

IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS,

PRETORIA

CASE NUMBER: FAIS-66704-24/25 EC 1

In the matter between: -

NELISWA KONDILE

Complainant

and

LUVUYO BURIAL AND CONSULTING (FSP NO. 47550)

Respondent

**DETERMINATION IN TERMS OF SECTION 28(1) OF THE FINANCIAL ADVISORY AND
INTERMEDIARY SERVICES ACT NO. 37 OF 2002 ("FAIS ACT")**

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THE PARTIES

- [1] The Complainant is Neliswa Kondile, an adult female.
- [2] She lodged a complaint with the FAIS Office on 6 June 2024.
- [3] The Respondent is Luvuyo Burial and Consulting (Pty) Ltd, a company duly incorporated under South African law, with the registration number (2014/207467/07). The Respondent is an authorized financial services provider (FSP) (license number 47550), with its principal place of business noted in the Regulator's records as 43484 Nkonkwa Crescent, Makhoza, Khayelitsha 7784. The license has been active since 08 November 2011.

THE COMPLAINT

- [4] The Complainant had a funeral policy with the Respondent. On 29 September 2020, she added her mother-in-law, Elmah Nokhusile Kondile, as one of the lives assured.
- [5] On 27 November 2023, the Complainant's mother-in-law passed away, and she subsequently submitted a claim on 4 December 2023 for the funeral benefit amount of R10,000.00.
- [6] On 6 December 2023, the Complainant received an SMS notification acknowledging receipt of the claim. Since then, the Complainant has tried to contact the Respondent through phone calls and emails, and in most cases, there has been no response.
- [7] The Complainant seeks assistance with the claim payment.

RESPONDENT'S RESPONSE

- [8] In its initial response, the Respondent submitted that they investigated the complaint and found no evidence of unpaid claims under the Complainant's policy. The last recorded claim payout was R10,000.00 for the late Mademfu Sigejana.

[9] However, in January 2025, following the Office's recommendation, the Respondent agreed to settle the claim in monthly installments as follows:

- 23 January 2025: R3,000.00
- 7 February 2025: R3,000.00
- 7 March 2025: R4,000.00

[10] The Complainant received the first payment on 23 January 2025. However, no further payment has been received.

ATTEMPTS TO RESOLVE THE MATTER

[11] On 14 March 2025, a further recommendation was sent to the Respondent, recommending that it pay the outstanding balance of the claim of R7,000.00.

[12] The Respondent responded on 24 March 2025, undertaking to settle the balance of the claim on 3 April 2025. Despite this Office's numerous reminders, payment has not been made.

ASSESSMENT OF THE EVIDENCE

[13] The policy was inceptioned in November 2017, and the Complainant added her mother-in-law, Elmah Nokhusile Kondile, to the policy in September 2020. As per the policy document, it was underwritten by Sanlam. Sanlam confirms that Sanlam Developing Markets Limited became the underwriter of the scheme on 1 January 2020, but the relationship was terminated with effect from 1 May 2021.

[14] This Office telephonically enquired with the Financial Sector Conduct Authority (FSCA) whether it had information about the Respondent's new underwriter. It advised that this information could not be provided. The Respondent verbally confirmed that it currently has no underwriter.

- [15] The deceased, Elmah Nokhusile Kondile, was listed as an insured under the funeral policy.

F. Updating of Assured Lives' details

First Name	Surname	ID/Passport number or date of birth	Relationship
MZIMASI			
LATHITHA			
LUNATHI			
LUNAKO			
SIGETABA			
NOKHUSILE			
ELMAH NOKHUSILE			

G. Premium payment method

I hereby declare that the above details are correct and true and I am responsible for the payment of the premium and I am sending the proof of payment to the Luvuyo Burial Society.

[Signature]

LUVUYO BURIAL SOCIETY

29 SEP 2020

084 040 4751 / 021 224 0700
luvuyoburial@gmail.com

Signature of Br. (Sec. Life Assured) _____ Date _____

- [16] The deceased passed away on 27 November 2023. The Complainant subsequently submitted a claim on 4 December 2023 for a benefit of R10,000.00.
- [17] The Respondent did not dispute any aspects related to the deceased's death, the deceased being covered by the policy, payment of premiums, waiting periods, policy coverage, or the benefit amount.
- [18] The Complainant submitted the policy documents, the death certificate, the identity document and all relevant information relating to the claim. Based on the evidence available, the claim amount is payable to the Complainant.
- [19] Rule 2A.8.1 of the Policyholder Protection Rules (PPR)¹, provides that *"An insurer must, within two business days after all required documents in respect of a claim under a microinsurance policy or a funeral policy have been received, (a) assess and make a*

¹ Policyholder Protection Rules (Long-term Insurance), 2017 promulgated under the Long-term Insurance Act, 1998 as published in Government Notice 1407 of 15 December 2017.

decision whether or not the claim submitted is valid, and (b) (i) authorise payment of the claim; (ii) repudiate the claim; or (iii) dispute the claim and notify the claimant of the dispute”.

- [20] Rule 2A.8.2 of the PPR further states that *“If a claim is disputed as referred to in rule 2A.8.1(b)(iii), the insurer within 14 business days after expiry of the period referred to in rule 2A.8.1 (a) may further investigate the claim; (b) must make a decision whether or not the claim submitted is valid; and (c) must pay or repudiate the claim.”*
- [21] The claim was not finalised per the PPR.
- [22] Treating Customers Fairly (TCF) is an outcome-based regulatory and supervisory approach designed to ensure that specific, clearly articulated fairness outcomes for financial services consumers are delivered. Regulated entities are expected to demonstrate that they provide products that perform as they have led customers to expect. Customers do not face unreasonable post-sale barriers imposed by firms to change products, switch providers, submit a claim, or make a complaint.
- [23] The Respondent has not complied with the PPR, and its actions do not adhere to the TCF principles.
- [24] The Respondent is contractually obligated to pay the claim and has failed to pay it in full.
- [25] The Respondent acknowledged the claim but only paid R3,000.00 and not the full R10,000.00 due to the Complainant.
- [26] The Respondent is still a registered Financial Services Provider (FSP). It appears to be operating without an underwriter as required and does not fully cooperate with the Office. A copy of this determination will be sent to the FSCA for its attention and possible enforcement action.

THE ORDER

[27] The following order is made:

- The complaint is upheld.
- The Respondent is ordered to pay the Complainant the amount of R7,000.00 and;
- Pay interest on the said amount at a rate of 11.25% per annum from the date of this determination to the date of final payment.

Please note that a person aggrieved by this decision has the right to apply for the reconsideration of the decision by the Financial Services Tribunal (“the Tribunal”) as contemplated in section 230 of the Financial Sector Regulation Act.

An application for reconsideration must be made:

(a) In accordance with the Tribunal rules ([link](#)); and

(b) Within 30 days as set out in section 230(2) of the FSR Act.

The contact details of the Tribunal secretariat are as follows: Ms.

Kim Host / Ms Alitah Morudu

E-mail: Applications@fstribunal.co.za

Telephone: (012) 741 4300 / (012) 741 4302 / (012) 741 4303

Kasteel Office Park

Orange Building (2nd Floor)

546 Jochemus Street

Erasmuskloof

Pretoria

DATED AT PRETORIA ON THIS THE 15TH DAY OF APRIL 2025

A handwritten signature in black ink, appearing to be 'Adv. John Simpson', written over a horizontal line.

ADV. JOHN SIMPSON

OMBUD FOR FINANCIAL SERVICES PROVIDERS