensation and of his delictual claim was unsuccessful. I, however, granted him leave to appeal against the dismissal of his contractual claim. In doing so I said this:

> "If I were to decide the application only in relation to your contractual claim … the outcome of the application may well have been different … However, that claim cannot be viewed in isolation and it appears to be closely related to your submission that this office should, in the exercise of its equity jurisdiction, have made a finding in your favour. In paragraph 15, above, I referred fairly extensively to the principles which relate to our fairness jurisdiction."

Judge Melunsky was appointed as the Appeal Tribunal to deal with the complainant's contractual claim. He concluded that, for the reasons set out in his decision, "the appeal cannot succeed unless there is scope for reliance to be placed on considerations of equity …" The decision proceeded as follows:

> "The extent to which notions of equity may be employed in a contract of insurance were considered by the Ombudsman in granting leave to appeal and it seems to me that this aspect weighed in favour of his view that it could not be said that there was no reasonable prospect of success in the proposed appeal insofar as the Appellant's contractual claim was concerned. I have considered the principles expressed by him and the views of the parties in that regard. What is clear is that equitable considerations do not permit a ruling to be made in favour of an insured out of compassion or sympathy. Further, full effect should be given to unambiguous terms of the policy unless to do so would be a result so harsh that it could be said that its operation was unreasonable from an objective standpoint. It is, of course, easier to state the principles than to apply them but after due consideration I now deal with the problems of application."

Judge Melunsky considered the policy provisions and the medical evidence and said the following:

> "Before the aforesaid facts might bring an equitable equation into operation there would at least be a further factor to consider, viz. the question of the insured's disability after the event. This is where the provision relating to the lifestyle impact on a claimant after a heart attack has relevance. A clause along these lines does not seem to me to be unfair or harsh per se. It takes into account not only the initial traumatic impact on the individual, but the subsequent course of the illness and it would be reasonable for an insurer to be informed about the progress of the illness and the prognosis to enable it to make a proper decision concerning the appropriate level of severity. Now had the appellant been left with residual disability or impairment of function then, despite a subsequent normal ejection fraction, there might have been room for an argument that justice required that an equitable solution should come to his assistance. In the event, however, I do not have to decide that matter as the complainant's recovery, for all practical purposes, has been complete. There is no significant loss of function to the heart or arteries and no room for holding that his lifestyle has been adversely affected. In all these circumstances, no grounds exist for invoking the principles of equity."

The appeal was dismissed.

REGULATION OF THE FINANCIAL SECTOR

The development path of the Financial Sector Regulation Bill ("the Bill") was tracked in every one of our Annual Reports since 2013. This office was involved in the legislative process, particularly in relation to chapter 14 of the Bill, which deals with "Ombuds", by ongoing interaction with the National Treasury and the submission to it of various memoranda in conjunction with the other affected ombudsman offices.

On 21 August 2017 the State President signed the Bill into law, which is now the Financial Sector Regulation Act, 9 of 2017 ("the Act").

The road ahead is succinctly sketched as follows in a media release, dated 24 August 2017, by the National Treasury:

> "Section 305 of the Act provides for the Minister of Finance to determine the commencement date of the Act by notice in the Government Gazette. The Commencement Notice will also be published by the National Treasury, and will detail the commencement of different provisions of the Act, as well as repeals and amendments of other laws.
>
> Different sections of the Act will come into effect on different dates, to coincide with the establishment of the two regulators – the Financial Sector Conduct Authority (FSCA) and Prudential Authority (PA). It is anticipated that the authorities will be established in early 2018.
>
> The Act also provides for Regulations to be issued to facilitate transitional arrangements for the existing regulatory bodies into the FSCA and PA. Draft Regulations to this effect will be published along with the Commencement Notice for public consultation."

On 18 December 2017 the first draft regulations under the Act were published and it was said that "these are intended to clarify the performance of functions in terms of the Act during the transitional period prior to the establishment of the financial sector regulations".

The office will continue to liaise closely with the National Treasury on the practical implementation of the Act, notably chapter 14 thereof.

On 20 September 2017 the National Treasury released a media statement about the publication on that day of a consultation policy document, "A known and trusted ombud system for all".

On 29 November 2017 the National Treasury hosted a workshop on the proposals set out in the consultation policy document, at which Jennifer Preiss represented the office. At this workshop it was agreed that our office and the other three financial ombudsman schemes will submit a memorandum to the National Treasury in response to the consultation policy document.

POLICYHOLDER PROTECTION RULES

On 15 December 2017 the amended regulations and the new Policyholder Protection Rules under the Long-term Insurance Act, 52 of 1998, were published ("PPR").

These new Rules form part of the government's reform programme to "deliver better customer outcomes across the financial sector and improve market conduct in the insurance sector". There are different commencement dates for different provisions in the amended Rules, which will be implemented over 24 months commencing from 1 January 2018.

As of 1 January 2018 the Treating Customers Fairly principles ("TCF") have been incorporated into the Rules. Fair treatment of customers is a core principle in the new Rules. There are also specific Rules dealing with complaints management by insurers, which will take effect from 1 January 2019 and 1 July 2020 for group schemes.

We welcome the introduction of the amended Rules and the improved protection they provide for customers. The office participated in the consultation process and we wish to thank the Financial Services Board for the many opportunities we had to contribute and comment and for taking our concerns into consideration.

FINAL DETERMINATIONS AGAINST INSURERS

In accordance with our usual procedure a final determination is preceded by a provisional ruling.

It is by now well known that the office's process, if attempts at settlement fail, is initially to issue a provisional ruling setting out our preliminary view and asking the parties whether they have any further facts or contentions to submit before the matter is reconsidered for the purpose of making a final determination. It is our experience that if a provisional ruling is made against an insurer and if it has no new evidence or submissions, the insurer nearly always accepts the office's provisional ruling, despite the fact that it does not agree with it. In some instances an insurer may expressly record its disagreement with a provisional ruling, without formally challenging it.

If an insurer challenges the correctness of a provisional ruling against it, a final determination may be made at a meeting of the adjudicators in the office. If the final determination is made against the insurer, particulars thereof, including the name of the insurer, will be published on our website. This is done in terms of Rule 3.8 of our Rules which relates to any final determination which is made against a subscribing member and to any appeal in which a ruling is made that the complainant is substantially successful in the appeal. In terms of that Rule we must, subject to certain provisos, "publish such determination or ruling, including a summary of the facts concerned, the reason for the determination and the identity of the subscribing member".

During 2017 the office made the final determinations set out below.

In Case Report 26 a final award of compensation of R7 500 was made against Channel Life Limited. This was done in terms of our Rule 3.2.5 which empowers the office to "award compensation, irrespective of a determination made in terms of Rule 3.2.2 or 3.2.3, for material inconvenience or distress or for financial loss suffered by a complainant as a result of error, omission or maladministration (including manifestly unacceptable or incompetent service) on the part of the subscribing member; provided that the amount of such compensation shall not exceed the sum of R50 000". The office prepared guidelines which assist us in applying Rule 3.2.5 and these appear under "Useful Information" on our website, www.ombud.co.za. For two illustrative examples of how we deal with compensation, refer to issue 29 of our Ombuzz newsletter, which appears under

"Publications" on our website. See also the article on pages 22 and 23 of our 2016 Annual Report.

In Case Report 27 a final determination was made against Sanlam Developing Markets in relation to a funeral policy which provided cover for a "cousin", as defined. In the final determination the office recognised and took into account our cultural diversity and that, in certain languages, the term "cousin" includes a second cousin and it held that fairness dictated that the claim should be paid.

Case Report 28 relates to the validity of an adoption in terms of customary law. Metropolitan Life Limited disputed the validity of such an adoption on a legal ground and on the facts. The legal ground was later abandoned, and on the facts the office upheld the validity of the adoption in its final determination. See pages 18 and 19 of this Annual Report where this final determination is discussed.

The office complied with Rule 3.8 and full particulars of the above cases and of all the final determinations against subscribing members can be found on our website under "Useful Information".

CONCILIATION PROCESS

On page 7 of our 2016 Annual Report reference was made to a pilot project of the office which involves early intervention and conciliation, with a view to achieving significant reductions in turnaround times, without sacrificing the quality of our service to the parties.

We are pleased to report that the above process is increasingly being used because it works well. Every complaint in which it was followed, was either resolved one way or the other or meaningful progress was made towards its finalisation.

See the discussion on pages 22 and 23 of this Annual Report.

NEW SUBSCRIBING MEMBERS

Smart Life Insurance Company Limited and Investec Life Limited became subscribing members of our scheme.

CONFERENCE

Our office is a member of the Ombudsman Association of South Africa, which presented an informative, successful and well-attended conference in Johannesburg on 12 July 2017. Jennifer and the Ombudsman for Short-term Insurance did a joint presentation at the conference on "Getting the balance right". See pages 20 to 23 of this Annual Report. The conference was also attended by Heinrich Engelbrecht of our office and we received favourable feedback on the conference from him and Jennifer.

OUTREACH

Our Rule 1.2.6 provides as follows:

> "The Ombudsman shall seek to ensure that he or she co-operates with the Council established in terms of the Financial Services Ombud Schemes Act, 2004, in promoting public awareness of the existence, function and functioning of the Ombudsman and the Ombudsman's office and in informing potential complainants of available dispute resolution forums."

The office continuously strives to give effect to the spirit of Rule 1.2.6 and to promote greater awareness of the office and of the public service which it renders.

"The office has always been proud of the quality of its service. This is the direct result of the ability of the staff."

Our 2016 Annual Report was widely distributed and our newsletter, Ombuzz, was published regularly on our website, www.ombud.co.za. Various media interviews were conducted with members of the office and the office enjoyed extensive and favourable press coverage.

