

# FAIS Complaints Handling Procedure Guide

The Financial Advisory and Intermediary Services Act 37 of 2002





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# Overview of the purpose of the FAIS Act

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## Protection of consumers

The FAIS Act, which came into effect on 1 October 2004, protects consumers by regulating the financial advice and intermediary services provided by financial services providers (FSPs) and its representatives, ensuring that consumers are adequately informed about the products they purchase and the product suppliers, in order for them to make informed decisions.

## Regulation of advice-giving activities

The FAIS Act requires a Financial Services Provider, e.g. (Liberty or an independent broker), and its representatives (for Liberty, this will be agents and certain internal staff) to be equipped with the necessary skills, qualifications and experience ('fit and proper' requirements) to provide a financial service suited to the client's needs. The key individuals of the Financial Services Provider have to comply with similar fit and proper requirements in order for the Financial Services Provider to obtain its FAIS licence and to oversee the advisory and other financial activities of the Financial Services Provider and its representatives.

## Transparency

In terms of the FAIS Act, the Financial Services Provider or its authorised Representatives must:

- Disclose to the client that it is a licensed Financial Services Provider, or is authorised by the Financial Services Provider, in the case of a representative, to provide such service; Provide all the necessary information regarding the product and the supplier;

- Concisely convey the legal and contractual status of the provider to make it clear to the client which entity accepts the responsibility for the actions of the provider or the representative;
- Provide details of remuneration and commission;
- Confirm all verbal advice provided in writing, within 30 days of having provided such service.

## Consumer platform for complaints

The FAIS Act also provides consumers with a platform to address their complaints in a fair and procedural manner.

In terms of the Act, a complaint must relate to a financial service rendered by a Financial Services Provider (FSP) or its representative to the complainant, in which it is alleged that the FSP or representative:

- has contravened or failed to comply with the FAIS Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage;
- has willfully 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.

# What is a “FAIS” complaint?

1. A complaint will qualify as a FAIS complaint if an FSP, one of the Representatives, Key Individuals or administration supporting staff has failed to comply with a provision of the FAIS Act and as a result the complainant has suffered, or is likely to suffer, financial loss.

Where an FSP, one of the Representatives, Key Individuals or administration supporting staff:

## Some guidelines and examples:

- If there are allegations that no quote or no disclosures were shown when the scheme was taken out. If there are allegations that disclosures after a change was made to the scheme telephonically were not received;
  - If there are complaints received about not knowing the structure of the product before taking it out.
  - If there are complaints received about not having received the scheme document and/or installation pack therefore not knowing the features of the product.
  - Allegations of miss-sellingNo Record of Advice having been shown by the FSP or Representative to the client and the client has now received his scheme document and/or installation pack which contains a Record of Advice.
  - The Record of Advice shown by the FSP or Representative to the client is different to the one that is contained in the scheme document or installation pack.
  - The FSP or Representative sold client incorrect product given the client’s circumstances – e.g. a group retirement fund was sold when a retirement annuity was the more suitable option or vice versa;No financial needs analysis was done before the product was sold.
  - Negligence or delay on the part of the FSP or Representative in issuing a scheme or affecting a change request which led to financial loss (e.g. investment loss).
- Complaint about not being advised of the effect that a particular product change would have on the contract.
  - Complaint that the Representative is no longer a registered Representative of Liberty and yet is still providing advice on Liberty’s products to the clients. Complaint that we released confidential information about the client to a third party without the client’s consent.
  - Client alleging that they signed or were asked to sign a blank document.
2. If an FSP, one of the Representatives, Key Individuals or administration supporting staff has willfully or negligently rendered a financial service to the complainant which has caused prejudice or damage to the complainant – such complaint will also be a FAIS complaint.

## Some guidelines and examples:

- Complaint that the incorrect product was sold to the client.
- Complaint that a product was sold without the client’s knowledge.
- Complaint that the Financial Adviser acted without the client’s knowledge/consent. Surrendered contract without the client’s consent/knowledge.
- Took an advance from the client’s contract without the client’s knowledge or consent. Effected any product change without the client’s knowledge/consent which caused prejudice to client. Complaint that we cannot accurately account for funds invested by the client.
- Complaint that the FSP or its Representative took money from the client but did not ensure timeous investment.

# What is a “FAIS” complaint?

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Continued

3. A complaint will also be considered to be a FAIS complaint if an FSP, one of the Representatives, Key Individuals or administration supporting staff has treated the complainant unfairly.

## Some guidelines and examples:

- Complaints that the client has been pushed from pillar to post without resolution.
- Complaints about rude behaviour.
- Complaints that a previous complaint was not handled fairly and objectively.

- Complaints that different staff provided different information when contacted about the same issue. Complaints that the provider promised to do one thing and then did another.
- Complaints that nobody reverted to client or did not do so timeously.

Complaints resulting from advice given in respect of pension and provident funds should be handled in accord with the following procedure

**In the first instance, all complaints must be in writing to:**

**Sharon Hochreiter**  
**Client Contact Co-ordinator**  
Liberty Corporate  
PO Box 2094  
Johannesburg  
South Africa

Fax: 011 408 4440  
E-mail: [contactlcb@liberty.co.za](mailto:contactlcb@liberty.co.za)

Please include as much detail as possible and copies of documentation, where available. We have included a "complaints form" which you may complete to ensure that we have sufficient information pertaining to the complaint.

## Important Note

Please note that complaints resulting from advice provided by an independent broker or another financial services provider must not be referred to Liberty, as this responsibility would fall on the broker or financial services provider concerned. The only time this rule will differ is where a Liberty representative provided advice in conjunction with the independent broker.

