

THE OMBUDSMAN'S BRIEFCASE

FROM THE EDITOR'S DESK



NEWS AND EVENTS



CASE STUDIES



OSTI CARES



CONSUMER TIPS



FROM THE EDITOR'S DESK



We are excited and proud to present the new look and feel of The Ombudsman's Briefcase. Please leave a comment on twitter (@OMBUD4SHORTTERM) or Facebook (OMBUD4SHORTTERM) to let us know what you think.

A new portal, named the Insurance Ombudsman Portal, was launched on 4 February 2020. It provides a single port of entry for all complainants of insurance who are unsure about which office to lodge a complaint with. Read more about the portal in the press release below.

In our ever growing and developing environment we are continually trying to find ways to improve our service and look forward to another year of resolving complaints between the short-term/non-life insurance industry and its consumers.

This includes implementing precautionary measures to minimise the spread of the Coronavirus. We are dedicated to preserving the health and safety of our staff and community while still remaining accessible to all. In an effort to limit personal contact, we request that everyone avoid visiting our office and contact us telephonically or by email. We urge everyone to keep, and stay healthy during this period, and take every, and necessary, precaution and stay safe.

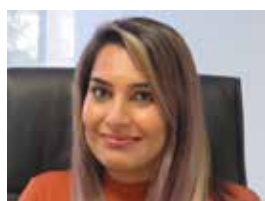
NEWS AND EVENTS



welcoming new team members to OSTI

In January 2020, we welcomed a new Assistant Ombudsman and three new interns.

Zulekha Cara joins us as an Assistant Ombudsman. Zuleckha is an admitted attorney with BCom and LLB



Assistant Ombudsman, Zuleckha Cara

degrees from the University of Johannesburg. She has over 6 years' experience in the insurance industry, specifically in dispute resolution. She enjoys spending any free time with her family.

Vhuthuhawe Mapholi, a legal intern at OSTI, completed her BA and LLB degrees at the University of the Witwatersrand. Vhuthuhawe is excited to begin her legal career and feels that her introduction to OSTI has already taught her to view matters with a more holistic approach, taking into consideration the perspectives of the insured, the insurer and OSTI.

Keabetswe Mokaba, a University of Johannesburg Law graduate, also joins us as a legal intern. Having worked for the radio station on campus, Ujfm, she is a proud orator and an avid legal practitioner. Her interests are reading, listening to music and writing reviews.

As a new admin intern, Tshireletso Tshabadira says that she is excited to be part of the OSTI team. She enjoys the atmosphere, culture and developing her insurance knowledge.



New interns, Vhuthuhawe Mapholi, Keabetswe Mokaba and Tshireletso Tshabadira

Last but not least, we welcome Judge Ron McLaren as the new Ombudsman for Short-Term Insurance. Judge McLaren was admitted as an attorney in 1968. He practised as an attorney for almost 10 years until 1978 when he joined the Pietermaritzburg Bar. After 12 years at the Bar, he was appointed as a Judge, which position he held for more than 20 years.



Ombudsman for Short-Term Insurance, Judge Ron McLaren.

Judge McLaren was appointed as the Ombudsman for Long-term Insurance on 1 June 2013, a position he will continue to hold as the joint Insurance Ombudsman.



NEWS AND EVENTS



insurance ombudsman portal

In case you have missed our press release dated 4 February 2020 on the launch of the new portal for insurance complaints, we enclose same below:

"In an effort to assist complainants who are unsure where to lodge an insurance complaint, a new portal or gateway has been launched.

The introduction of the additional point of entry for complaints relating to insurance products coincides with the coming into office of a joint Ombudsman for long-term (life) and short-term (non-life) insurance complaints from 1 January 2020.

For some time, National Treasury has advocated a self-rationalisation process for the four statutorily recognised voluntary financial services ombudsman schemes, namely long-term insurance, short-term insurance, banking and credit.

Against the backdrop of changes in the policy and insurance environment, the Boards of both insurance ombudsman schemes made an in-principle decision to enter into a shared services agreement and have a

joint Ombudsman for the adjudication of both long-term and short-term insurance complaints.

The office of the Ombudsman for Long-term Insurance and the office of the Ombudsman for Short-Term Insurance will remain in existence and continue to operate separately within their current defined jurisdictions.

Judge McLaren said the single port of entry will be a welcome facility for complainants who are uncertain at which office to lodge a complaint. Complainants of both life and non-life insurance can also continue to use the existing entry points. If a complaint needs to be transferred to the other office, it will be a seamless process.

The portal provides complainants with the following contact points:

Website: www.insuranceombudsman.co.za

Telefax: 086 589 0696

Email: info@insuranceombudsman.co.za

Share call numbers:

0860 103 236 and 0860 726 890."