TRIBUTE TO STAFF

The office's greatest asset is its staff and it is to them that I express my appreciation and I render my thanks for their dedicated efforts to maintain our high standard of service. The office has always been proud of the quality of its service. This is a direct result of the ability of the staff. To consistently achieve this in an office such as ours requires that the staff must be experienced, motivated and well qualified. They have those qualities and the office fortunately has an extremely low staff turnover. I am privileged to serve in this environment where we strive for excellence and I am pleased to again say so. From May 2017 the management team in the office included Clyde Hewitson as the Office Manager and Tony Sterrenberg as the Financial Manager. Clyde has worked in the office since 2004 and justly deserved his promotion. Tony is a retired chartered accountant with many years' experience, also in the long-term insurance industry. I take this opportunity to publicly congratulate them on their appointments and to welcome them as members of the management team. I make special mention of the loyal and steadfast support which Jennifer and I received from the adjudicators, and from Clyde and Tony. It is my pleasure to mention other staff appointments and promotions and to congratulate the incumbents. The new staff members are Abigail Machine and Nikelwa Tolashe, who are, respectively, an assessor and a data capturer. Tamara Sonkqayi was promoted to an assessor and Colline Alexander as a secretary. Well done, to all of you!

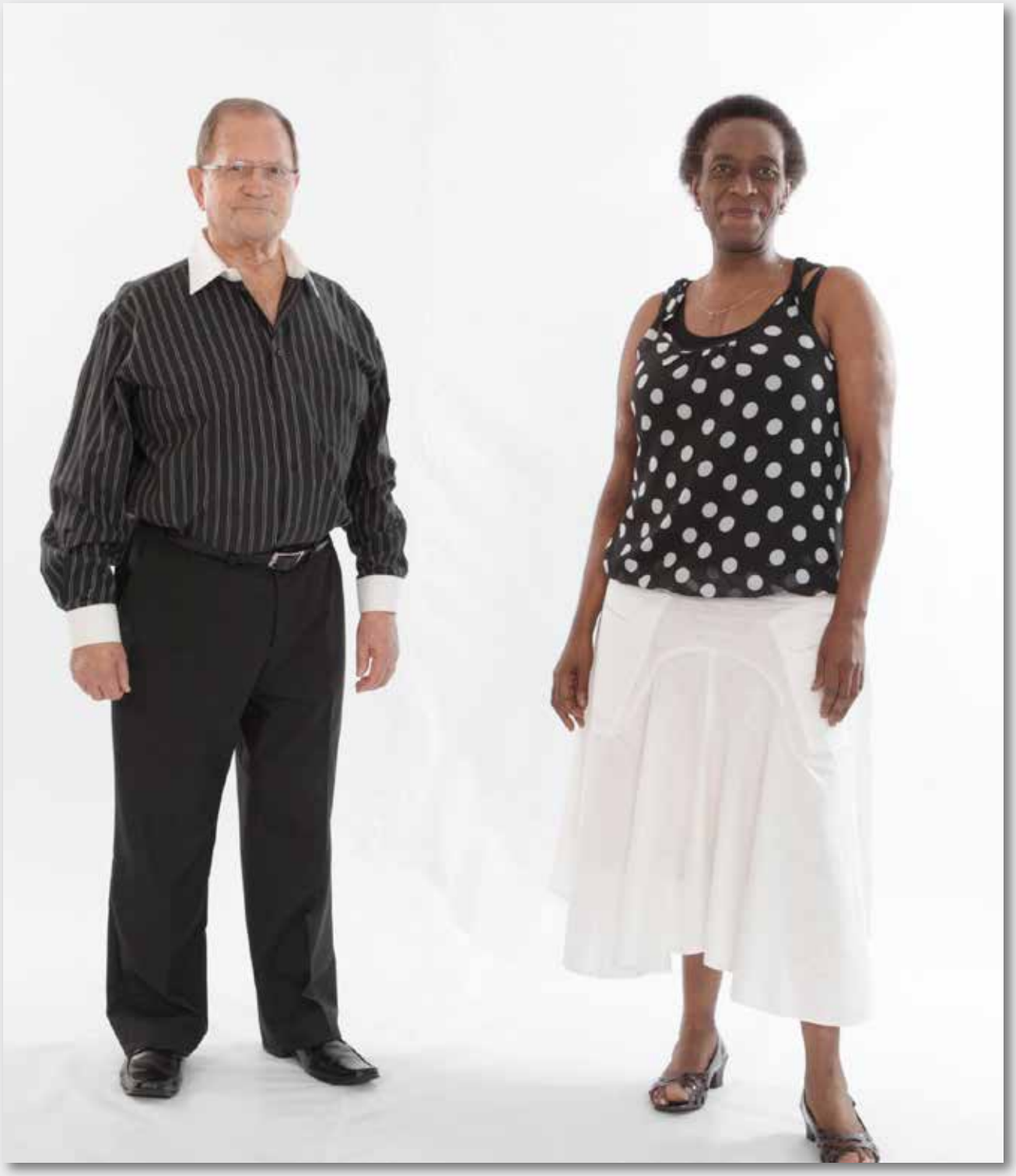
Ron McLaren

MISSION

The mission of the Ombudsman is to receive and consider complaints against subscribing members and to resolve such complaints through mediation, conciliation, recommendation or determination.

The Ombudsman shall seek to ensure that:

- he or she acts independently and objectively in resolving any complaint received and takes no instructions from anybody regarding the exercise of his or her authority;
- he or she follows informal, fair and cost-effective procedures;
- he or she keeps in balance the scale between complainants and subscribing members;
- he or she accords due weight to considerations of equity;
- he or she maintains confidentiality, in so far as it is feasible to do so and subject to Rules 3.8 and 7, in respect of every complaint received;
- he or she co-operates with the Council established in terms of the Financial Services Ombud Schemes Act, 2004, in promoting public awareness of the existence, function and functioning of the Ombudsman and the Ombudsman's office and in informing potential complainants of available dispute resolution forums;
- subscribing members act with fairness and with due regard to both the letter and the spirit of the contract between the parties and render an efficient service to those with whom they contract.



IN MEMORIAM
TRIBUTES

Eddie de Beer described himself as "a farm boy from the south east Free State". He graduated with BA (Hons) (cum laude) and LLB from the University of the Orange Free State in 1965. He commenced his career as a State advocate in the office of the then Attorney-General of Transvaal until he was appointed as a senior lecturer in administrative and constitutional law at the University of Pretoria in 1969. He entered private practice at the Pretoria Bar in 1974. For a while he ventured into the property business before becoming involved in the insurance industry in 1983, first as a legal officer of Colonial Mutual and after the amalgamation of the South African business of that insurer with Old Mutual, as senior legal adviser in the corporate law division of Old Mutual. His experience in this capacity included legal aspects of drafting of new insurance contracts, implementation and validity of existing insurance contracts, contested claims in terms of insurance contracts and application of legislation in respect of insurance contracts in general. He joined the staff of the Ombudsman in 1997 as an Assistant Ombudsman. He passed away of heart failure on 7 August 2017.

We remember Eddie for his inspirational intellect, humanity, sincerity and wit. He would abundantly convey encouraging words, a laugh or a fascinating piece of history. He had a wonderful command of language and expression and offered freely from his fountain of knowledge and experience, not only in the work sense but of his travels through life's twists and turns. Eddie contributed vastly and enduringly to the work in the office over a period of 20 years. Ever the stalwart, committed in his duties, he passed away in his proverbial boots, behind his desk. The stature of the man was a rock to so many in this office and the larger community and we bear his loss with deep lament.

Cikizwa Ntombesizwe Nkuhlu was born on 19 January 1967 in Johannesburg. As her father was a religious minister the family moved from mission to mission and eventually settled in Cofimvaba, Eastern Cape where she attended primary school. She was an achiever of note and later proceeded to St James Senior Secondary School where she again excelled. She then went on to the University of Transkei and obtained a B Iuris degree. She continued her law studies at the University of Natal, where she obtained her LLB. Cikizwa's first employment was as a prosecutor at Cofimvaba Magistrates' Court. She later did her articles of clerkship in King William's Town and commenced her own law practice with a colleague. In 2001 she left private practice to join Judge W Heath at the Special Investigation Unit in East London. In 2004 Cikizwa moved to Cape Town where she joined the office of the Pension Funds Adjudicator as an Assistant Adjudicator. While there she also worked part time as a lecturer at the University of the Western Cape, lecturing LLB students. Cikizwa joined the office in 2009 and remained in this position as an Assistant Ombudsman until her very sad passing away on 27 December 2017 after extended periods of suffering from poor health. She leaves behind her only child, Milabande, aged 10.

The office is deeply saddened by the loss of a colleague and friend. As an Adjudicator, Cikizwa was superb and dedicated, with an astute knowledge of the law. She brought to the office her exceptional and formidable brand of balanced and in-depth assessment, fair judgment, quality formulation of rulings and sentiment for the positions of the stakeholders. She was a loyal and much-loved person and we shall miss her tremendously.

STATISTICS

REQUESTS FOR ASSISTANCE RECEIVED

2017, in statistical terms, was not a remarkable year for the office. 10 786 written requests for assistance were received as compared with 9 871 in 2016. The 5 435 chargeable complaints we received were marginally higher than the 5 284 we received in 2016, but very much in line with the small increases in numbers we have received over the past two years. We managed to close 3 371 full cases (it was 3 324 in 2016) of the 4 336 we considered during the year, despite the fact that we had challenges with adjudicative staff numbers due to illness and death. It required a concerted effort on our part to maintain our performance standards.

The slightly higher number of complaints received and the financial management in the office had a positive effect for insurers as our case fees in 2017 were only 1.5% higher than in 2016 and 6.75% lower than the fees we had estimated for 2017.

There were 3 436 Transfers in 2017, exceeding the 3 051 Transfers in 2016. Of these 831, or 24.1%, were settled in favour of the complainants. This percentage has been remarkably consistent over the past few years with 24% in 2016 and 23% in 2015. Reviews have increased to 1 610 compared to 1 324 in 2016.

