



**MOTOR INDUSTRY OMBUDSMAN  
OF SOUTH AFRICA**

2022 / 2023

# ANNUAL REPORT





## CONSTITUTION

The MIOSA is an organisation which regulates the interaction and provides for alternative dispute resolution between persons conducting business within the automotive and related industries in South Africa and consumers, as well as between participants in the automotive and related industries.

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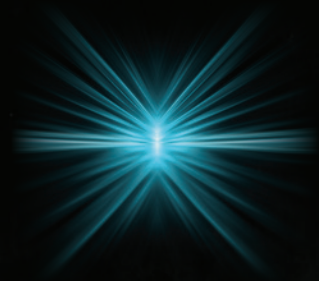
## MISSION

Its mission is to primarily defend the independence of the office of the MIOSA while tirelessly striving to educate consumers and motor related service providers alike in achieving higher levels of customer care, as well as cordial relationships within the automotive and related industries.

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## VISION

As its vision, the MIOSA strives to contribute to the continuous improvement of customer care, as well as relationships among participants in the automotive and related industries to the benefit of all parties.



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## BOARD OF DIRECTORS



**DR. M PHOSA**  
CHAIRMAN



**MR. JHL VAN VREDEN**  
OMBUDSMAN / DIRECTOR



**ADV. R NETSIANDA**  
DIRECTOR



**ADV. S TLEANE**  
DIRECTOR



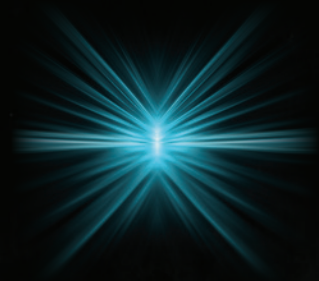
**ADV. N LOLWANE**  
DIRECTOR



**MRS. E ENGELBRECHT**  
DIRECTOR



**MS. L LUBBE**  
DIRECTOR



# CHAIRPERSON'S COMMENTS

**Dr. Mathews Phosa**

**Chairman of the Board of the Motor Industry Ombudsman of South Africa**

**T**he past year saw the South African economy facing enormous challenges that consisted of a general slowdown in the world economy, disruptions due to power outages, and the inefficiencies of state-owned enterprises. Then there were also climate change zealots who provided further challenges to our developing economy. With the aftermath of COVID-19 still lingering, the economy has only grown by 0,3% since 2019, expanding by 2% between 2021 and 2022.

What is still remarkable is the resolve of the automotive and related industries to persevere despite the almost 200 days of loadshedding which in fact spared no industry. Manufacturing and mining were the worst affected. To quote Deloitte: "The year 2023 could be a perfect storm for South Africa if various global and domestic risks materialise."

If these challenges persist, our economy will continue to struggle. Local vehicle manufacturers, together with their dealers, generate significant revenue for the South African economy and employ more than 110 000 people across their various stakeholders. If this is combined with the industry's strong multiplier effect, the automotive and related industries are responsible for more than half a million jobs. No other industry in this country has such an

expansive reach. It remains admirable that in South Africa, the automotive industry continues to prove that by combining good industrial policy and foreign investment it remains the backbone of the industrialisation development in South Africa and for that I have only praise.

In the vast machinery that is the South African automotive and related industries the Motor Industry Ombudsman of South Africa (MIOSA) has played a major role in keeping the relationships between the industry and its consumers healthy for twenty-three years and continues to do so by providing a steadfast service that has never wavered from its original mission of ensuring fairness, good engineering practice and legality, as well as being guided by natural law. Under the guidance of the Ombudsman, Mr. van Vreden, the truly well-qualified and experienced staff have never taken their eyes off the ball. This has ensured that the office of the MIOSA can rightly claim to be a key element of the motor and related industries in South Africa.

For this I would, as Chairman and on behalf of the Board of Directors, like to extend my sincerest gratitude. Despite the challenges the office faced in 2022 on a daily basis, it still managed to remain true to its original mission.