[HOME](#)[LODGE A COMPLAINT](#)[FAQ](#)[GET IN TOUCH](#)

Welcome to the Insurance Ombudsman Portal.

This is a single port of entry for all insurance complaints.

You may lodge a complaint regarding long-term (life) or short-term (non-life) insurance here.

If you are not sure whether your insurance complaint is life or non-life, click on the "Not Sure" icon below.



LONG-TERM
LIFE
INSURANCE



SHORT-TERM
NON-LIFE
INSURANCE



NOT
SURE?





is it your first time taking out short-term (non-life) insurance?

Often times, say our legal interns, what appears to be simple may turn out to be complicated in the long run. The best way to un-complicate things is by understanding what you are getting yourself into from the word go. Here are the most important things you need to know or do.

Short-term (non-life) insurance exists to indemnify or compensate you for loss or damage you have suffered as a result of any of the events covered in your insurance contract. An insurance contract is a document containing the agreement between an insurance company and an insured. The contract will specify the risks that are covered as well as the terms and conditions of the cover. So it follows that by reading the policy document you receive from the insurer, you, as the insured, should be able to ascertain the terms and conditions of the policy, the limits of the policy, if any, and what the insurer has excluded from cover.

When concluding an insurance contract, it doesn't matter who initiated the contact. The establishment of the contact sets in motion what is referred to as the "underwriting" of the policy. "Underwriting" refers to the process where the insurer obtains information from the potential policyholder in order to assess the risk and to determine if it will accept the insured on cover. It is also the process whereby the insurer needs to disclose to the policyholder certain terms and conditions of the policy.

One thing that we wish to emphasise is that during the underwriting stage, as a potential policyholder, you must provide the insurer with true and complete information and you should also ask questions during your interaction with the insurer's agent. This is because the insurer relies on the information you give to determine if it will provide you with cover and, if so, on what terms. To keep costs down, it will only verify this information when you claim.

After the underwriting stage is concluded, the insurer must send you the policy schedule and wording. The policy schedule should reflect a summary of the underwriting conversation you had with the insurer's agent, if this was done telephonically. The policy wording contains the detailed terms and conditions of the cover. If the information contained in the policy documents is incorrect or you are unsure about a clause contained in the terms and conditions, you should contact the insurer and make enquiries as soon as possible. If left unattended, it will be assumed that the information has been accepted by you as correct and this may affect you at claim stage.

The cover provided by an insurer will vary depending on the type of policy, what the insured's needs are and how much the insured is willing to pay in premiums on a monthly basis.

The following are some of the most common types of insurance policies you can expect to find in the insurance market:

Motor vehicle cover:

There are traditionally three kinds of motor vehicle covers and these are:

1. Comprehensive cover – a comprehensive motor vehicle policy provides cover for a wide range of losses or damage to a motor vehicle, such as loss or damage caused by storm, fire, accidents, hi-jacking, theft and damage to a third party's vehicle or property, if there is a third party.
2. Third party, fire and theft cover – this type of cover only covers loss or damage caused to your vehicle as a result of a theft, hi-jacking, fire and covers an insured against any loss or damage the insured caused to a third party. However, if you take out this cover, you are not covered for accident damage to your own vehicle.
3. Third party cover – the cover here is limited to damage or loss suffered by the third party to his or her vehicle as a result of an accident caused by your vehicle. Here again, you are not covered for the damage to your own vehicle.

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Home contents cover:

Home contents or household cover will cover you for loss or damage to the possessions in your home, caused by certain listed events. It is important to keep proof of purchases and/or evidence of ownership of items as your insurer will request this evidence should you claim for the loss of these items. Under this type of insurance you have to take care that you insure your contents for their replacement value and you may be required to specify certain valuables separately, such as jewellery items, as per the terms and conditions of the policy.

Homeowners cover:

A comprehensive building insurance policy protects your home from the risk of structural damage such as fire and storm damage. This type of policy covers everything that is permanently fixed and immovable within the boundary of the insured premises, including permanent fixtures such as doors and windows.

Most homeowners insurance policies list the covered events and the excluded events. These types of policies generally exclude any damage arising from a lack of maintenance, wear and tear and damage that has occurred over a period of time.

Cell phone cover:

Considering the heavy reliance that people nowadays place on their cell phones, a cell phone insurance policy can be considered a necessity.

This type of policy covers you against the theft of your cell phone. Besides theft, being an electronic gadget, cell phones are prone to hardware and software damage or malfunction. Depending on the policy you take out, you can get a replacement for your damaged phone or the phone can be repaired by your insurer. As with any other insurance policy, make sure that you check the policy for what is covered and what is not covered, in other words excluded.

Is cheaper better?