DESCRIPTION OF CHARGEABLE COMPLAINTS

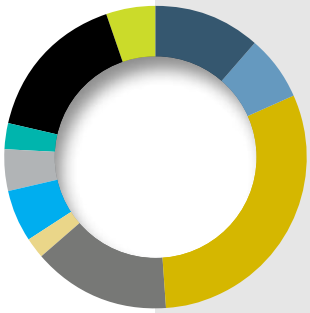
MINI CASES – consist of simple complaints that are within the jurisdiction of the office, but which insurers can handle without the office's involvement. The complainant is always advised that if the matter is not resolved he/she can revert to us. There are also some complaints which have no prospect of success. The assessing staff dismiss these complaints and explain the reasons for the dismissal to the complainants.

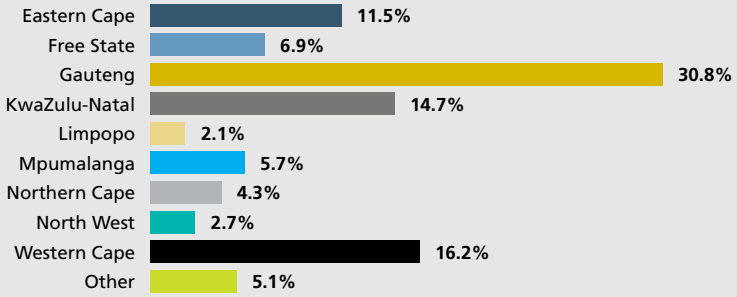
TRANSFERS – these are complaints not previously seen by insurers and referred to them to try and resolve directly with the complainant. If not resolved, and if the complainant, when contacted by the office, requests us to do so, they are taken up by the office as Reviews and handled in the same manner as Full Cases.

FULL CASES – these are complaints that have already been seen by insurers and these are handled by the office from inception to finalisation.

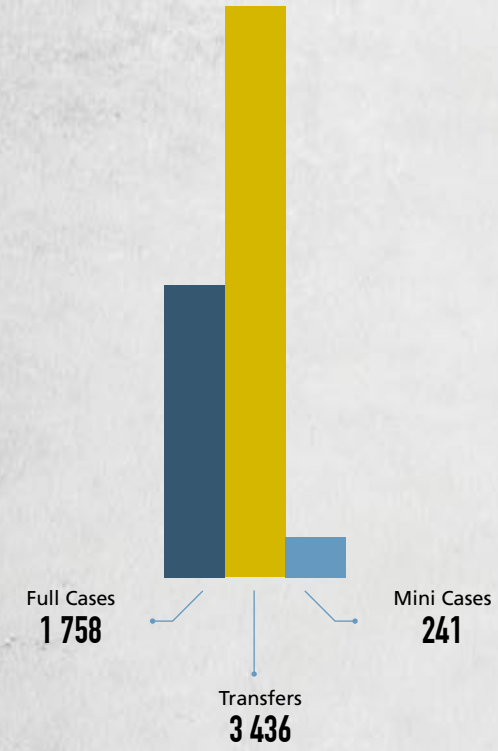
The 85% of complaints finalised within six months, mentioned in the Key Figures, include Transfers, Reviews and Full cases.

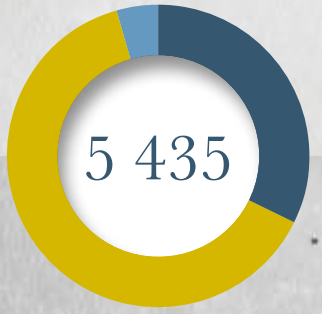
WHERE DO OUR CASES COME FROM



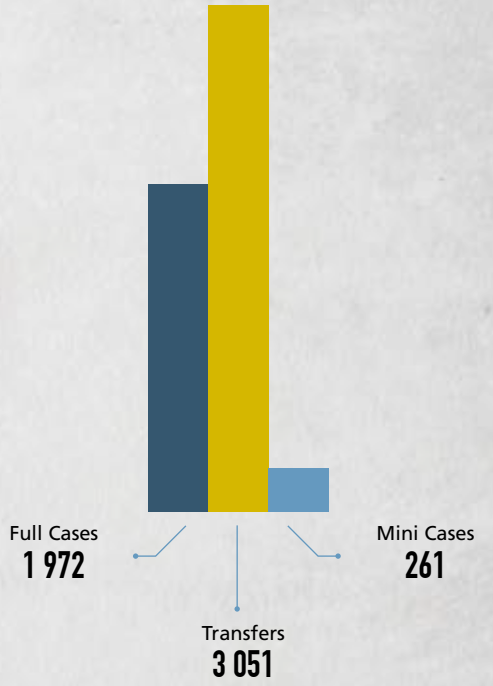


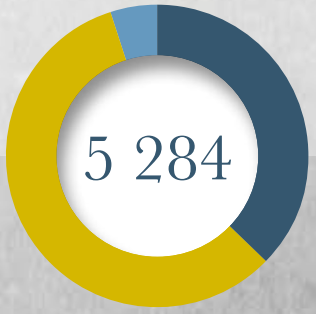
CHARGEABLE COMPLAINTS RECEIVED 2017





CHARGEABLE COMPLAINTS RECEIVED 2016





CASES FINALISED

Cases finalised incorporate Full Cases as well as Reviews. These are the cases that the office considered and resolved during the year. In 2017 this amounted to 3 371, slightly higher than the 3 324 in 2016.

Cases finalised are categorised as follows for charging purposes:

STANDARD CASES – this term refers to the benchmark category of cases charged at a case fee of R3 707.

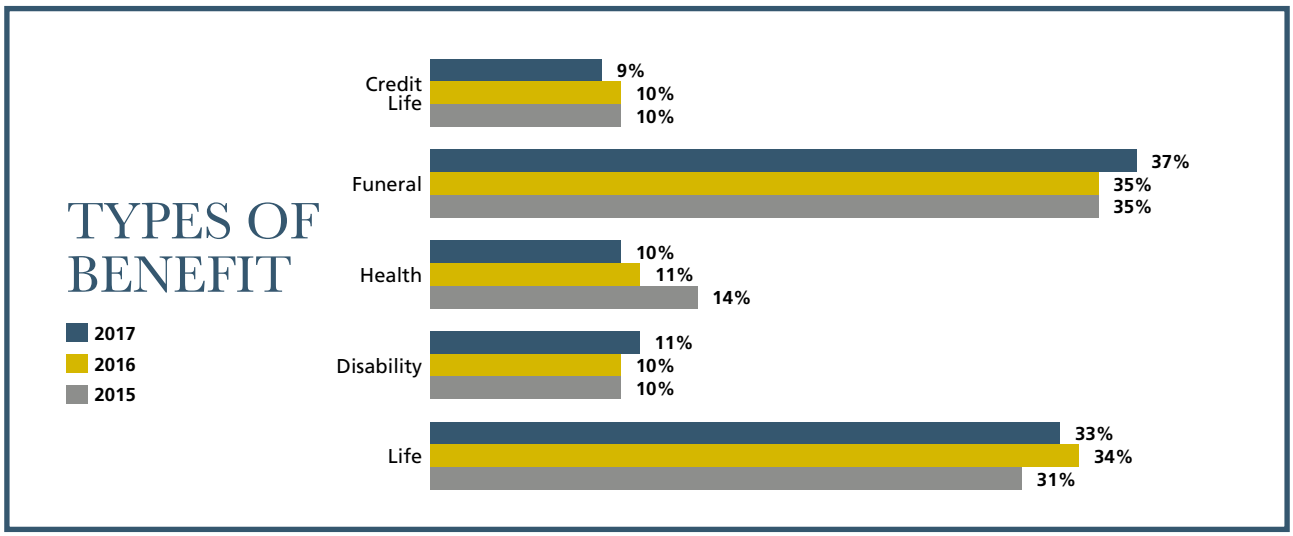
INCOMPETENT CASES – these are cases where the insurer either gave a response outside of our time standards or gave an inadequate response. These cases are charged at either double or triple the Standard Case fee, depending on the extent of the incompetence.

COMPLICATED AND COMPLICATED PLUS CASES – these are cases which are difficult to deal with because of complex legal, medical or financial issues or as a result of the complainant's persistence. These cases are also charged at either double or triple the Standard Case fee, depending on the degree of complexity.

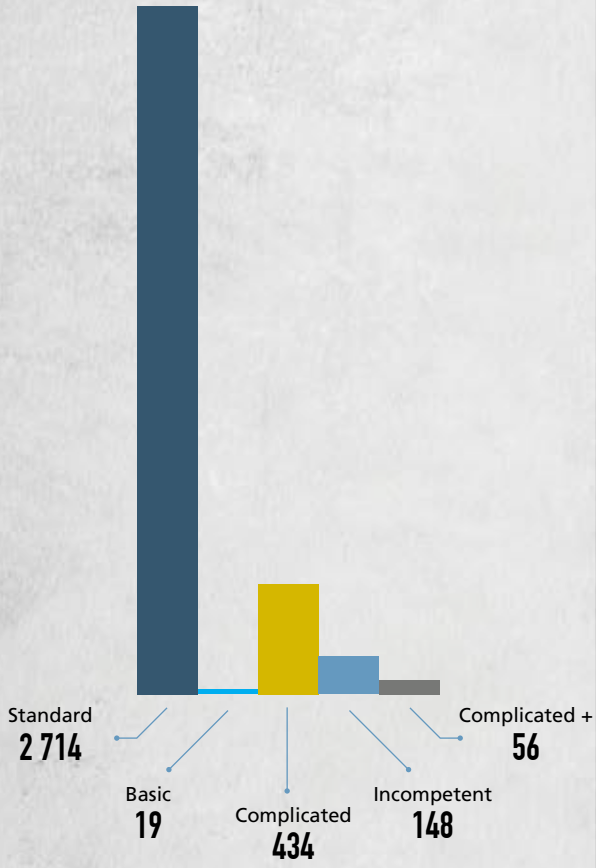
BASIC CASES – these are cases involving complaints about funeral policies issued by small insurers where the complaint is resolved on the first response by the insurer. A lesser fee is charged for these cases.

