

# Work of Insurance Ombud's offices continued despite Covid-19 disruption: Complainants compensated R300m

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While the Covid-19 pandemic caused disruption in the handling of insurance complaints, the offices of the Short-term and Long-term Insurance Ombudsman managed to perform in accordance with their mandates.



According to the [2020 annual report](#), covering both offices, almost R300m was placed back in the pockets of aggrieved consumers of short-term and long-term insurance products.

The office of the Ombudsman for Short-term Insurance (OSTI) recorded a monetary benefit of R119,548,901 to consumers who approached its office for assistance. The office of the Ombudsman for Long-term Insurance (OLTI) recovered R177,9m for complainants.

Both offices resolved more complaints in 2020 than in 2019.



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## Shared services agreement

Judge Ron McLaren, joint ombudsman for short-term (non-life) and long-term (life) insurance complaints, said in a message that the latest annual report is momentous as it is the first joint report since the 'soft' amalgamation between OSTI and OLTI.

He said chapter 14 of the Financial Sector Regulation Act, 9 of 2017, finally came into operation on 1 November 2020 and OSTI and OLTI have up to 18 months to apply for recognition in terms of section 194 of Act 9 of 2017.

Towards the end of 2019, the two offices concluded a shared services agreement, which proposes the establishment of a joint voluntary industry ombudsman scheme to be known as the Office of the Insurance Ombudsman.

“This agreement provides a valuable opportunity for the offices of OSTI and OLTi, as well as consumers and insurers, to learn from the shared services experience for the better implementation of the eventual new voluntary association,” Judge McLaren said.

A single website, [The Insurance Ombudsman Portal](#), was launched and provides complainants with a single port of entry for all insurance complaints. There is a seamless transfer of telephone calls between the two offices. As at the end of the reporting year, OSTI transferred 700 telephone calls to OLTi and received 974 telephone calls from OLTi.

Haroon Laher, chairman of the OSTI board, said during the year under review, which coincided with the Covid-19 pandemic, it became clear that the office’s greatest asset is its staff.

“OSTI’s staff demonstrated strong resiliency in a difficult and challenging time for everyone, managing to perform at the high level expected as part of its service mandate. I was touched by the staff’s fortitude in adversity and by their unwavering loyalty to the office,” he said.

Edite Teixeira-Mckinon, CEO of OSTI, said the Covid-19 crisis committee and management had focused on ensuring the health and well-being of OSTI’s staff, protecting OSTI’s finances by preserving OSTI’s cash reserves and liquidity, whilst maintaining OSTI’s operational well-being by ensuring that productivity remained at acceptable levels.

OSTI’s community outreach during the pandemic took the form of supporting new orphanages with personal protective equipment and other essential items such as baby food, toiletries, stationery and non-perishable food.

On 16 November, OSTI suffered the tragic loss of one of its staff members, Mary Tshabalala. She had been with OSTI since February 2004 and had occupied various roles.

## **OSTI complaints**

Teixeira-Mckinon said that, in 2020, the OSTI registered 11,095 new complaints, 7% more than in 2019, and closed 10,805 complaints, 17.9% more than in 2019. Of all the complaints registered in 2020, 786 complaints related to Covid-19, with 562 relating to business interruption insurance and 224 relating to travel insurance. Covid-19-related complaints comprised 7% of all the complaints registered in 2020.

Of the 10,805 finalised complaints, the majority, at 36%, related to motor vehicle disputes. This was followed by homeowners/building disputes at 21%, commercial at 14%, and household contents at 5%. The balance of 24% is related to other types of cover and general policy queries.

The complaint trends for OSTI in 2020 were influenced, in part, by the nationwide lockdown and government regulations set to combat the spread of the coronavirus. For instance, the number of motor vehicle-related complaints was 12% lower than in 2019. Commercial complaints increased by 5%, with the majority relating to business interruption claims.

Some of the business interruption complaints were submitted in circumstances where the insureds enjoyed the extended business interruption cover for infectious/contagious diseases. The issue was mainly whether the direct cause of the business interruption was the government-imposed lockdown or Covid-19. Legal certainty on the question of causation was sought. The outcome of Covid-19-related business interruption claims submitted in 2020 are now being considered by insurers based on court decisions.

