



## 2018/2019 ANNUAL REPORT OF THE OFFICE OF THE PENSION FUNDS ADJUDICATOR

In this edition, we give you feedback on the 2018/2019 annual report issued by the Office of the Pension Funds Adjudicator.

### THE NUMBERS

Category	Number this year (2018/2019)	Percentage up/down from last year (2017/2018)
New complaints received	11 399	↑16.38%
Of the new complaints	Walk ins 5032 Emails 4 454	
Complaints finalised	10 289	↑16.81%
Complaints determined	5 319	↑20.75%
Complaints out of jurisdiction	1 932	↓24.85%
Of the 1 932 complaints out of jurisdiction	1 255 referred to other bodies e.g. 54.2% to the FSCA* and 26.5% to the GEPF**	
Complaints settled	2 405	↑64.5%
Complaints closed for other reasons	633	↑72.5%
Complaints in favour of complainants	88%	
Complaints finalised in 6 months	49%	

\*FSCA is the Financial Sector Conduct Authority

\*\*GEPF is the Government Employees Pension Fund

### WHERE DO MOST OF THE COMPLAINANTS LIVE?

Being the economic hub, Gauteng still has by far the most number of complainants with Kwazulu-Natal in second place.

### GEOGRAPHIC AREA OF RESIDENCE



Eastern Cape	5%
Free State	6%
Gauteng	53%
KwaZulu-Natal	8%
Limpopo	7%
Mpumalanga	7%
North West	6%
Northern Cape	1%
Western Cape	6%
Foreign Country	1%

### WHAT ARE THE COMPLAINTS ABOUT?

As has unfortunately become usual, there were a large number of complaints about non-compliance with section 13A of the Pension Funds Act, which is the non-payment of contributions to the fund and failure by the fund to implement the necessary enforcement measures in terms of section 13A of the Act against a non-compliant employer or responsible person.

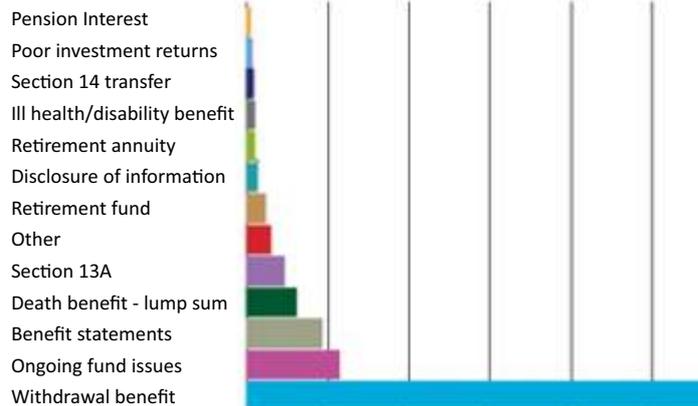
#### The bulk of the complaints are about:

- Not paying contributions; and
- Not paying benefits on time.

In this regard the Adjudicator stated that:

“A sector that deserves a special mention with non-compliance to section 13A of the Act in this reporting period, i.e. non-payment of contributions, is the municipal sector. A number of municipalities in the Free State and North West Provinces were unable to pay contributions to funds, thereby putting members' risk benefits at risk for extended periods of time.”

### NATURE OF BENEFITS ON COMPLAINTS CLOSED



As can be seen from the graph on the above, withdrawal benefits remain number one on the list of the type of benefits complained about. The Adjudicator states that, in this category, members complained about delays in the payment of benefits.

The Adjudicator states that she is concerned that funds and administrators do not make payment or make an effort to communicate with the complainants even after receiving the complaint. Here, on a more positive note, she says that settlements have increased where funds have made payment before finalisation of the complaint and favourably mentions the large insurer underwritten umbrella funds and the Contract Cleaning National Provident Fund.

The annual report specifies that 73.83% of complaints received relate to Treating Customers Fairly (TCF) outcome 3. In this regard the Adjudicator says that complainants are often not provided with information relating to benefits or sometimes they are provided with insufficient or incorrect information.

**TCF outcome 3 is clear communication: to give clear information to clients and keep them informed before, during and after the time of contracting.**

**DETERMINATIONS**

The Adjudicator reported on a number of determinations. These determinations included the following principles:

Death benefits: nomination forms	“Members must know that where they have legal dependants, they must complete a beneficiary nomination form as they cannot entrust the welfare of their legal dependants to the whims of their siblings and other family members who are often less than honourable where money is concerned.”
Death benefits: nominees entitled to be considered	A nominee is entitled to be considered as a beneficiary due to the fact that they were nominated. Nothing else, for example proof of factual dependants at time of death, is required to be considered. (Comment: this does not automatically mean that nominees must be paid in all circumstances.)
Communication	A fund contravened the principles of Treating Customers Fairly by failing to disclose relevant information that affect a member's fund value. In this case the fund had failed to inform the complainant that the transfer value was used to purchase additional pensionable service from the fund.
Early termination penalties and TCF	<p>The Adjudicator found, with respect to a retirement annuity fund, that an early termination penalty for transferring to another retirement annuity fund was lawful (thus the complaint was dismissed). However, she was critical of the fact that while the complainant had been informed, at the time of contracting, that early termination charges would be imposed, he had no way of knowing how much those charges would be. The Adjudicator said that:</p> <p><i>“The TCF principles are intended as a tool for self regulation by the industry to measure themselves as to whether or not in doing their business, they are dealing fairly with the consumer. They must provide sufficient and clear information that will enable customers to make informed choices when acquiring financial products.”</i></p>
Transfer from a beneficiary fund to an unclaimed benefit fund	A request by a retirement fund for the membership of all the beneficiaries in a beneficiary fund under curatorship to be terminated and the assets of the beneficiaries to be transferred to an Unclaimed Benefits Fund, was dismissed by the Pension Funds Adjudicator. She said that the object of a beneficiary fund is to receive, administer, invest and pay benefits that become payable to beneficiaries on the death of a member. An Unclaimed Benefit Fund cannot perform these objectives.
Failure to pay contributions	<p>The Adjudicator pointed out that it is un-acceptable that some municipalities fail to pay contributions to pension funds in respect of employees, despite the amount being deducted from their salary.</p> <p>There appear to have been many cases like this with the Adjudicator wanting to see funds follow the process set out in the Pension Funds Act and take action against recalcitrant employers.</p> <p>In these cases she ordered contributions schedules to be provided, the contributions to be paid, late payment interest to be paid on arrear contributions, breakdown of contributions for the member and benefit statements to be provided.</p> <p>In one case, the Adjudicator criticised the fund for failing to get the employer to provide the name of the person who could be held personally liable for the non-payment of contributions and have their assets attached, if necessary.</p>