TYPES OF BENEFITS

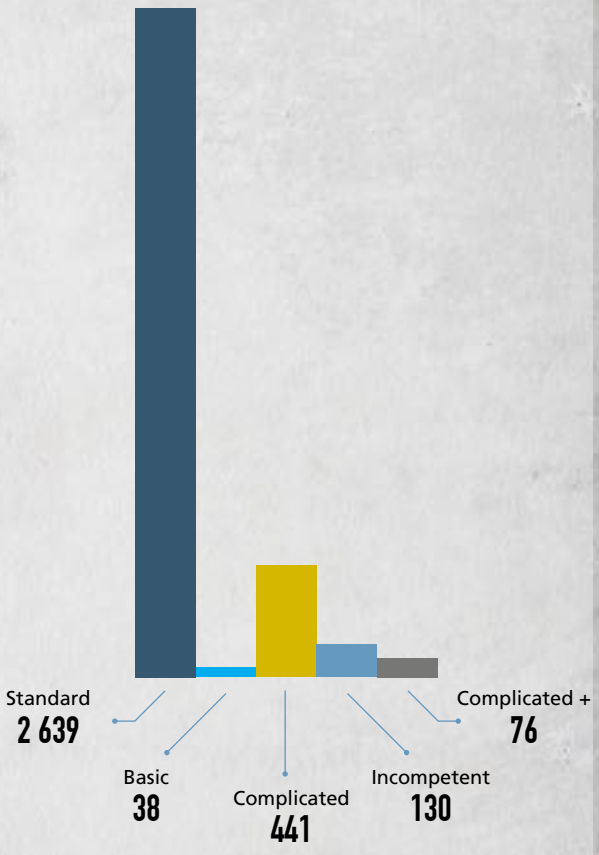
There has not been any major change in the types of benefits forming the subject matter of complaints in our office. The complaints about funeral benefits increased by 2% to 37%, which was the same percentage as in 2011.



CASES FINALISED 2017



CASES FINALISED 2016



STATISTICAL SUMMARY OF CASES FINALISED

	LIFE				DISABILITY			
NATURE OF COMPLAINT	**2016**	**W/P***	**2017**	**W/P***	**2016**	**W/P***	**2017**	**W/P***
Poor communications/documents or information not supplied/poor service	938	38%	928	35%	38	34%	49	33%
Claims declined (policy terms or conditions not recognised or met)	1 099	24%	1 103	28%	267	37%	265	34%
Claims declined (non-disclosure)	87	15%	88	25%	50	24%	73	16%
Dissatisfaction with policy performance and maturity values	117	10%	136	10%	1	0%	0	0%
Dissatisfaction with surrender or paid-up values	50	8%	67	15%	0	0%	0	0%
Misselling	6	17%	14	50%	0	0%	0	0%
Lapsing	127	33%	174	25%	1	100%	4	25%
Miscellaneous	159	15%	130	25%	11	36%	14	29%
Total	**2 583**	**28.0%**	**2 640**	**28.9%**	**368**	**34.0%**	**405**	**30.4%**

* Resolved wholly or partially in favour of the complainant.

NATURE OF COMPLAINT

As has been our experience in previous years, the Claims Declined category had the highest number of complaints with the Poor Service category the second largest. This is the same pattern as in previous years.

We are noticing a trend that the Non-disclosure category is slowly increasing over time – from 3% in 2011 to 5.74% in 2017. This could be due to various factors, such as: more direct business sold; more automated underwriting; the effect of churning; pressure on insurers to out-list new policies very quickly; and, possibly, an increase in the dishonest completion of application forms. Although there were only 200 Non-disclosure cases closed in 2017 these cases take a considerable amount of time because there are invariably disputes of fact involved. On occasion we have to hold hearings in order to resolve such disputes. The W/P percentage is only at 21% for this category which is, however, higher than the 14% in 2016.

There is also a slight increase in the complaints about Values – this is a repeat of the pattern we have seen in the past during difficult economic times.

We have started to record complaints according to the TCF outcome categories as reflected in the new PPR and will be able to report on this in future, in addition to the current nature of complaint categories.

	HEALTH				TOTALS				% OF TOTAL	
	2016	W/P*	2017	W/P*	2016	W/P*	2017	W/P*	2016	2017
	46	39%	41	51%	1 022	38%	1 018	35%	30.75%	30.20%
	278	23%	239	25%	1 644	26%	1 607	29%	49.46%	47.67%
	40	8%	39	21%	177	14%	200	21%	5.32%	5.93%
	0	0%	0	0%	118	10%	136	10%	3.55%	4.03%
	1	0%	0	0%	51	8%	67	15%	1.53%	1.99%
	0	0%	0	0%	6	17%	14	50%	0.19%	0.42%
	2	50%	2	50%	130	35%	180	25%	3.91%	5.34%
	6	17%	5	40%	176	16%	149	26%	5.29%	4.42%
	373	27.9%	326	27.9%	3 324	28.1%	3 371	29.0%	100%	100%

RESOLVED WHOLLY OR PARTIALLY IN FAVOUR OF COMPLAINANTS

The percentage of cases resolved in favour of complainants increased slightly from 28.1% in 2016 to 29% in 2017. If we add the Transfers settled to the number then the W/P percentage increases to 36.4%. This is very similar to the percentages in the last few years.

R193.3 million was recovered for complainants in the form of lump sums. This figure does not reflect the value of other benefits, such as recurring income disability benefits, annuities and reinstatement of policies, etc.

"We wish to caution against an over-emphasis of the W/P percentage, which should not be viewed in isolation."

MATTERS OF INTEREST

FINAL DETERMINATION IN CASE REPORT 28

The complaint related to a youth ("the deceased") who was about 16 years old when he died during 2014 as a result of unnatural causes. The insurer disputed the validity of the deceased's alleged customary law adoption.

The complainant applied to Metropolitan Life Limited ("the insurer") for a funeral policy on 11 December 2011 and in the application form he reflected the name of the deceased under the heading "children". The policy started on 1 January 2012 and it provided an "immediate family benefit" which extended to "your own, step or legally adopted unmarried child who is younger than 21". The complainant's case was that the deceased was his legally adopted child. The insurer disputed this, but offered to reconstruct the policy to provide R10 000 cover for the deceased under the "extended family benefit" for an additional premium. The dispute in our office was whether the complainant proved that he had legally adopted the deceased.

The complainant speaks only isiZulu. Throughout the complaint handling process the complainant was assisted by a relative, who is a teacher. Very considerable effort, energy and time were expended by this relative and the insurer on stating the cases of the parties on the issue whether the complainant's customary law adoption of the deceased constituted a legal adoption for the purpose of the policy.

The complainant submitted that an affidavit by the deceased's mother and a document signed by the Induna of the local Traditional Council served as "tangible evidence" that he had "customarily adopted" the deceased and that there existed an agreement with the deceased's parents that the deceased would be the complainant's child "according to customary law".

The insurer submitted as follows:

> "As such, Metropolitan cannot accept the adoption as a legal adoption until the adoption has been confirmed by the Children's Court and the deceased registered by the Department of Home Affairs as the adopted child of the complainant."

On 2 June 2017 a provisional ruling was made which upheld the complaint.

The insurer challenged the correctness of the provisional ruling and said that the validity of the customary adoption was in dispute because "all the requirements for a customary adoption" had not been met, notably that "the complainant did not provide evidence to show that it was publicly proclaimed that the complainant accepted parental responsibilities for the deceased". The insurer persisted with its submission that a customary adoption "requires confirmation of adoption by the Children's Court to be enforceable".

On behalf of the complainant two letters of support by tribal leaders were produced and the complainant's stance about the customary adoption issue was succinctly put as follows:

> "… I would be very happy if you can consider this complaint and make a final ruling that the South African Constitution expressly recognises the importance of customary law and commands respect for African legal heritage. The inclusion of the right to culture and customary law (ss 15(3), 30 and 31 of the Constitution) alongside the equality clause (s 9 of the Constitution) in the Bill of Rights provides a strong basis for the preservation of cultural adoptions in the Children's Act. Section 15(3) of the Constitution provides for legislation that recognises systems of personal or family law under any tradition; section 30 provides that everyone has the right to participate in the cultural life of their choice and section 31 provides that persons belonging to a

cultural community may not be denied the right to participate in and enjoy their culture. Section 211(3) of the Constitution provides that the courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law. Since the Constitution clearly validates customary law, it is submitted that the right to practise traditional adoption is protected by the Constitution and should be accorded the same respect as common law."

Thereafter the insurer made the following concession:

> "We are therefore satisfied that an order of the Children's Court is not required for valid customary adoptions to be legal adoptions. We thank the complainant as well as your office for assisting us in reaching this position."

The insurer nevertheless challenged the validity of the alleged customary adoption. In his response the complainant's adviser referred to the Australian Law Reform Commission Report on the proof of aboriginal customary law; to a paper of the South African Law Commission on "Harmonisation of the common law and the indigenous law" and to section 1 of the Law of Evidence Amendment Act, 45 of 1988, which deals with judicial notice of indigenous law. He then submitted, with reference to our Rule 5.1, that "based on the evidence we submitted to your office, the occurrence of customary adoption in terms of customary law was more likely than not".

At a meeting of the adjudicators on 13 October 2017, presided over by the Ombudsman, it was found that there was a dispute of fact which could best be determined by the hearing of evidence in terms of our Rule 5.3. Such a hearing can only take place if the parties agree thereto.