# OMBUDSMAN'S REPORT

Johan van Vreden

**T**he challenges of the current economic situation in South Africa doesn't seem to be abating and changes from day to day. In these uncertain times it is of utmost importance for the office of the Motor Industry Ombudsman of South Africa (MIOSA) to be steadfast and to stick strictly to its mandate. In our determination to fulfil all the expectations of what is required of the MIOSA we have managed to stay the course, despite limited resources.

Being the custodian of the South African Automotive Industry Code of Conduct (Code) has resulted in the MIOSA having to report regularly not only to our Board of Directors, but also to the Department of Trade, Industry and Competition (DTIC) through the offices of the National Consumer Commission (NCC). Oversight is therefore firmly in place.

The transparency of the operations of the MIOSA has become a hallmark and a fine example to other organisations that act as ADRs for their respective industries. As one of the founder members of the Ombudsman Association of South Africa (TOASA), the MIOSA has proudly chaired the organisation in the past and currently holds the position of treasurer, a role it has fulfilled since the inception of TOASA.

With the growth of the MIOSA over the years we have managed to abide by all the legal requirements placed on this office and from a financial position have once again achieved an unqualified audit which we proudly present in our financial statements. Cost control at the MIOSA is of paramount importance and I am thankful that we have managed to carry out our mandate with the resources that we have at our disposal, as is clearly outlined in our Operational CEO's comments.

The philosophy of the financial department is "accountable, transparent and good governance" and this has remained steadfast over the years. This is widely discussed in the report from our Financial Director in her comments. As the human resources department reports to the Financial Director, aspects such as recruitment, employment equity and ethics are also commented on.

The Legal Department has also played a major role in ensuring our effective interpretation of the Consumer Protection Act 68 of 2008 (CPA). On this aspect the MIOSA does not only advise consumers, but also the motor and related industry to ensure that all parties are treated fairly.

The development and upgrading of our systems are ongoing as new technologies become available, thus providing prompt and thoroughly investigated case material for our deliberations.

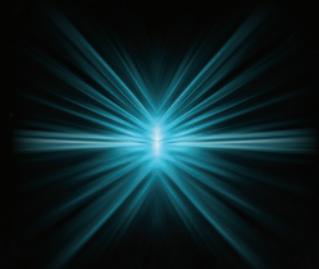
The heartbeat of the MIOSA is, of course, the Case Management Department, which works in conjunction with our Administration Department. Here consumer and industry enquiries and complaints are dealt with in depth and no finding is made without considering the expectations of all parties involved. More detail can be found in the Case Management report, which makes for interesting reading indeed.

The Information & Liaison Department provides a major time-saving function in support of the Case Management Department by providing advice to both consumers and the industry. This allows the Case Management Department to focus its attention on cases that need in depth investigations. Industry compliance is carried out by our Inspectorate Department through regular visits to industry participants around the country in order to advise and ensure compliance to the CPA.

As communication and consumer education are amongst the most important functions of the MIOSA as demanded by the Code, the Public Affairs Department has experienced great success throughout the country. Our outreach projects – especially in rural areas – and collaboration with other regulators stand out as successful achievements of the year under review.

All that remains for me to do is to thank firstly our chairperson, Dr. Mathews Phosa, whose support has always been unwavering. I would also like to commend our Board of Directors, whose wisdom and support can always be counted on and who plays a major role in oversight while providing useful input on how to continue to improve the operations of the MIOSA.

Of course, it would be a major oversight on my part if I did not also express my deepest gratitude to the extremely loyal management and staff members of the MIOSA, without whom this office would not have enjoyed the successes it has achieved despite the prevalent difficult economic and social conditions.



# OPERATIONAL CEO'S REPORT

Leanne Lubbe

**A**nother year has passed and with each year the MIOSA goes from strength to strength. In this report the Motor Industry Ombudsman of South Africa (MIOSA) will outline various statistics from the Administration, Case Management, Finance, Information & Liaison, Inspectorate, Legal and Public Affairs Departments. Apart from the detailed financial report, this year's report also includes letters received from consumers, interesting statistics on case management, and a look at what the way forward is for this office.

The MIOSA's staff are its most valuable asset and during the year under review the organisation improved its ability to recruit and nurture talent through ongoing training. Having a diverse workforce is also of considerable value to the MIOSA, as greater cultural awareness allows this office to break through any cultural barriers that there may be with consumers and industry participants who come to the MIOSA from a broad range of backgrounds.