As a first time insured, chances are that you will be thinking about what you can afford to pay for

insurance. Always keep in mind that when it comes to insurance, you are only covered for what you pay for. Your premiums are based on your risk profile but you can try to negotiate your monthly premium with your insurer. Where you and your insurer cannot reach an agreement on the premium, then you may elect to shop around.

A low premium may mean less cover when you claim. Some insurers are able to keep premiums lower by having policyholders pay high excesses at claim stage. An excess is the first portion of a claim that you are liable for. Always bear in mind what portion of a claim you can afford to pay when you claim. Would it suit you better to pay a higher monthly premium and a lower excess at claim stage or a lower monthly premium and higher excess at claim stage?

Remember, insurance can be simplified by asking questions and ensuring that you provide honest and correct information at all times.



CASE STUDIES



Please note that each matter is dealt with on its own merits and no precedent is created by the findings in these matters. The case studies are intended to provide guidance and insight into the manner in which OSTI deals with complaints.

grace period for payment of missed premiums

For first time policyholders who have not had to budget for an insurance premium and who are already burdened with car instalments, paying the monthly premium timeously may sometimes become a challenge.

Rule 15.1 of the Policyholder Protection Rules states that policies must contain a provision for a period of grace within which to make payment of a premium after the due date. This period of grace must not be less than 15 days and only applies from the second month of the policy.

There is no obligation on an insurer to inform an insured when a premium has not been paid, although some insurers do so.

An insured approached OSTI for assistance following the rejection of his claim for an accident that occurred on the 11th of June. The insurer rejected the claim on the grounds that the insured had failed to make payment of his premium for the month of June.

As agreed, the insurer debited the insured's bank account on the 27th of May in order to collect the premium that was due for cover for the month of June. This debit was returned unpaid. The insurer again submitted a debit on the 12th of June, 15 days later, but again the debit was returned unpaid.

We were provided with copies of the insured's bank statements and it appeared that on both occasions that the insurer attempted to collect the premium, there were insufficient funds in the account.

The insured argued that had he not missed the payment of June's premium, his premium payments would have been up to date as he had never missed a premium before.

This office found that the insured was under an obligation to ensure that the premium was timeously paid every month in order to enjoy cover under the policy. The failure to make payment of the premium for one month would entitle the insurer to decline cover for that month.

The Policyholder Protection Rules provide a period of grace of not less than 15 days to enable insureds to make late payments of premiums. Outside of the 15 days, insurers are contractually entitled to reject a claim.

In the circumstances, OSTI could not take the insured's complaint further against the insurer and we proceeded to close our file.



CASE STUDIES



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claims procedures and time limitations

This office often receives complaints about claims that have been rejected as a result of non-compliance by insureds with policy requirements.

Adhering to the claim procedure and complying with the time limitations in a policy are important in achieving a successful claim outcome.

Every policy sets out the insured's obligations in the event of a claim, such as the time period within which a claim must be reported to the police and the insurer, which towing operator may be appointed, what information must be provided to the insurer, what should and should not be done at an accident scene, the period of time within which to dispute the outcome of a claim, etc. Failing to adhere to these obligations may prejudice the insurer's assessment of a claim and may provide the insurer with grounds to reject a claim.

When deciding whether such a rejection is valid, this office takes into account considerations of fairness and equity.

In circumstances where such a breach by an insured is not material or will not prejudice the insurer, and to decline the claim on such a breach will lead to an unfair outcome, this office will take into account what is fair and reasonable in the particular circumstances.

Mrs S had a legal expenses insurance policy which covered the conveyancing costs of the purchase of a property up to a maximum of R6000.

The insurer rejected the claim on the grounds that the claim was submitted late. Documents provided by Mrs S showed that she had purchased a property and it was registered in her name in 2016. However, Mrs G only submitted a claim to the insurer for the conveyancing costs during 2018.

Mrs S said in her complaint that she was not aware that her policy covered conveyancing costs.

The insurer stated that the policy required an insured to inform the insurer of any insured event or cause of action that may give rise to a claim within 30 days of the event. The insurer argued that the significant delay by the insured in reporting the claim prejudiced its assessment of the claim as it would be unable to verify the event.

This office found that, but for the late notification, the insured had a valid claim in terms of the policy. Since the insurer could not demonstrate what actual prejudice it had suffered by the late notification, this office requested the insurer to reconsider its stance and settle the claim based on the conveyancing tariffs applicable in 2016. The insurer agreed and settled the claim.



CASE STUDIES



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duty to disclose a change in risk during the existence of a policy

As a first time policyholder it is important to understand that a contract of insurance creates duties and obligations for both the insurer and the insured.

In addition to making the correct disclosures at the start of the policy and paying the premium, most policies place a duty on the insured to inform the insurer of any change in circumstances that may affect the insurer's ongoing acceptance of the risk.

The following case study highlights the importance of advising the insurer of a change in the risk.

