

THE OFFICE OF THE PENSION FUNDS ADJUDICATOR

Lebogang Mogashoa – Pension Funds
Adjudicator



Contents



- 1. About the OPFA**
- 2. Complaint Handling**
- 3. Place in the National Ombudsman Eco-System**
- 4. Value creation for Industry and Users**

1. About the OPFA



PFMA Schedule 3A entity
Established in terms of
Chapter VA of the Pension
Funds Act



Economic, expeditious and
procedurally fair resolution
of complaints
Consider law and equity



Binding determinations
equal to civil court order



Led by Pension Funds
Adjudicator (PFA) supported
by team of legally qualified
investigators

1. About the OPFA



OBJECT

“Dispose of ‘complaints’ in a procedurally fair, economical and expeditious manner” and consider principles of equity and the law

WHAT IS A “COMPLAINT”

- Must relate to administration of a retirement fund, the investment of its funds or the interpretation and application of its Rules
- Must additionally allege (each in the alternative):
 - *Ultravires* action or improper exercise of powers
 - Actual or potential prejudice / harm
 - Dispute of fact or law
 - Improper conduct by employer

1. About the OPFA



JURISDICTIONAL LIMITATIONS

- Time-barred matters (section 30I of the PFA read with the Chapter III of the Prescription Act)
- *Lis pendens* before another civil court of law (section 30H(2) of the Act)
- Section 15B surplus apportionment
- Funds to which the State contributes and not registered under the Pension Funds Act e.g. GEPPF, Transnet Pension Fund, Post Office Pension Fund, etc. – COFI implications
- Business rescue moratorium – Companies Act (section 133)
- Approved section 14 transfer applications and Rule amendments
- Matters falling within ambit of other ombuds, e.g. NFOSA, etc.

1. About the OPFA



TYPICAL COMPLAINTS

- Benefits, e.g. withdrawal, retirement, disability, death (payment and quantum)
- Pension interest on divorce (non-payment/amount)
- Retirement annuity funds - causal event charges (excessive charges)
- Death benefits (delay in payment, allocation or distribution)
- Section 14 transfers (delay or loss of investment returns)
- Disclosure and access to information
- Withholding of benefits for alleged employee theft, fraud, dishonesty or misconduct
- Employer's duties in terms of the Act and the rules (section 13A of the Act) (deduction of and payment of contributions)
- Permissible deductions from fund benefits (housing loans, employer deductions (theft/ fraud/ dishonesty), maintenance order, etc.)
- Investment returns / investment decision-making on retirement savings
- General maladministration