In the MIOSA's unique position as the only accredited independent, impartial, and fair dispute resolution forum for the automotive and related industries, it has helped thousands of consumers and industry participants to resolve disputes and will continue to do so for many years to come.

Impartiality is at the centre of what the MIOSA does, which means that all consumers and industry participants are treated equally and there is no element of bias towards either party when a decision is reached.

To help uphold our impartiality as the Ombudsman for the automotive sector, the MIOSA is overseen by various independent entities to ensure that its work is always fair and based on all the facts presented to it.

There are various factors that drive the MIOSA's impartiality:

1. The Board of Directors closely monitors how the MIOSA operates as an Ombud Scheme;
2. The MIOSA is audited by independent auditors annually;
3. The MIOSA is fully transparent in what it does and publishes its annual report and audited financial statements online annually;
4. The MIOSA shows examples of how it reaches its decisions through published case studies;
5. The MIOSA reports quarterly to the National Consumer Commission.

The MIOSA now turns its attention to the start of a new year, and with its workforce having tripled since its accreditation in 2015, the next 12 months will be an opportunity for it to ensure that its mission, vision and values meet the rapidly changing environment, both within its business, and across the automotive and related industries as a whole.





# FINANCIAL REPORT

Ellen Engelbrecht

## ACCOUNTABILITY, TRANSPARENCY AND GOOD GOVERNANCE

**T**he MIOSA strives to be accountable and transparent, with efficient management and optimal use of its resources. The key to maintaining and improving governance practices at MIOSA is an effective, comprehensive and robust corporate governance framework. For this reason, we have continued to focus on ensuring that we have a system of policies, processes, people and rules which enable us to meet our stakeholders' expectations.

Our value proposition is reflected in our strong track record of clean audits over numerous years. This audit is performed at year-end and an audit opinion is provided as to whether the financial statements present a true reflection of the MIOSA's financial position and financial performance. We are pleased to report that we stayed within budget during the reporting period. We are also pleased to announce that the MIOSA has once again received a clean audit for the March 2022 to February 2023 financial year.

### MANAGING OUR BUDGET AND FINANCIAL RESOURCES

Effective financial oversight, management and sustainability form strategic pillars of the MIOSA. The approved budget is prepared on the accrual basis and presented by functional classification linked to performance outcome objectives. The approved budget covers the fiscal period from 1 March 2022 to 28 February 2023.

The MIOSA has been classified as a going concern and it is concluded that the entity is solvent, and the liquidity ratios are favourable. The cashflow is such that the MIOSA can maintain its operations for at least one year after the reporting date of the financial statements. There are no contingent liabilities that may jeopardise the MIOSA's ability to operate.

### MANAGING OUR HUMAN RESOURCES

Human resource management is the management of the organisation's most valuable asset, the

MIOSA's human capital. It deals with human related issues such as remuneration and benefits, recruitment, performance management, training and development, occupational health and safety and employee wellness.

The MIOSA continues to provide an opportunity for employees to seek support and guidance at no additional cost to themselves. The MIOSA provides a life coach to assist the staff with a range of services including emotional, psychological and financial counselling and support, thus enabling employees to more effectively address personal and work-related challenges.

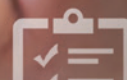
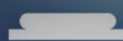
As far as Occupational Health and Safety (OHS) are concerned the MIOSA is obliged, in terms of the Occupational Health and Safety Act, to ensure a healthy and safe environment for its employees. To this end it has implemented a Health and Safety Policy as per the legislative requirements. A Health and Safety Officer has been appointed to manage the policy and ensure readiness for an emergency. This officer is responsible for ensuring compliance with OHS. Risks or potential safety hazards are assessed for inclusion in the risk register and controls are implemented and monitored so that risks can be mitigated.

### EMPLOYMENT EQUITY

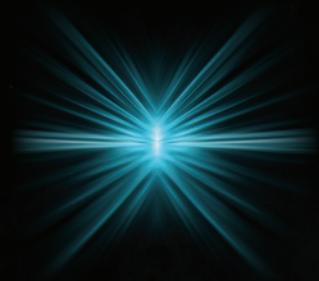
The MIOSA considers employment equity in recruiting staff, and this is reflected in the racial and gender distribution. The organisation has complied with the requirements of the Employment Equity Act in ensuring that suitably qualified employees from designated groups have an equal opportunity and are equitably represented in all occupational categories and levels of the workforce.