The complainant agreed to the hearing and indicated that all his witnesses would testify in isiZulu. The hearing, however, did not take place because the insurer did not agree thereto.

The matter was again considered at a meeting of the adjudicators in the office at which the Ombudsman presided on 14 December 2017. Before quoting the concluding paragraphs of the final determination, dated 15 December 2017, it is pointed out that the insurer also challenged the jurisdiction of the office in relation to the complaint. This challenge was considered and investigated in the final determination, in which the following was said:

> "With regard to the onus of proof and the said dispute of fact, I point out that the mere existence of the dispute of fact does not mean that the complainant cannot discharge his onus of proof on a balance of probability.
>
> The meeting was of the unanimous view that the complainant presented an impressive and persuasive body of evidence which points unerringly to a conclusion that the complainant's customary adoption of the deceased complied with the requirements to establish the legality thereof.
>
> At the meeting referred to in paragraph 30.11, above, it was unanimously resolved that the following final determination be made:
>
> - This office has the requisite jurisdiction in the above complaint.
> - It is declared that the insurer is obliged to assess the complainant's claim on the footing that the deceased was his legally adopted unmarried child."

For the sake of completeness, it is pointed out that, following a successful application by the insurer for leave to appeal against the final determination, the insurer ultimately withdrew the appeal, with the result that the final determination remained in force. The parties thereafter concluded an amicable settlement of the matter.

GETTING THE BALANCE RIGHT

1. An Ombudsman has to keep the scale in balance between:
   - Complainants and the industry.
   - Quality and quantity of output – or put differently – speed versus quality.
   - Confidentiality and transparency.
   - Informality and procedural rigour.
   - Cost-effectiveness, but at the same time giving good service.

   Getting this balance right leads to trust and confidence in the office. The office has to manage the different stakeholder expectations during the process in the office.

2. It is said that "you can have it good, you can have it fast, or you can have it cheap, but you can't have all three".

   And yet, that is what is expected of an ombudsman.

   We are "judged" on these three measures, and of course measuring and demonstrating the "good" part is always a challenge.

3. How does one measure the "good" or the quality when an indefinite part of the process is the judgment that is applied in decision-making? It is the most difficult aspect to perfect and to measure, particularly where fairness is part of the decision-making. It is much easier to measure speed/quantity and cost-effectiveness rather than quality.

   As was said by the Hon J.J. Spigelman AC, a former Chief Justice of New South Wales, Australia in "**Judicial Accountability and Performance Indicators**":

   "Not everything that counts can be counted. Some results or outcomes are incapable of measurement. They can only be judged in a qualitative manner. Justice in the sense of fair outcomes by fair procedures, is, in its essential nature, incapable of measurement."

4. Yet despite knowing this, the reality is that our performance will be measured and we should not, and do not want, to be measured only on speed/quantity and cost-effectiveness. That will encourage poor practices and an unbalanced approach to dispute resolution. It must be kept in mind that people soon forget how fast you finalised a case, but they do not forget how well or badly you did the case. We are not prepared to sacrifice quality for the sake of expediency.

5. The objectives of quality measurements, apart from demonstrating performance, are to:
   - Promote the consistent application of procedures and outcomes.
   - Enhance and inspire the quality of the work.
   - Encourage best practice and procedures.

   The measurement of quality is also useful to demonstrate the effectiveness of the scheme. However flawed the concept of the measurement of quality might be, it is necessary.

6. The office employs the following methods in its attempts to measure quality:
   - Regular surveys of complainants and the subscribers are done. There can of course be a subjective element to the assessment which is dependent on the outcome of the case, in such survey results.
   - An independent external review is done every three to five years. See our website, www.ombud.co.za, for our latest review.
   - Formal quality control – a percentage of cases go through an evaluation process where there are set

criteria which have to be measured, as well as an overall evaluation of whether the outcome was fair and reasonable. This is done at present by an advocate external to the office (who was previously employed by the office). These outcomes are a reflection on the quality of cases assessed by him.

- There is an Independent External Assessor to whom parties can complain about the scheme. He reports to the Council on service complaints against the office. See page 4 of this Annual Report.
- We benchmark our results, procedures and practices against:
  - Other schemes, both nationally and internationally.
  - Standards set by bodies such as the International Network for Financial Ombudsman and by the regulator/legislation.

Benchmarks must, however, be appropriate. The focus must be on the needs of the users and should not be driven by targets that are not central to those needs.

7. The following could also reflect on quality:
   - A possible measure could be the number of cases that go to court after they have been to the office, but there are so many other factors that impact on this criterion that it is not a reliable measure. If an unusual number of cases do land up in court, then of course, it could be a "red flag" that there may be a problem.
   - The overall impact on the industry could be a valuable indicator. An ombudsman's role is not just to deal with disputes in the office, but also to influence the behaviour of industry and to improve standards. There is, however, a difficulty in finding a reliable indicator in this regard.
     - Could it be by looking at the number of complaints? If there is no increase in complaints, that could be positive if industry has implemented changes to prevent complaints. However, again there could be many other factors and these would have to be ruled out before definite conclusions could be drawn.
     - A reduction in the overturn rate or our so-called W/P rate could also be an indicator. This could mean that the industry is performing better and that could be because of the role of the ombudsman. Again, there are many factors that could be at play in this scenario, so it is not an indicator that can be looked at in isolation.

The office has found that the following are important features in ensuring and improving quality:

- The right people "are key to success".
  - The most important tool – well-trained, experienced, high-quality staff with the right attitude, who can be retained.
  - The right people on the governance body – this can ensure trust and quality through the oversight that is employed.
- The level of transparency about the scheme's performance can in itself be a quality control measure. Transparency of results and processes will keep the scheme "on its toes".
- A continual search for improvement – there is no room for complacency.

THE MEDIATION AND CONCILIATION PROCESS

In terms of our Rules the Ombudsman has to receive and consider complaints against members and to resolve such complaints through mediation, conciliation, recommendation, failing which, by determination.

We have always used all of these processes, but we want to make greater use of such informal processes in future. There is sometimes confusion about these processes and how they operate and we participated in workshops arranged by a reinsurer during 2017 by giving a talk to explain our approach in using these processes. The following is a summary of the talk.

We use informal processes to reach a resolution of a complaint, taking into account the following: legal rights, industry standards and equity/fairness.

The steps we follow in any process:

- We separate the problem from the people who are involved.
- There is a focus on the interests, not the positions, of the parties.
- Together with the parties we try to generate a variety of options that could lead to a resolution of the complaint.

MEDIATION

The important elements of mediation are the following:

- A non-adversarial process where parties to the dispute with the assistance of a neutral person try to reach a settlement.
- It is not about fault – it is about finding a solution.
- It focuses on active participation in the resolution process by the parties themselves.
- It feels empowering for the parties as they are resolving the problem themselves.
- It is confidential and that promotes openness.
- It can be a process to manage conflict.
- It narrows down issues that are at the core of the dispute.
- It is better to use it at the beginning of the dispute resolution process.
- It is usually not suitable if there is unequal bargaining power between the parties.
- The mediator's role:
  - Define the problem.
  - Help with the process, not the outcome.
  - Help parties understand the problem and to collaborate.
  - Adjust the expectations of the parties.
  - Reframe and mirror what parties are saying.

"Pure" mediation as described above where the parties meet and follow the abovementioned format is not used that often in our office.

CONCILIATION

This is also a non-adversarial process but here the parties with the active assistance of an impartial person with the necessary expertise try and resolve the dispute.

The role of the conciliator is to:

- Define the problem.
- Clarify the parties' positions.
- Intervene when hostility between the parties interferes with the process.
- The conciliator can be "confrontational" when there is an impasse.
- Make proposals and influence the actual content of decision-making by helping to find the best solution.

Conciliation is a more appropriate process than mediation when there is an unrepresented party or a vulnerable party or when there is unequal bargaining power between the parties.

Our conciliations are done in person, over the telephone, by skyping or by "shuttle" negotiation where we interact with one party at a time.

Conciliation is more commonly used by our office than pure mediation. There is an explanatory brochure under "Publications"on our website, www.ombud.co.za.

The advantages of these informal processes:

- It can restore trust and confidence between the parties – this is particularly important when there is an ongoing relationship between the parties, e.g. if a beneficiary of an income disability benefit is the complainant and benefit payments will continue in the future.
- It is an opportunity to be heard – not everyone can adequately express themselves in writing.
- Our experience has been that we always learn more about the complaint and the parties' interests during the process.
- A mediation or conciliation meeting will narrow down the issues for determination, even if no resolution is reached at the meeting.
- The parties have a better understanding of their positions.
- It can be more efficient and speedier than a long drawn out paper-based process.

There are some drawbacks to these processes:

- The openness and transparency of the procedure might be impacted if the parties are concerned that the mediation or conciliation is not the final step in the process in the office.
- Some parties might feel intimidated if they are not familiar with the process.
- It is not suitable for all cases, for instance:
  - if there is too much hostility on the part of one or both parties;
  - if a party is emotionally disturbed;
  - if a party has an ulterior motive, such as a gathering of information for a future alternative process; and
  - if there are pure legal issues to be decided and when there are factual disputes which are better decided by a court of law.

Ombudsman offices all over the world are incorporating these informal processes into their work. On the whole the use of these processes has been successful in our office.