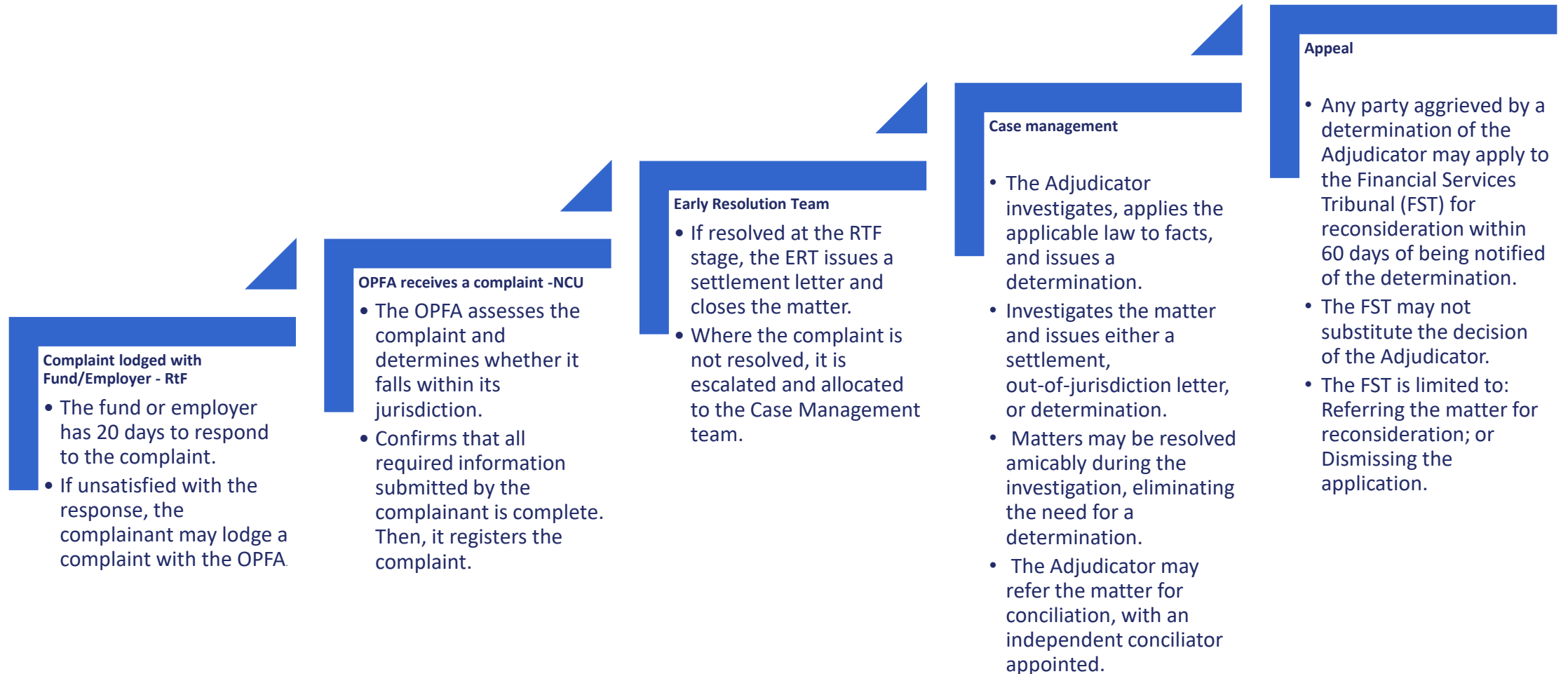
2. Complaints Handling

A complaint must be in writing with supportive evidence of fund membership and can be lodged in the following manner:

- Walk-ins or by hand delivery
- Website
- Email
- Post
- Fax

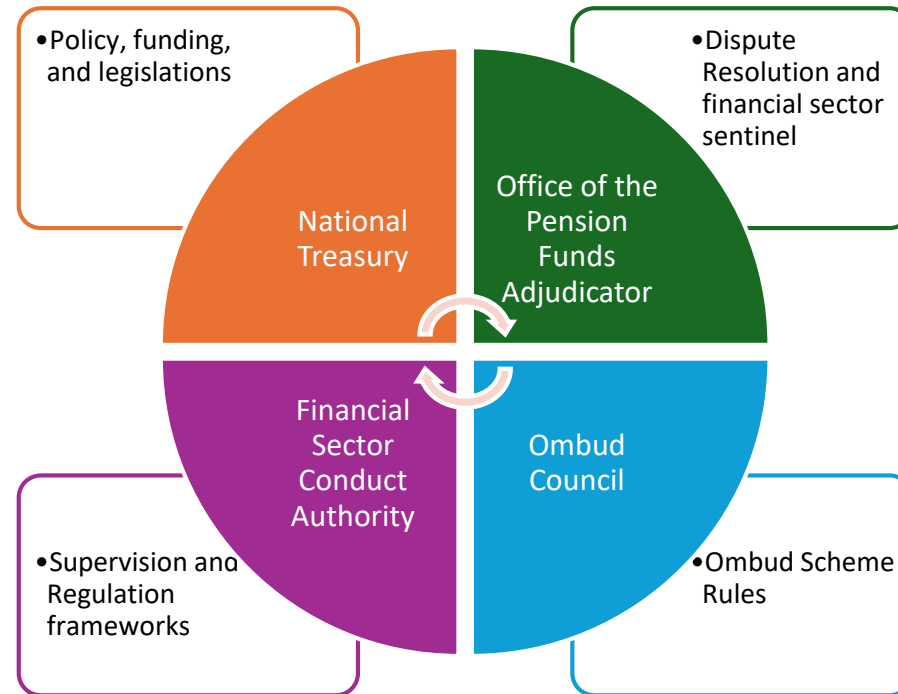
Complainants may give an employer/fund an opportunity to consider the complaint before lodging same with the Adjudicator in terms of section 30A of the Act.

2. Complaints Handling – (Continued)



3. Place in National Ombudsman Eco-System

Financial product Consumers



Retirement Funds Industry

National Ombudsman Eco-System

National Treasury – Develops and monitors the implementation of financial sector legislation and regulations. Sets policy directions and funding frameworks for policies.

e.g, An Inclusive Financial Sector for All, Conduct of Financial Institutions, Financial Sector Ombud System.

Financial Sector Conduct Authority – Implement financial sector policies under the Financial Sector Regulation Act. Empowered to ensure compliance, supervision, and regulation of the conduct of financial institutions.

Ombud Council - Develops and enforces the implementation of the Ombud scheme Rules in terms of the Financial Sector Regulation Act. Supports effective and sufficient coverage of dispute resolution mechanisms in the financial sector.

OPFA – Protects financial consumers through an independent dispute resolution mechanism. Dispute outcomes (Determinations) are equal to a court order.

4. Value Creation for Industry and Users

- Fostering confidence in the retirement funds sector:
 - Test of proper fulfilment of retirement funds and employer duties to members
 - Provide timely, fair, cost-effective and efficient redress when things go wrong
 - Feedback loop – rulings and complaints data highlights potential improvements in policymaking, governance, processes, communication and retirement products
 - Evidence-based policymaking
 - Validate fairness and effectiveness of business practices
- When people know there is effective redress, they can use the system with confidence

4. Value Creation for Industry and Users



Financial service customers derive the following benefits from the OPFA:

Expeditious resolution of complaints (complaints are resolved within six months).

No legal expenses (our services are free).

Complaints can be lodged in any of the official languages in SA.

Comprehensive complaints resolution methodology

Complainants are also afforded an opportunity to resolve complaints through RTF (through engagement between funds and members).

Civil court orders (easy enforcement).

Thank you for listening!

Contact Us:

Website: www.pfa.org.za

Tel: 012 346 1738 / 012 748 4000

Toll Free: 0800 74 4444

Email: Enquiries@pfa.org.za