OSTI reported that the average turnaround time of 141 days at the beginning of the year under review decreased to 136 days by the end of the year. The list of complaints outstanding for six months and longer, decreased from 739 in January to 575 at the end of December.

Teixeira-Mckinon said that of the R119,548,901 recorded monetary benefit to consumers, a total of R5,490,182 represents commercial offers that were made by insurers and accepted by complainants relating to business interruption claims. These offers were made in terms of the interim payment relief arrangement between the industry and the Financial Sector Conduct Authority.

OSTI considered a total of 2,100 homeowners' insurance disputes in 2020, 15% more when compared to 2019. The primary cause for the complaints, at 47%, was the rejection of claims based on policy exclusions for damage caused by defective design, construction or workmanship, wear and tear and lack of building maintenance.

Addressing consumers' concerns, OSTI highlighted homeowners' insurance policies issued under a home loan with the bank.

"Often, an evaluation of the building is conducted by the bank at the time of the purchase to establish whether the property is of sufficient value to act as security for the loan. The evaluator does not inspect the property for insurance purposes. As such, the assessment does not warrant that the property is free from underlying structural defects, wear and tear or other maintenance-related issues that may affect the outcome of a future claim.

Generally, an insurer is under no obligation to inspect the property before the commencement of an insurance policy since insurance contracts are entered into in good faith. It is the insured's responsibility to ensure that the building is properly maintained and structurally sound," OSTI cautioned.

Teixeira-Mckinon said that "the overall improvement in OSTI's operational performance in 2020 is testament to a committed, engaged, productive and loyal workforce."

Jennifer Preiss, deputy ombudsman for OLTI, said Covid-19, the national lockdown, disruption, death, loss of all kinds and illness dominated the lives of staff and work in 2020.

"This has reflected in our complaints and the work pressure we experienced. There was an uneven inflow of complaints during the year - a slowdown in the initial lockdown period and an expected surge of complaints in the second half of the year.

"What was unexpected was the devastation of the second wave and its effect. The challenges we faced included adjusting to remote working and doing everything electronically during the hard lockdown; dealing with grief and fear; online communication fatigue; and remaining positive and adjusting again when the second wave hit the country.

"In a very difficult year, our staff adapted and performed above and beyond their duty. They did us proud and worked very hard under unfamiliar conditions with an unusually large workload," Preiss said.

## **OLTI complaints**

OLTI received 14,198 written requests for assistance in 2020 (compared to the 11,915 in 2019) which included 6,756 chargeable complaints. This is the highest number of written requests the office has ever received.

A total of 6,512 complaints were finalised. This included the 3,624 full cases that were finalised, of which 31,73% were resolved wholly or partially in favour of complainants. Of the 4,782 transfers referred to insurers to try and resolve directly with the complainant, 1,373 were settled by insurers in favour of complainants.

Declined claims remained the biggest cause of complaints, with a slightly higher percentage (50%) of the total complaints than in 2019 (47%).

OLTI received 456 complaints that were directly related to Covid-19 or to the lockdown. Of these 36% were in respect of credit life benefits.

Claims for retrenchment and inability to earn an income caused the highest number of these complaints. OLTl reported it has had to deal with some new and difficult issues generated by claims being declined and the resulting complaints.

One such issue is whether an insurer is obliged to pay a claim for benefits related to an inability to earn an income when an insured receives Temporary Employee/Employer Relief Scheme (Ters) payments. The office has now determined on this aspect that Ters cannot be regarded as income earned and, therefore, cannot be the reason for a claim to be declined.

Many policyholders could not afford to pay premiums either as a result of loss of employment or income and this led to lapsed policies, which is most unfortunate during a pandemic.

OLTl expressed concern that some insurers were still not applying the Treating Customers Fairly policy correctly in dealing with policyholders, which is unfortunate particularly when the policyholder is already in distress. This is demonstrated in the four final determinations against insurers in 2020 cited in the report.

Preiss, who retires in 2021, announced that Denise Gabriels will take over from her as deputy ombudsman for OLTl.

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