- The Client Contact Co-ordinator will respond to you in writing, acknowledging receipt of the complaint within 3 working days of receipt of the claim.
- This communication will detail how the complaint is being addressed and the procedure that will be followed. The name and contact details of the person appointed to consider the complaint and the resolution thereof will be included in this communication.
- We will keep you informed as to our progress on a regular basis.
- All complaints and related correspondence will be stored in an electronic storage medium for a period of 5 years, as required by the FAIS Act.
- We will advise you of the results of the consideration in writing, within 30 days of receipt of the complaint.
- If the complaint is resolved in your favour, we will ensure that a full and appropriate redress is offered to you without any delay.
- If the outcome is not in your favour we will provide you with full written reasons within the 30 days referred to above.

or

If, after 6 weeks has passed, the complaint is still not resolved, you have 6 months within which to refer the complaint to the FAIS Ombud.

# The FAIS Ombud

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The FAIS Ombud's objective is to consider and dispose of complaints in a procedurally fair, informal, economical and expeditious manner with reference to what is equitable in all circumstances.

He will only proceed to investigate an officially received complaint once he has notified all interested parties of the particulars of the complaint in writing, and is satisfied that all parties are provided with the opportunity to submit a response.

The contact details of the FAIS Ombud are:

**FAIS Ombud**

Ms Noluntu Bam  
Eastwood Office Park  
Baobab House  
Ground Floor  
Lynnwood Ridge, 0081

**Postal Address**

P.O. Box 74571  
Lynnwood Ridge  
0040

**Customer Contact Division**

0860-FAISOM (0860-324766)  
Telephone: +27 (0) 12 470 9080  
Facsimile: +27 (0) 12 348 3447

E-mail address: [info@faisombud.co.za](mailto:info@faisombud.co.za)

Website: [www.faisombud.co.za](http://www.faisombud.co.za)

If you have any further queries regarding the procedure to be followed in the event of a referral, kindly refer to the FAIS Ombud's website at [www.faisombud.co.za](http://www.faisombud.co.za).

## FAIS complaint flow chart

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To qualify as a FAIS complaint, the answer to one of the following questions must be “yes”:

1. Has Liberty or its representative (excluding independent brokers) contravened or failed to comply with any provision of the FAIS Act, 2002, and that as a result thereof, the complainant has suffered or is likely to suffer financial prejudice or damage?
2. Has Liberty or its representative 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?
3. Has Liberty or its representative treated the complainant unfairly?

If the answer to any of the above questions is “yes”, please proceed as per the following procedure:

1. Please complete the complaint notification form (copy enclosed) providing as much information as possible and attach copies of any relevant documentation. This must then be faxed to the Client Contact Coordinator on fax number (011) 408 4440 or email [contactlcb@libert](mailto:contactlcb@libert)

2. You will receive an acknowledgement within 3 working days of the written complaint, providing you with details of the person who will be considering your complaint and how your complaint will be handled.

3. You will receive regular updates as to the progress being made. Results of the complaint must be communicated within 30 days and if resolved in your favour, an appropriate redress will be offered to you. If the outcome is not in your favour we will supply you with full written reasons.

4. If 6 weeks have passed and the complaint is still not resolved, you have 6 months within which to refer the complaint to the FAIS Ombud. Please refer to the Complaints Procedure for the FAIS Ombud's contact details.

# Complaint Notification Form

In terms of the FAIS Act, a complaint means: Subject to section 26(1)(a)(iii), a specific complaint relating to a financial service rendered by a financial services provider or representative to the complainant on or after the date of commencement of this Act, and in which complaint it is alleged that the provider or representative:

- a. has contravened or failed to comply with a provision of this Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage;
- b. 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
- c. has treated the complainant unfairly;

## For attention:

**Sharon Hochreiter**  
**Client Contact Co-ordinator**  
 Liberty Corporate  
 PO Box 2094  
 Johannesburg  
 South Africa

Fax: 011 408 4440  
 E-mail: [contactlcb@liberty.co.za](mailto:contactlcb@liberty.co.za)

Date	
Complainant's name and surname	
ID number	
Contact telephone/cell number(s)	
Fax number	
E-mail address	
Postal address	
Name of your financial adviser	
Scheme name/scheme number	
Member name/scheme reference number	

Summary of complaint:

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Please attach any supporting documentation relevant to the complaint.

The information contained in this document does not constitute advice by Liberty Life. Any legal, technical or product information contained in this document is subject to change from time to time. If there are any discrepancies between this document and the contractual terms or, where applicable, any fund rules, the latter will prevail. Past performance cannot be relied on as an indication of future performance. Investment performance will depend on the growth in the underlying assets, which will be influenced by inflation levels in the economy and prevailing market conditions. Liberty Life – an Authorised Financial Services Provider in terms of the FAIS Act (License No. 2409)

## Disclaimer

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If you wish, you can also go to [liberty.co.za](http://liberty.co.za) and find out more about the additional Liberty products. From the website, you can also attain information about the other brands within the Liberty Group of Companies, our CSI initiatives (graduates programmes, our contribution to the environment and the Liberty Learning Channel, to name a few) and have access to our online store, [wealthgear.co.za](http://wealthgear.co.za).

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Should you require any additional information, please contact Liberty directly on 0860 456 789 or visit our head office at the Liberty Life Centre, 1 Ameshoff Street, Braamfontein, Johannesburg.

Liberty is an Authorised Financial Service Provider in terms of the FAIS Act (Licence no 2409).



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