

IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

PRETORIA

CASE NUMBER: FOC 1761/05/NW (1)

In the matter between:

HENDRINA JOHANNA MATTHYSEN

Complainant

and

ABSA BROKERS (PTY) LTD.

Respondent

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

A. PARTIES

[1] The Complainant is Ms Hendrina Johanna Matthysen, an educator with postal address P O Box 2614, Potchefstroom, 2520.

[2] The Respondent is Absa Brokers (Pty.) Ltd., an authorised financial services provider of 267 Kent Avenue, Randburg, 2125.

B. THE BACKGROUND

[3] Complainant lodged a complaint with the Long Term Insurance Ombudsman, who in turn referred it to this Office as it fell within the jurisdiction of the FAIS Ombud.

[4] The complaint against Absa's broker Mr Schalk Le Roux can be summarised as follows:

4.1 An Old Mutual Policy No.12582147 was changed without discussing the implications (including costs);

4.2 An Old Mutual Policy No.11835948 was surrendered without a Policy Replacement Advice being completed and the Complainant was not aware of the depression exclusion;

4.3 No Financial Needs Analysis was done as required by the General Code of Conduct for Financial Services Providers in terms of the FAIS Act;

4.4 Complainant did not receive an advice record; and

4.5 In passing Complainant mentions a Momentum policy that she says she received and for which she is paying a monthly premium of R200.00 implying that she was not aware of it.

The relief sought by Complainant

[5] Complainant wants to be placed in the position she was before the changes were implemented by the Respondent as she believes she has been prejudiced by them.

Investigation and Determination by this Office

[6] Respondent provided a detailed response to the complaint together with copies of relevant documentation. Contrary to Complainant's allegations, a Financial Needs Analysis was in fact done; there is a Client Advice Record; quotations were provided (and the implications thereof discussed with her, says Respondent) and a Policy Replacement Advice record is also in existence. All the relevant documents have been signed by Complainant where required. The Complainant is an educator by profession and ought to have known what she signed. In any event her complaint is not that she did not know what she was signing but rather that the documents were never prepared in the first place. As I said, the Respondent has provided the requisite proof and in my view, the complaint is without merit.

Accordingly, I make the following order:

- A. The Complaint is dismissed.

DATED AT PRETORIA THIS 18th DAY OF FEBRUARY 2008.

A handwritten signature in black ink, consisting of a large, loopy initial 'N' followed by the name 'BAM' in a cursive script.

NOLUNTU N BAM

DEPUTY OMBUD FOR FINANCIAL SERVICES PROVIDERS