### ETHICS

Maintaining confidentiality and avoiding conflicts of interest are imperative for the MIOSA to remain committed to maintaining high standards of integrity and ethics. To support this commitment the MIOSA has internal policies and procedures in place to ensure that all employees comply with the principles of honesty, objectivity and independence.







# ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 28 FEBRUARY 2023

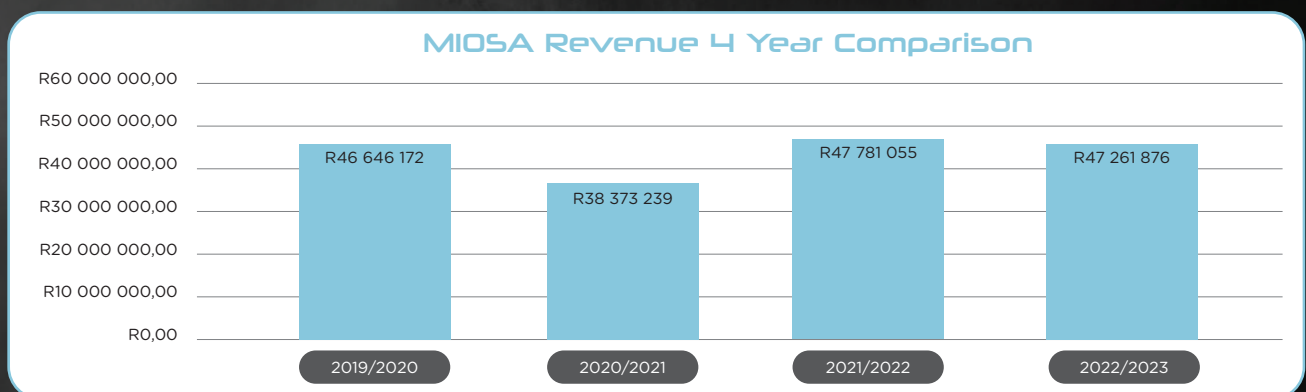
## GENERAL

The MIOSA is about improving internal operating efficiencies, ensuring that investments in infrastructure and technology support our differentiated service offering. The office employs talented people with passion, energy and stamina, who exercise common sense in achieving effective performance in a high-pressure, multi-task environment. We promote innovation and entrepreneurial freedom to operate within the context of risk consciousness, sound judgement and an obligation to do things properly. We show concern for people, support our colleagues and encourage growth and development.

We believe that open and honest dialogue is the appropriate process to test decisions, seek consensus and accept responsibility. We are creative individuals who cooperate and collaborate unselfishly in pursuit of group performance. We respect the dignity and worth of individuals by encouraging openness and embracing differences and through the sincere, consistent and considerate way we interact.