STAFF
AS AT 31 DECEMBER 2017

MANAGEMENT TEAM

Judge Ron McLaren

Jennifer Preiss

Clyde Hewitson

Tony Sterrenberg

ADJUDICATORS/ASSESSORS

Heinrich Engelbrecht

Sue Myrdal

Nceba Sihlali

Nuku van Coller

Lisa Shrosbree

Deon Whittaker

Yvonne Barnard

Ganine Bezuidenhoudt

Abigail Machine

Diana Mills

Lorraine Allan

Kathy Heath

Edith Field

Tamara Sonkqayi

Jenny Jenkins

Sithandwa Tolashe

SUPPORT STAFF

Rosemary Galolo

Charmaine Bruce

Marshalene Williams

Lynn Fitzpatrick

Angelo Swartz

Sureena Gallie

Jameelah Leo

Colline Alexander

Tania Thomas

Phindiwe Fana

Puleka Ngalo

Nosiphiwo Sifingo

Yolanda Augustine

Virginia Smith

Colleen Louw

Shanon Augustine

Nikelwa Tolashe

COMPLAINTS DATA FOR SUBSCRIBING MEMBERS

The office published individual insurer complaints data for the period 1 January 2017 to 31 December 2017 on its website, www.ombud.co.za.

The publication is done in order to promote accountability and transparency. It will also encourage insurers to benchmark their standards of complaints handling against other insurers and to learn from insurers who appear to be better at complaints handling.

The information published on the website under the heading "Complaints Data" and herein, shows the number of complaints received; the number of cases considered; the number of cases finalised and the number of cases resolved in favour of the complainant or the insurer, i.e. the W/P (Wholly or Partially) percentage. In addition, Table 2 on the website reflects the nature of the complaints.

The office does not interpret what any of the figures may mean. That is left to insurers, intermediaries and industry bodies, reporters and consumer organisations, as we are of the view that such interpretation and comment by us would not be consistent with our role in impartial dispute resolution.

Although there are a number of published reports reflecting market share in the long-term insurance industry, there is no single generally accepted measure for it and, therefore, this is not reflected in the published data. Another reason for not including market share is that the office does not hold the underlying data that could be used to determine market share and this makes it impossible for the office to verify its correctness. The only context is the individual insurer's complaints expressed as a percentage of the total complaints received.

WHOLLY OR PARTIALLY IN FAVOUR OF COMPLAINANTS (W/P)

A W/P classification applies whenever a case is resolved either wholly or partially in favour of a complainant, whether by settlement or determination. This includes so-called ex gratia settlements. The W/P classification is not limited to cases where the office issued a determination. The classification is also not limited to cases where a sum of money is paid to a complainant – it can apply to service complaints, reinstatement of policies, adjustment of benefits, etc.

We wish to caution against an over-emphasis of the W/P percentage, which should not be viewed in isolation. A low W/P percentage in favour of complainants is,

SECOND REMINDERS FOR RESPONSES

Where an insurer has more than five second reminders per year, the number of reminders is published with the complaints data. The names of the insurers and the number of the second reminders sent to them during 2017 appear alongside.

1Life Insurance	13
Alexander Forbes Life	13
First Rand Life	7
Liberty Group	9
Nedgroup Life	24
Nestlife Assurance	19
Safrican Insurance	14
Workerslife Assurance	9

by itself, not necessarily good or an indication that the insurer has exemplary complaints handling processes. Neither is a higher percentage necessarily negative or an indication that the insurer's complaints handling is poor.

Some insurers are more inclined than others to settle matters. Such insurers choose to settle matters, either wholly or partially, when there may, strictly speaking, be doubt about legal liability.

There may also have been a bulk case situation, i.e. a large number of cases on the same issue. This can "skew" the W/P percentage either up or down for one or more years. This effect is noticeable when an insurer's W/P percentage changes markedly from previous years.

Of course, if an insurer has a disproportionately high percentage of complaints and has had a high W/P percentage for a number of years, that would raise a question about its complaints management and other practices.

The complaints data should be used by intermediaries, consumers and others in conjunction with other measures, such as an insurer's claims ratio, its efficiency generally, its products, etc. to give a full picture of an insurer's performance.

The table overleaf shows:

Complaints received
This is the number of new complaints received in respect of an individual insurer. Some of these complaints will be sent to the insurer to deal with the complainants directly. If a complainant is not satisfied with the insurer's response we will then take up the case.

Percentage of total
This indicates the complaints received in respect of an individual insurer expressed as a percentage (to two decimal places) of the total number of complaints received by our office.

Cases considered
These are the complaints where case files are opened and complaints are investigated by our office.

Cases finalised
These are the cases finalised during 2017, some of which had been received in earlier years.

Percentage resolved W/P in favour of complainants/insurer
This refers to the percentage of cases which were resolved wholly or partially (W/P) in favour of the complainants or in favour of the insurer. These cases are resolved by way of settlement, mediation, conciliation, recommendation or determination. The overall W/P percentage in favour of complainants was 29%.

	Complaints Received	% of Total	Cases Considered	Cases Finalised	% Resolved W/P in favour of Complainants	Insurer
1Life Insurance Limited	219	4.03%	176	108	25.9%	74.1%
Abacus Insurance Limited	5	0.09%	1	2	0.0%	100.0%
ABSA Insurance and Financial Advisers (Pty) Limited	0	0.00%	0	1	0.0%	100.0%
ABSA Life Limited	198	3.64%	166	148	31.8%	68.2%
Acsis Limited	0	0.00%	0	0	0.0%	0.0%
AIG Life South Africa Limited	97	1.78%	93	65	23.1%	76.9%
Alexander Forbes Investments Limited	1	0.02%	1	1	0.0%	100.0%
Alexander Forbes Life Limited	16	0.29%	15	11	18.2%	81.8%
Allan Gray Life Limited	15	0.28%	4	2	0.0%	100.0%
Assupol Life Limited	258	4.75%	169	129	27.1%	72.9%
AVBOB Mutual Assurance Society	128	2.35%	107	70	20.0%	80.0%
Bidvest Life Limited	7	0.13%	7	4	25.0%	75.0%
BrightRock Life Insurance Limited	23	0.42%	20	11	9.1%	90.9%
Centriq Life Insurance Company Limited	66	1.21%	61	52	13.5%	86.5%
Channel Life Limited	50	0.92%	32	29	34.5%	65.5%
Clientèle Life Assurance Company Limited	192	3.53%	162	108	15.7%	84.3%
Discovery Life Limited	189	3.48%	173	149	26.2%	73.8%
FedGroup Life Limited	0	0.00%	0	0	0.0%	0.0%
First Rand Life Assurance Limited	88	1.62%	70	25	20.0%	80.0%
Guardrisk Life Limited	95	1.75%	53	35	20.0%	80.0%
Hollard Life Assurance Company Limited	485	8.92%	363	323	35.3%	64.7%
Investec Assurance Limited	3	0.06%	2	2	0.0%	100.0%
Investec Life Limited	0	0.00%	0	0	0.0%	0.0%
Just Retirement Life (S.A.) Limited	0	0.00%	0	0	0.0%	0.0%
Liberty Group Limited	600	11.04%	504	410	32.4%	67.6%

	Complaints Received	% of Total	Cases Considered	Cases Finalised	% Resolved W/P in favour of Complainants	Insurer
Metropolitan Life Limited	421	7.74%	328	252	30.2%	69.8%
MMI Group Limited	262	4.82%	234	237	24.1%	75.9%
Nedbank Limited	1	0.02%	0	0	0.0%	0.0%
Nedgroup Life Assurance Company Limited	127	2.34%	110	107	29.0%	71.0%
Nestlife Assurance Corporation Limited	18	0.33%	15	16	43.8%	56.2%
New Era Life Insurance Company Limited	4	0.07%	3	1	100.0%	0.0%
Old Mutual Alternative Solutions Limited	10	0.18%	6	7	57.1%	42.9%
Old Mutual Life Assurance Company (South Africa) Limited	847	15.58%	642	476	25.4%	74.6%
Outsurance Life Insurance Company Limited	29	0.53%	25	14	14.3%	85.7%
Professional Provident Society Insurance Company Limited	51	0.94%	50	46	34.8%	65.2%
PSG Life Limited	2	0.04%	1	4	0.0%	100.0%
Real People Assurance Company Limited	4	0.07%	3	3	33.3%	66.7%
Regent Life Assurance Company Limited	63	1.16%	47	31	25.8%	74.2%
Santam Structured Life Limited	24	0.44%	14	3	33.3%	66.7%
SA Home Loans Life Assurance Company Limited	13	0.24%	10	9	22.2%	77.8%
Safrican Insurance Company Limited	172	3.16%	128	89	39.3%	60.7%
Sanlam Life Insurance Limited	248	4.56%	196	165	14.5%	85.5%
Sanlam Developing Markets	235	4.32%	196	152	17.1%	82.9%
Smart Life Insurance Limited	6	0.11%	3	2	50.0%	50.0%
Union Life Limited	69	1.27%	49	34	38.2%	61.8%
Viva Life Insurance Limited	1	0.02%	1	3	33.3%	66.7%
Vodacom Life Assurance Company Limited	12	0.22%	11	6	50.0%	50.0%
Workers Life Assurance Company Limited	82	1.51%	75	63	47.6%	52.4%

REPORT BY THE CHAIRPERSON OF THE OMBUDSMAN'S COMMITTEE

The Ombudsman's Committee performs primarily a liaison function between subscribing members and the office of the Ombudsman for Long-term Insurance ("the office") but it also debates and discusses issues that affect the members and the industry in general. In so doing the Committee is able to provide assistance and suggestions to the office in the fulfilment of its mission of providing a cost-effective, efficient and accessible dispute resolution mechanism and in turn enhance their own internal complaints handling and claims processes. Various examples abound, such as the recommendation by the Committee to levy a punitive charge in cases where a subscribing member fails to adhere to turnaround times.

From the feedback of the members it is their unanimous view that they enjoy a constructive relationship with the office which is testament to the professionalism and dedication of the adjudicative staff. From a caseload of some 5 400 chargeable complaints the office succeeds in adjudicating the majority of these efficiently and, most importantly, fairly with due observance to rules, procedures, TCF principles and applicable case law. Their considered and well set out rulings not only bolster but enhance the legitimacy of the office. We are grateful also for the time the adjudicators and especially the Deputy Ombudsman give to train and educate the claims and underwriting staff of the members. This is especially valuable in the development and application of the TCF principles.