The insured submitted a claim for a motor vehicle accident to his insurer. The insurer rejected the claim on the grounds that the regular driver of the vehicle at the time of the accident was not the regular driver noted on the policy schedule.

When the policy was underwritten, the insurer was advised that the regular driver of the vehicle would be the insured. The vehicle was involved in accident while the insured's daughter was driving. During the

investigation of the claim the insured's daughter advised the insurer that she was the regular driver of the vehicle.

The insurer submitted that the insured had failed to inform the insurer of the change in regular driver and rejected the claim in accordance with the policy.

The policy contained the following provision relating to the regular driver:

"70. Regular driver

The regular driver is the person who uses the vehicle the most frequently and more than any other person in any given monthly period. It is, therefore, very important that the correct regular driver is reflected as the policy holder/insured in the schedule, for the reason that the premium is calculated based on the risk profile of the regular driver. It is equally important that you notify us immediately if the regular driver of the vehicle changes.

If the incorrect regular driver is noted in the schedule, there will be no cover in the event of a claim.

Other persons may on occasion drive the vehicle in addition to the regular driver, provided that such a person driving the vehicle:

- is only the secondary driver of the vehicle;*
- is over the age of 30;*
- has held his or her driver's licence for more than two years;*
- has never been refused insurance;*
- has not had any claims, accidents or losses in the past two years; and*
- has complied with the terms and conditions of the policy.*

There will be no cover in the event of a claim if other persons driving the vehicle do not comply with the above requirements.



CASE STUDIES



If the secondary driver happens to be your spouse or life partner, the requirement that he or she must be over the age of 30 falls away."

The insured submitted that his daughter was driving the insured vehicle to take the insured's younger child to school every morning. The insured stated that he would normally take his son to school on his way to work. However, he had started attending a skills program which required him to leave home earlier every morning because he needed to travel a greater distance. For this reason, he allowed his daughter to use the insured vehicle to take his son to school.

The insurer argued that, in terms of the above provision, there was a duty on the insured to notify the insurer of the change in the regular driver and that the regular driver was material to the insurer's assessment of the risk. It argued further that the

insured breached the policy terms and conditions by not advising the insurer of the change in regular driver and, as a result it was prejudiced by the breach and it was entitled to reject the claim.

However, there was nothing before this office to suggest that the insured intentionally misrepresented the regular driver. There was also no indication that the insurer would not have accepted the risk had it been advised of the change in regular driver. In the circumstances, this office found that it would not be fair nor equitable to the insured if the insurer rejected the claim in its entirety. Instead, we recommended that the insurer calculate the premium prejudice that it had suffered and make payment to the insured of the adjusted amount.

The insurer agreed to abide by our recommendation and settled the insured's claim.



OSTI CARES



In November 2019, Osti donated portable air conditioners and fans to Jo'burg Child Welfare and Masibambisane ECD & Day Care Centre

in Eldorado Park. Osti was delighted to make a contribution towards a more comfortable learning environment for the children.



CONSUMER TIPS



01

We are already well into another year. Have you checked if your insurance cover needs to be updated? Avoid being caught empty handed.

02

Insure the things you love. Everything in your home costs hard earned money to replace. Make sure that you have the correct cover in place.

03

Just because your insurer accepted to insure you does not mean that you are covered for each and every eventuality which may befall you. Read the terms and conditions of your cover.

04

Remember it is your duty to insure your items for their correct replacement values. Read your policy or contact your insurer to find out the consequences of being underinsured.

05

Travelling and concerned about the Coronavirus? Ensure that you have adequate travel insurance to cover you for any unforeseen circumstances. Most travel insurance policies will not cover you if you cancel your trip because you are concerned about the Coronavirus, or for medical costs relating to the testing or treatment for the Coronavirus.

what does OSTI do?

Our Mission

To resolve short-term insurance complaints fairly, efficiently and impartially.

We resolve disputes between consumers and short-term insurers:

- as transparently as possible, taking into account our obligations of confidentiality and privacy;
- with minimum formality and technicality;
- in a cooperative, efficient and fair manner.

We are wholly independent and do not answer to insurers, consumer bodies or the Regulator.

what to do if you have a complaint?

Before contacting our office, we would advise you to complain to your insurance company first. It is best to complain in writing. Make sure that you keep copies of all correspondence between you and your insurer.

If you are not happy with your insurer's approach, you can complete our complaint form and send it back to us either by post, fax or email.

You can also lodge a complaint online, please visit our website and click on "Lodge a Complaint" and follow the easy prompts.

If you would like to lodge a complaint or require assistance, please contact our office by calling **011 726 8900** or our share-call number on **0860 726 890** or download our complaint form via our website at www.osti.co.za, click on **Lodge a Complaint** and then follow the prompts.

If you would like to be added to our mailing list, please contact us on:

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