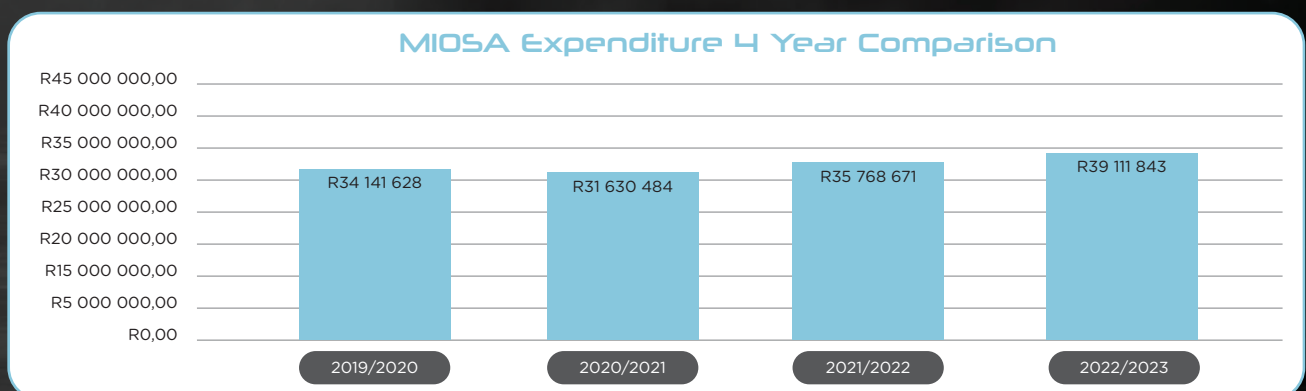
## REVIEW OF FINANCIAL PERFORMANCE

### Revenue



The total revenue decreased by R519 179 during the 2022/23 financial year. The decrease in revenue was mainly due to closures of retail/service providers, which increased due to the current economic situation in South Africa.

## EXPENSES

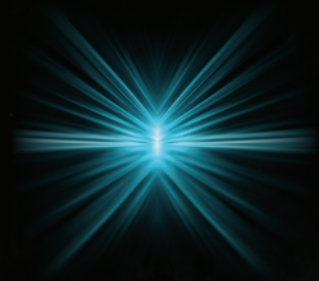


The total expenses increased by R3 343 172 during the 2022/23 financial year. One of the main reasons for the increase is a vigorous legal drive to target non-compliant industry participants. Another reason is an increase in employee costs. The MIOSA believes that its employees are its biggest asset and therefore focuses on providing market related job security.

# ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 28 FEBRUARY 2023

## STATEMENT OF COMPREHENSIVE INCOME

| Figures in R                                 | 2023              | 2022              | 2021              |
|--|-------------------|-------------------|-------------------|
| <b>Revenue</b>                               | <b>47 261 876</b> | <b>47 781 055</b> | <b>38 373 239</b> |
| <b>Other Income</b>                          | <b>352 816</b>    | <b>309 741</b>    | <b>142 035</b>    |
| - Interest Received                          | 299 716           | 143 653           | 119 443           |
| - Sundry Income                              | 53 100            | 166 088           | 22 592            |
| <b>Operating Expenses</b>                    |                   |                   |                   |
| - Accounting fees                            | 0                 | 0                 | 21 500            |
| - Advertising fees                           | 154 828           | 111 668           | 79 416            |
| - Auditors remuneration                      | 40 500            | 15 000            | 44 400            |
| - Bad debts                                  | 775 419           | 867 487           | 4 388 663         |
| - Bank charges                               | 135 278           | 142 454           | 131 245           |
| - Chairman fees                              | 120 000           | 120 000           | 120 000           |
| - Computer costs and website development     | 405 050           | 357 695           | 449 645           |
| - Consulting fees                            | 166 617           | 158 209           | 1 124 460         |
| - Contract termination fee                   | 0                 | 0                 | 11 446            |
| - Depreciation, amortisation and impairments | 793 172           | 759 450           | 610 056           |
| - Donations                                  | 3 450             | 3 094             | 7 694             |
| - Employment costs                           | 29 183 335        | 27 916 130        | 20 616 640        |
| - Entertainment                              | 469 428           | 269 057           | 139 467           |
| - Insurance costs                            | 270 874           | 257 294           | 263 839           |
| - Interest paid                              | 31 271            | 13 503            | 0                 |
| - Lease rental of premises                   | 1 949 059         | 1 947 134         | 1 808 092         |
| - Legal costs                                | 1 890 189         | 644 971           | 901 642           |
| - Loss on disposal of asset                  | 7 569             | 0                 | 19 330            |
| - Motor vehicle costs                        | 641 719           | 542 644           | 450 493           |
| - Postage                                    | 20 626            | 9 484             | 6 376             |
| - Printing, stationery and hire of printers  | 178 368           | 167 549           | 114 023           |
| - Repair and maintenance / Security costs    | 582 915           | 587 138           | 440 632           |
| - Storage and archiving costs                | 35 478            | 35 478            | 37 500            |
| - Subscriptions                              | 68 475            | 96 422            | 59 716            |
| - Telephone and communication costs          | 730 703           | 445 355           | 611 565           |
| - Training costs                             | 204 344           | 134 168           | 109 665           |
| - Travel and accommodation costs             | 253 176           | 186 038           | 86 849            |
| - VAT expense account                        | 0                 | 0                 | -1 023 870        |
| - Write off of obsolete assets               | 0                 | -18 751           | 0                 |
| <b>Total Operating Expenses</b>              | <b>39 111 843</b> | <b>35 768 671</b> | <b>31 630 484</b> |
| - Finance Costs                              | 343 239           | 419 852           | 496 679           |
| <b>(Deficit)/Surplus for the Year</b>        | <b>8 159 610</b>  | <b>11 902 273</b> | <b>6 388 111</b>  |



# ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 28 FEBRUARY 2023

## STATEMENT OF FINANCIAL POSITION

| Figures in R                    | 2023              | 2022              | 2021              |
|---------------------------------|-------------------|-------------------|-------------------|
| <b>Non-Current Assets</b>       |                   |                   |                   |
| - Property, plant and equipment | 1 650 958         | 1 569 632         | 1 428 930         |
| - Intangible assets             | 2 912 912         | 3 173 782         | 3 434 652         |
| <b>Current Assets</b>           |                   |                   |                   |
| - Other financial assets        | 325 062           | 279 865           | 282 287           |
| - Trade and other receivables   | 76 466 816        | 67 682 380        | 58 570 648        |
| - Cash and cash equivalents     | 4 551 273         | 6 035 888         | 4 961 125         |
| <b>Total Assets</b>             | <b>85 907 021</b> | <b>78 741 547</b> | <b>68 677 642</b> |
| <b>Equity and Liabilities</b>   |                   |                   |                   |
| <b>Equity</b>                   |                   |                   |                   |
| - Retained earnings             | 73 223 610        | 65 064 000        | 53 157 986        |
| <b>Non-current Liabilities</b>  |                   |                   |                   |
| - Borrowings                    | 199 201           | 2 947 399         | 4 708 565         |
| <b>Current Liabilities</b>      |                   |                   |                   |
| - Trade and other payables      | 12 418 277        | 10 673 000        | 10 811 091        |
| - Finance lease liabilities     | 65 933            | 57 148            | 0                 |
| <b>Total Assets</b>             | <b>85 907 021</b> | <b>78 741 547</b> | <b>68 677 642</b> |



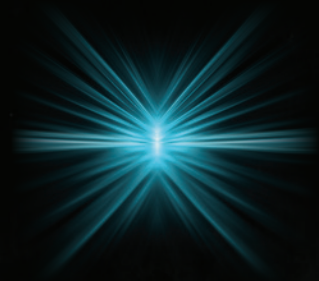


# REVIEW OF SYSTEMS

## Values of the Motor Industry Ombudsman of South Africa (MIOSA)

The Ombudsman and the entire staff of the MIOSA continue to deliver, despite ever-changing conditions. In pursuing its legislated mandate, the MIOSA strives to:

- Continuously deliver the required business results;
- Comply with quality, productivity, and service standards;
- Meet deadlines and maintain clear focus on the MIOSA's goals;
- Demonstrate good work ethic, show respect, display integrity, and have empathy with stakeholders' needs;
- Work cooperatively and effectively to achieve common goals;
- Participate in building a group identity characterised by pride, trust, and commitment;
- Effectively convey information and express thoughts and facts, thus demonstrating effective use of listening skills and displaying openness to ideas and thoughts;
- Efficiently utilise resources, resulting in quality outcomes;
- Encourage employees to accept responsibility for their actions and decisions and complete their work in an ethical and cost-effective manner;
- Display fairness, objectivity and independence;
- Deliver timeous decisions of a high calibre;
- Effectively communicate its purpose and work with the public;
- Maintain courteous, efficient, and informed interaction with all stakeholders.



## ADMINISTRATION DEPARTMENT

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The Administration Department has been very busy drafting design plans for the new case management system, intended to be released towards the end of 2023. Cooperation between the Case Management, Administration, Information and Liaison, and the Operations Departments is necessary in order to achieve this objective.