I am able to report with satisfaction that the Complaints volume for 2017 is substantially the same as that of 2016. Claims declined remains the largest contributor to the complaints volume with a marginal increase in non-disclosure cases.

At this stage the member offices have reported that all are in the process of integrating and applying the latest legislative changes to their businesses, in particular the new PPR.

On a sad note, we mourn the passing of Cikizwa Nkhulu and Eddie de Beer. Their knowledge and wisdom will be missed and their contribution to the stature and legitimacy of the office cannot be understated.

In ending I thank the Ombudsman and each and every member of the staff for their hard work, professionalism and their role in delivering to the South African consumer a world-class dispute resolution system.

Glenn Hickling

MEMBERS OF THE OMBUDSMAN'S COMMITTEE

AS AT 2017

GLENN HICKLING
(Chairperson)
Discovery Life Limited

EHEILA ENGELBRECHT
Sanlam Developing Markets

GABY FALTERMAIR
Hollard Life Assurance Company Limited

ANNA ROSENBERG
ASISA

JACOLIEN POTGIETER
Assupol Life Limited

RUSSEL KRAWITZ
Guardrisk Life Limited

JASON MEY
Clientèle Life Assurance Company Limited

SHELLY JONES
ABSA Life Limited

ARMAND BLIGNAUT
First Rand Life Assurance Limited

QUAANITAH SOLARI
MMI Group Limited

MARTIN VAN WYK
Sanlam Life Insurance Limited

CARMEN WILLIAMS
Old Mutual Life Assurance Company
(South Africa) Limited

MARIZA SCHLUSHE
Metropolitan Life Limited

ELNA LOMBARD
Liberty Group Limited

NAZLEIGH OGLE
Nedgroup Life Assurance Company Limited

ANTON KEET
1Life Insurance Limited

NKULULEKO MASONDO
Workerslife Assurance Company Limited

KOBUS BOTHA
BrightRock Life Insurance Limited

APPENDIX 1:
SUMMARY OF INCOME AND EXPENDITURE
OF THE LONG-TERM INSURANCE OMBUDSMAN'S ASSOCIATION

	2017 R	2016 R
REVENUE		
Recoveries from Subscribing Members	**23 527 360**	20 631 185
Investment income	**878 760**	822 883
	24 406 120	21 454 068
EXPENSES		
Administration and professional fees	**90 970**	85 740
Annual report	**99 058**	96 469
Call centre costs	**63 343**	84 033
Computers and communications	**608 657**	570 438
Council – travel and accommodation	**67 961**	82 356
Council fees	**74 000**	78 750
Depreciation and amortisation	**49 682**	39 762
Electricity	**285 056**	293 845
Employee costs	**16 909 903**	14 038 613
Employee costs – contract staff	**1 706 598**	2 201 837
Employee costs – contributions	**876 265**	777 133
Employee costs – other overheads	**82 910**	104 132
International travel	**–**	93 251
Legal expenses	**284 067**	–
Marketing and brochures	**82 775**	100 417
New Case Management system	**175 875**	–
Other expenses	**354 915**	356 164
Professional advice	**208 280**	164 101
Quality control	**7 368**	4 730
Rent – parking	**352 055**	323 909
Rent – premises	**1 641 899**	1 523 588
Repairs and maintenance	**1 973**	2 717
Stationery	**106 224**	119 297
Telephone	**182 406**	194 418
Travel and accommodation	**93 880**	118 368
	24 406 120	21 454 068
Over (under) recovery from Subscribing Members	**–**	–

The audited and approved Annual Financial Statements are available on our website, www.ombud.co.za.

APPENDIX 2: SUBSCRIBING MEMBERS
AS AT 31 DECEMBER 2017

1Life Insurance Limited

Abacus Insurance Limited
JDG Micro Life Limited

ABSA Insurance and Financial Advisers (Pty) Limited

ABSA Life Limited
Allied Insurance
UBS Insurance

Acsis Limited

AIG Life South Africa Limited
Chartis Life

Alexander Forbes Investments Limited
Investment Solutions Limited

Alexander Forbes Life Limited

Allan Gray Life Limited

Assupol Life Limited
Prosperity Life

AVBOB Mutual Assurance Society

Bidvest Life Limited
Mclife

BrightRock Life Insurance Limited
Lombard Life Limited
Pinnafrica Life

Centriq Life Insurance Company Limited

Channel Life Limited
PSG Anchor Life

Clientèle Life Assurance Company Limited

Discovery Life Limited

FedGroup Life Limited

First Rand Life Assurance Limited

Frank Life Limited

Guardrisk Life Limited
Platinum Life

Hollard Life Assurance Company Limited
Crusader Life
Fedsure Credit Life
Investec

Investec Assurance Limited

Investec Life Limited

Just Retirement Life (S.A.) Limited

Liberty Group Limited
AA Life
ACA Insurers
Amalgamated General Assurance
Capital Alliance Life
Fedsure Life
IGI Life
Liberty Active
Manufacturers Life
Norwich Life
Prudential
Rentmeester Assurance
Rondalia
Saambou Credit Life
Standard General
Sun Life of Canada
Traduna

Metropolitan Life Limited
Commercial Union
Homes Trust Life

MMI Group Limited
African Eagle Life
Allianz Life
Anglo American Life
FNB Life
First Rand
Guarantee Life
Legal and General
Lifegro
Magnum Life
Metropolitan Odyssey
Protea Life
Rand Life
Sage Life
Shield Life
Southern Life
Yorkshire

Nedbank Limited

Nedgroup Life Assurance Company Limited
BOE Life
NBS Life

Nestlife Assurance Corporation Limited

New Era Life Insurance Company Limited

Old Mutual Alternative Solutions Limited
MS Life

Old Mutual Life Assurance Company (South Africa) Limited
Colonial Mutual

Outsurance Life Insurance Company Limited

Professional Provident Society Insurance Company Limited

PSG Life Limited
M Cubed Capital
Time Life

Real People Assurance Company Limited

Regent Life Assurance Company Limited

Santam Structured Life Limited
RMB Structured Life Limited

SA Home Loans Life Assurance Company Limited

Safrican Insurance Company Limited

Sanlam Developing Markets
African Life
Permanent Life
Sentry Assurance

Sanlam Life Insurance Limited

Smart Life Insurance Company Limited

Union Life Limited

Viva Life Insurance Limited
Resolution Life

Vodacom Life Assurance Company Limited

Workerslife Assurance Company Limited
Sekunjalo Investments

APPENDIX 3:
RULES

These Rules, effective from 1 January 1998 and last amended with effect from 30 June 2016, regulate the relationship between the Ombudsman for Long-term Insurance (the Ombudsman) and each member of the Long-term Insurance Industry who subscribes to the Ombudsman's scheme as well as between the Ombudsman and each complainant who lodges a complaint with the Ombudsman's office.

1 Mission

1.1 The mission of the Ombudsman is to receive and consider complaints against subscribing members and to resolve such complaints through mediation, conciliation, recommendation or determination.

1.2 The Ombudsman shall seek to ensure that:

1.2.1 he or she acts independently and objectively in resolving any complaint received and takes no instructions from anybody regarding the exercise of his or her authority;

1.2.2 he or she follows informal, fair and cost-effective procedures;

1.2.3 he or she keeps in balance the scale between complainants and subscribing members;

1.2.4 he or she accords due weight to considerations of equity;

1.2.5 he or she maintains confidentiality, in so far as it is feasible to do so and subject to Rules 3.8 and 7 below, in respect of every complaint received;

1.2.6 he or she co-operates with the Council established in terms of the Financial Services Ombud Schemes Act, 2004, in promoting public awareness of the existence, function and functioning of the Ombudsman and the Ombudsman's office and in informing potential complainants of available dispute resolution forums;

1.2.7 subscribing members act with fairness and with due regard to both the letter and the spirit of the contract between the parties and render an efficient service to those with whom they contract.

2 Jurisdiction

2.1 Subject to Rule 2.2, the Ombudsman shall receive and consider every complaint which arises from the use by the complainant of the services of a subscribing member and every complaint by a complainant who is or claims to be a policyholder, a successor in title, a beneficiary, a life insured or a premium payer, against a subscribing member concerning or arising from the marketing, conclusion, interpretation, administration, implementation or termination of any long-term insurance contract marketed or effected within the Republic of South Africa.

2.2 The Ombudsman shall not consider a complaint:

2.2.1 if such complaint is, or if it has been, the subject of legal proceedings instituted and not withdrawn, or if legal proceedings are contemplated to be instituted by the complainant against the subscribing member, during such time as the complaint remains under advisement by the Ombudsman; or

2.2.2 if it has previously been determined by the Ombudsman, unless new evidence likely to affect the outcome of a previous determination has thereafter become available; or

2.2.3 if three years or more has elapsed from the date on which the complainant became aware or should reasonably have become aware that he or she had cause to complain to the Ombudsman, unless the failure so to complain within the said period was due to circumstances for which, in the opinion of the Ombudsman, the complainant could not be blamed.

3 Procedure

3.1 The Ombudsman shall require, or in suitable circumstances cause, all complaints to be reduced to written or electronic form, shall elicit such further information or expert advice as is regarded as necessary and shall seek to resolve every such complaint through mediation, conciliation, recommendation, failing which, by determination.

