

# ZEST LIFE INVESTMENTS (PTY) LTD

## COMPLAINTS RESOLUTION POLICY FOR STAFF AND REPRESENTATIVES

In terms of Section 17(a) of the General Code of Conduct

### OWNERSHIP

This policy is owned by ZestLife Investments Pty Ltd a duly authorised Financial Services Provider (hereunder referred to as the FSP).

### POLICY ADOPTION

The Key Individuals of the FSP adoption of this policy on 18 April 17.

### DEFINITIONS

**Complaint:** means a specific complaint relating to a financial service rendered by the FSP or Representative to the complainant in which it is alleged that the FSP or Representative:

- has contravened or failed to comply with a provision of the FAIS Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage; or
- has wilfully or negligently rendered a financial service to the complainant which has caused prejudice or damage to the complainant or which is likely to result in such prejudice or damage; or
- has treated the complainant unfairly

A complaint can be:

- Any oral or written expression of dissatisfaction – whether justified or not – relating to an agreement with a financial institution or a product or service provided or offered by the institution.
- Generally, in a complaint, the complainant would allege that he or she or the person they represent has suffered, or may suffer, financial loss or prejudice, distress or inconvenience.
- This could relate to: service received, advice on products, the outcome of a claim (or quantum of a claim), issues relating to terms and conditions or any marketing material.
- One can therefore summarize a complaint being any dissatisfaction or unfairness with regards to products, marketing, service, administration or claims.
- Without an effective complaints management system it would be impossible for a client to demonstrate that they are implementing all 6 outcomes of TCF successfully. Complaints are the key to identifying market conduct failures within an organization.

**Internal complaint resolution system and procedures:** means the system and procedures established and maintained by the FSP in accordance with the General Code of Conduct for the resolution of complaints by clients

**Ombud:** means the Ombud for Financial Services Providers referred to in section 20(2) of the FAIS Act

**Resolution or Internal Resolution:** in relation to a complaint and a FSP, means the process of the resolving of a complaint through and in accordance with the internal complaint resolution system and procedures of the FSP

**Rules:** means the Rules on Proceedings of the Office of the Ombud for Financial Services Providers, as published in the Gazette

### INTRODUCTION

In terms of the Financial Advisory and Intermediary Services Act (FAIS, Act 37 of 2002) every Financial Services Provider (FSP) who is authorised to provide financial advice and/or intermediary services to clients, have the duty to offer clients a formal process to resolve complaints. The complaint resolution

process must offer the client the opportunity to lodge a complaint and have the complaint resolved within 6 weeks. In the event of the complaint not being resolved within 6 weeks the client can escalate the complaint to the FAIS Ombud for a final ruling. Such complaint must be lodged within six months after the determination that the complaint could not be resolved by the FSP.

## **COMPLAINTS MANAGEMENT MISSION**

As an authorised FSP in terms of the Financial Advisory and Intermediary Services Act (Act 37 of 2002) we are committed to providing our clients with quality service and undertake to manage the affairs of our clients in such a way that it would not be necessary to have a complaint about our service, integrity and commitment. However should it happen that a client does have a complaint, we undertake to:

- Resolve client complaints in such a way that is fair to our clients, our FSP and our staff
- We undertake to inform all our clients of the procedures established for the internal resolution of their complaints, details of which will be given to them in writing
- We undertake to ensure easy access to our complaints resolution process at our offices, or by way of post, e-mail or telephone
- Empower and properly train the people in our FSP to deal with complaints, as well as with the escalation of non-routine complaints
- If necessary, appoint an independent mediator to resolve the complaint to the benefit of both the client and our FSP
- Deal with complaints in a timely and fair manner, with every complaint receiving proper consideration in a process that is managed appropriately and effectively by the responsible staff member
- Offer appropriate remedy in all cases where a complaint is resolved in favour of a client
- Inform clients of their right to refer their complaints to the FAIS Ombud, should a complaint not be resolved to their satisfaction within six weeks from the date on which the complaint is received
- Maintain records of all complaints received for a period of 5 years, which will specify the outcome of all the complaints lodged
- Implement follow-up procedures to:
  - Implement remedial actions to prevent similar complaints from occurring
  - Improve services and procedures where necessary within the FSP

## **CONDITIONS APPLICABLE TO COMPLAINTS**

For a complaint to be valid, the following conditions have to be met:

- Where appropriate, a complainant refers to the client and also includes the complainant's lawful successor in title or the nominated beneficiary of the financial product which is the subject of the relevant complaint.
- The act or omission complained of must have been done on or after 30 September 2004.
- The complaint must be received by the Ombud within 3 years of the act or omission that resulted in the complaint – if the complainant was not aware of the act or omission, the 3 years starts running from the date on which the complainant became aware, or from the date on which the reasonable person in his circumstances would have become aware, whichever date is the earliest.
- If the complainant already instituted action in a court of law relating to the matter forming the subject of the complaint submitted to the Ombud, the Ombud will not consider the complaint.
- The FSP must have been given the opportunity to resolve the complaint first. Only if the FSP failed to resolve the complaint to the satisfaction of the complainant within 6 weeks of receipt, may the complainant take the matter to the Ombud.
- The complainant has 6 months after he received a final response from the person complained against, to go to the Ombud.
- Complaints must be in writing and must be accompanied by relevant documentation.
- The Ombud may refuse to consider a complaint if he believes that the complaint should be dealt with in court.

## COMPLAINTS PROCEDURE

To ensure a quick and appropriate response to complaints, the following process should be used at all times by all relevant staff:

- Log the date and contents of the complaint in the Complaints Register.
- If a complaint is not in writing, ask the client to lodge the complaint in writing.
- Send the external complaints resolution system document to the client.
- Appoint a staff member responsible for the resolution of the complaint.
- Acknowledge receipt of the complaint in writing within 2 – 3 working days of receipt, and give the client the name(s) and contact details of the staff responsible for the resolution of the complaint.
- Investigate the complaint to ascertain whether the complaint is legitimate and/or can be resolved immediately.
- If the complaint can be resolved within 5 working days, take the necessary action and inform the client accordingly.
- If the complaint cannot be resolved within 5 working days, request supporting documentation (if any) from the client that may be necessary to resolve the matter and indicate the expected date of resolution
- If unable to resolve the complaint within 6 weeks of logging the complaint in the Complaints Register, then discuss the matter with Chris McCallum or Noleen Bell and the Insurer's complaint contact person and notify the client accordingly and advise the client of his/her right to:
  - proceed in terms of Rule 6(a) and 6(b) of the Rules on Proceedings of the Office of the Ombud for Financial Services Providers (see below); or
  - Seek legal redress in another forum.
- Update the register with all developments/activities
- If a further complaint is received from a client after the initial complaint, then the matter must be escalated to Chris McCallum.
- Chris McCallum or Noleen Bell is ultimately accountable to ensure that complaints are handled fairly and timeously.

## THE FSP's RIGHTS AND DUTIES

In terms of the Rules on Proceedings of the Office of the Ombud for Financial Services Providers, 2002, the FSP has the following rights and duties:

- Where a complaint cannot be addressed within three weeks by the FSP, the FSP must as soon as reasonably possible after receipt of the complaint send to the complainant a written acknowledgment of the complaint with contact references of the respondent.
- If within six weeks of receipt of a complaint the FSP has been unable to resolve the complaint to the satisfaction of the complainant, the FSP must inform the complainant that:
  - the complaint may be referred to the Office of the Ombud if the complainant wishes to pursue the matter; and
  - the complainant should do so within six months of receipt of such notification.
- The FSP must be informed of the complaint submitted to the Office of the Ombud to the extent necessary to respond thereto fully.
- The FSP is entitled to submit any fact, information or documentation in relation to the complaint and must disclose relevant information or documentation to the Ombud.
- If deemed necessary by the Ombud, the FSP must discuss the complaint with the Ombud and furnish such further relevant information as the Ombud may require.
- The FSP is required to act professionally and reasonably and to cooperate with a view to ensuring the efficient resolution of the complaint.

## DETERMINATIONS BY THE OMBUD AND ITS LEGALS STATUS

- The Ombud may, when accepting a complaint in terms of section 27(5) of the Act, require the FSP to pay a case fee to the Office.
- If the complaint was not resolved through conciliated settlement, the Ombud will make a determination which has the legal status of a civil judgement of court.

- The determination can be a monetary award (not exceeding R800 000, unless the person complained against agrees to it), or any other order that can be made by a court.
- An award of costs may be made against the person complained against.
- An award of costs may be made against a complainant if the conduct of the complainant was improper or unreasonable, or if the complainant caused an unreasonable delay in the finalisation of the investigation.

#### **APPEALS TO BOARD OF APPEAL**

- It is possible to appeal to the Board of Appeal, provided the Ombud grants leave to appeal. If the Ombud refuses, the chairperson of the Board of Appeal can be requested for permission to appeal
- Application for leave to appeal must be made to the Ombud within 1 month of the Ombud's determination
- If the Ombud refuses leave to appeal, application for leave to appeal may be made to the Chairperson of the Board of Appeal, within 1 month of the Ombud's refusal – the applicant must inform the Ombud of his application
- A determination by the Board of Appeal has the same status as a judgement of a civil court.