3.2 The determination aforesaid may be to:

3.2.1 decline to consider the complaint;

3.2.2 uphold the complaint, either wholly or in part;

3.2.3 dismiss the complaint;

3.2.4 make a ruling of a procedural or evidentiary nature;

3.2.5 award compensation, irrespective of a determination made in terms of Rule 3.2.2 or 3.2.3, for material inconvenience or distress or for financial loss suffered by a complainant as a result of error, omission or maladministration (including manifestly unacceptable or incompetent service) on the part of the subscribing member; provided that the amount of such compensation shall not exceed the sum of R50 000;

3.2.6 order a subscribing member, in addition to any other recommendation or determination made, to pay interest to a complainant on the pertinent sum at a rate and from a date that is considered to be fair and equitable in the circumstances;

3.2.7 order a subscribing member to take, or refrain from taking, any such action in regard to the disposal of a specific complaint as the Ombudsman may deem necessary;

3.2.8 issue a declaratory order.

3.3 The Ombudsman may decline to consider or may dismiss a complaint, at any stage of the complaints handling process, if it appears to him or her that:

3.3.1 the complaint has no reasonable prospect of success; or

3.3.2 the complaint is being pursued in a dishonest, frivolous, vexatious, abusive or unreasonable manner; or

3.3.3 the complaint can more appropriately be dealt with by a court of law; or

3.3.4 the complaint is predominantly about investment performance or the legitimate exercise by a subscribing member of its commercial judgment; or

3.3.5 the complainant has not suffered, and is not likely to suffer, material inconvenience or distress or financial loss either within the meaning of Rule 3.2.5. or at all.

3.4 If a complainant or a subscribing member fails or refuses to furnish information requested by the Ombudsman within the period fixed for that purpose, the Ombudsman shall be free to make a determination on the information as may then be available to him or her.

3.5 A determination made by the Ombudsman shall be binding on the subscribing member concerned.

3.6 A determination made by the Ombudsman shall not preclude the complainant from thereafter instituting legal proceedings against a subscribing member in respect of any such complaint.

3.7 All exchanges between, on the one hand, the office of the Ombudsman and a complainant and, on the other, the office and a subscribing member in relation to a complaint and all the documentation generated in regard thereto, shall by agreement be regarded as privileged and shall as such be immune from disclosure in evidence, save by an order of court or the consent of the parties concerned.

3.8 In any case in which a determination as provided for in Rule 3.2.2 is made against a subscribing member, or in which in an appeal by a complainant a ruling is made by the Appeal Tribunal holding that the appeal is substantially successful as envisaged in Rule 6.8.3, the Ombudsman shall publish such determination or ruling, including a summary of the facts concerned, the reasons for the determination and the identity of the subscribing member; provided that the Ombudsman shall not publish as aforesaid in any case in which there is reason to believe that such publication will expose the identity of the complainant, the policyholder, a successor in title or beneficiary, a life insured or a premium payer; provided further that there will be no publication of a determination by the Ombudsman against a subscribing member if on appeal the subscribing member is substantially successful as envisaged in Rule 6.9.1.

4 Prescription

The receipt of a complaint by the Ombudsman suspends any applicable contractual time barring terms or the running of prescription in terms of the Prescription Act (Act 68 of 1969), for the period from such receipt until the complaint has been withdrawn by the complainant concerned, been determined by the Ombudsman or any appeal in terms of these Rules has been disposed of.

5 Determination of disputes of fact

5.1 The Ombudsman shall resolve material disputes of fact on a balance of probabilities and with due regard to the incidence of the onus.

5.2 If the Ombudsman is of the opinion that a material and conclusive dispute of fact cannot be resolved on a balance of probabilities and with due regard to the incidence of the onus, the parties concerned shall be advised that a determination in favour of the one or the other party cannot be made.

5.3 Notwithstanding Rule 5.2, if the Ombudsman and all the parties concerned are in agreement that a complaint or a material and conclusive dispute of fact can best be determined by the hearing of evidence, it may be so determined.

5.4 A hearing as aforesaid may be conducted by the Ombudsman or any other person or persons appointed for that purpose by the Ombudsman.

5.5 At such a hearing all issues of a procedural or evidentiary nature shall be determined by the Ombudsman or other person or persons so appointed.

6 Appeals

6.1 A complainant who or a subscribing member which feels aggrieved by any determination by the Ombudsman may apply to the Ombudsman for leave to appeal against it to a designated Appeal Tribunal.

6.2 Such an application shall be made within a period of one calendar month from the date on which the determination that is challenged has been made.

6.3 Such leave to appeal shall be granted:

6.3.1 if the determination is against a subscribing member and involves an amount in excess of R250 000 or such other sum as the Council may from time to time determine; or

6.3.2 if the Ombudsman is of the opinion that the determination as such or the particular issue in dispute is of considerable public or industry interest; or

6.3.3 if the Ombudsman is of the opinion that the aggrieved complainant or subscribing member has a reasonable prospect of success in an appeal before a designated Appeal Tribunal.

6.4 The member or members of the Appeal Tribunal shall be appointed by the Ombudsman with the consent of all the parties concerned or, failing such consent, with the approval of the Chairman of the Council or, if he or she is unavailable, two members of the Council not connected with the industry.

6.5 The Ombudsman shall prepare the record for consideration by the Appeal Tribunal.

6.6 All issues of a procedural or evidentiary nature shall be determined by the Appeal Tribunal itself.

6.7 The decision of the Appeal Tribunal shall be final and binding:

6.7.1 if the complainant is the appellant, on all the parties concerned;

6.7.2 if the subscribing member is the appellant, on it.

6.8 When the complainant is the appellant:

6.8.1 he or she may be required to deposit such amount as the Ombudsman may consider appropriate into the trust account of an attorney designated by the Ombudsman;

6.8.2 such amount shall be held in trust pending the outcome of the appeal;

6.8.3 if the appeal is, in the view of the Appeal Tribunal substantially successful, such amount shall be refunded to the complainant;

6.8.4 if the appeal is, in the view of the Appeal Tribunal substantially unsuccessful, such amount shall be applied by the Ombudsman to defray, either wholly or in part, the costs incurred by the Ombudsman in connection with the appeal proceedings and to refund any surplus to the complainant.

6.9 When the subscribing member is the appellant:

6.9.1 if the appeal is, in the view of the Appeal Tribunal substantially successful, the Ombudsman shall defray the costs incurred by him in connection with the appeal proceedings;

6.9.2 if the appeal is, in the view of the Appeal Tribunal substantially unsuccessful, the subscribing member shall defray the costs incurred by the Ombudsman in connection with the appeal proceedings.

7 Enforcement

7.1 If a subscribing member should fail or refuse to comply with a determination made by the Ombudsman:

7.1.1 it shall be given notice by the Ombudsman that it is to comply with such determination within a period of four weeks or such further period as the Ombudsman may determine;

7.1.2 on the failure or refusal by the subscribing member to comply with such notice, the Ombudsman shall report such failure or refusal to the Chairman of the Long-term Insurance Ombudsman's Committee ("the Committee").

7.2 The Ombudsman may thereupon:

7.2.1 determine what, if any, further opportunity should be afforded to the subscribing member concerned to make representations as to why the measures described below should not be implemented;

7.2.2 publish, in whatever manner the Ombudsman considers to be appropriate, the fact of such failure or refusal;

7.2.3 suspend or terminate, with the consent of the Chairmen of both the Council and the Committee, the membership of the subscribing member concerned; and, in that event,

7.2.4 publish in whatever manner the Ombudsman considers to be appropriate, the fact of such suspension or termination of such membership.

8 Report

The Ombudsman shall report publicly on or before 31 May of each year on his or her activities during the previous calendar year.

OTHER OFFICES

Ombudsman for Banking Services
PO Box 87056, Houghton 2041
Tel: 011 712 1800
Fax: 011 483 3212
E-mail: info@obssa.co.za

Credit Ombud
PO Box 805, Pinegowrie 2123
Tel: 011 781 6431
Fax: 086 674 7414
E-mail: ombud@creditombud.org.za

Ombudsman for Short-term Insurance
PO Box 32334, Braamfontein 2017
Tel: 011 214 0960
Fax: 011 726 5501
E-mail: info@osti.co.za

Ombud for Financial Services Providers
PO Box 74571, Lynnwoodridge 0040
Tel: 012 470 9080 / 762 5000
Fax: 012 348 3447
E-mail: info@faisombud.co.za

Pension Funds Adjudicator
PO Box 580, Menlyn 0063
Tel: 012 748 4000
Fax: 086 693 7472
E-mail: enquiries@pfa.org.za

Statutory Ombud
PO Box 74571, Lynnwoodridge 0040
Tel: 012 470 9080
Fax: 012 348 3447
E-mail: info@faisombud.co.za

Financial Services Board
PO Box 35655, Menlo Park 0102
Tel: 012 428 8000
Fax: 012 346 6941
E-mail: info@fsb.co.za

National Consumer Commission
PO Box 36628, Menlo Park 0102
Tel: 012 428 7726
Fax: 0861 515 259
E-mail: complaints@thencc.org.za

National Credit Regulator
PO Box 209, Halfway House, Midrand 1685
Tel: 011 554 2600
Fax: 011 554 2871
E-mail: complaints@ncr.org.za

Council for Medical Schemes
Private Bag X34, Hatfield 0028
Tel: 012 431 0500
E-mail: complaints@medicalschemes.com

Public Protector
Private Bag X677, Pretoria 0001
Tel: 012 366 7000
Fax: 012 362 3473
E-mail: registration2@pprotect.org

Tax Ombud
PO Box 12314, Hatfield 0028
Tel: 012 431 9105
Fax: 012 452 5013
E-mail: complaints@taxombud.gov.za

ASISA
Cape Town Office
PO Box 23525, Claremont 7735
Tel: 021 673 1620
Fax: 021 673 1630
E-mail: info@asisa.org.za

Johannesburg Office
PO Box 52115, Saxonwold 2132
Tel: 011 214 0960
Fax: 011 447 5018
E-mail: info@asisa.org.za

Ombudsman's central helpline
Sharecall 0860ombuds / 0860662837

OMBUDSMAN
FOR LONG-TERM INSURANCE

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