The plan is to create a system that is even more user friendly, reducing the potential for human error by creating templates and automatic responses, thus allowing the Case Management Department to maintain South African Automotive Industry Code of Conduct (Code) compliance. This system will also integrate the Inspectorate Department and Case Management Department systems, allowing the case managers immediate access to Industry Participant contact details and payment history to determine whether a Industry Participant is Code compliant.

The Motor Industry Ombudsman of South Africa (MIOSA) has set a target to achieve environmental

friendliness through paperless administration by 2024. The Administration Department has been in the process of planning the restructuring and redesigning of systems required to achieve this objective, whilst considering the MIOSA's obligation to keep individuals' personal information safe and secure under the requirements of the Protection of Personal Information Act 4 of 2013 (POPIA).

In the year under review the MIOSA's main emailing account received 23 278 emails, which is 14 659 more than the previous year. These emails mainly consist of enquiries as to how to lodge a complaint or to seek advice on current disputes. Approximately 749 files per month were archived, giving a total of 8 241 files for the year. These files consisted of pre-2018 closures.

In total, 8 199 files were booked in and out by the Administration Department on requests from case managers addressing consumer complaints.

## PUBLIC AFFAIRS DEPARTMENT

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The Public Affairs Department annual calendar kicked off with a bang as we started the year under review by participating in a week-long Financial Wellness event that was hosted by Northern Cape Department of Education in conjunction with the National Credit Regulator (NCR). Due to popular demand, we found ourselves back in that province within a short space of time and as a result, this campaign covered almost all the districts of the Northern Cape Department of Education.

The Northern Cape events opened sluice gates of successful awareness campaigns aimed at consumers and automotive and related industry participants across the country. We assisted industry participants in complying with the Code and facilitated numerous successful conciliations.

Other highlights included participation in the international Consumer Law Conferences and a symposium with Zimbabwean Consumer Protection delegates.

Not only did these events expose the MIOSA to a tapestry of international consumer protection laws, but they also bore testament to the exceptional work that is done by local ombud schemes and regulators. It also reaffirms our status as part of a global community of consumer protectors.

Back home, we shared knowledge and skills with our fellow stakeholders. Due to our experience in the

consumer education and awareness space, the Northwest Province Consumer Protection Office included us in a team that conceptualised and organised the 2023 World Consumer Rights Day (WCRD) event and its build-up events. We also went beyond the call of duty and supported community-based NGOs as part of our social and moral responsibility.

Among others we participated in Gauteng events during Mandela Month and were also involved in public service events and to raise awareness around autism. Our participation in community activities does not only resonate with the values of our organisation, but it also gives our employees confident self-fulfillment.

During the period under review the MIOSA participated in:

- Fifty-three Consumer Education Workshops (government employees and general consumers);
- Five virtual webinars;
- Twelve radio interviews;
- Four television interviews;

And conducted:

- Thirty-five awareness campaigns;
- Two Industry Participant information sharing sessions;
- Seventy-five compliance visits to the automotive and related businesses.



## INFORMATION & LIAISON DEPARTMENT

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It is extremely rewarding to be able to report that the Information & Liaison Department of the MIOSA has performed exceptionally well, making every effort to deliver a professional service to consumers and Industry Participants in the automotive and related industries of South Africa. We pride ourselves on the fact that we provide accurate advice and guidance on whether the consumer has recourse and if so, how to proceed with action accordingly, and to provide consumers as well as service providers with updates on the progress of cases.

If there is one thing we have learnt in the past year, it is how to adapt and innovate within our own circumstances and improve on previous years.

Pivotal to our success we continue to revisit our vision and mission, aspire to improve on customer care, and to

influence cordial relationships within our industry. Cooperation between the different departments is of utmost importance and the Information & Liaison office continues to work in harmony with all the other departments to achieve a high level of professionalism and discipline promoting better consumer care within the automotive and related industries.

The MIOSA invests in processes and systems aimed at improving its efficiency. This is the same for the technology used by the Information & Liaison Department. We source the newest and most advanced technology on the market to connect our office with the industry and consumers alike to boost accessibility to all and to ensure that consumers and Industry Participants are assisted in the best way possible.

## INSPECTORATE DEPARTMENT

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The Inspectorate Department is responsible for ensuring compliance of industry participants within the automotive industry as outlined in the South Africa Automotive Industry Code of Conduct (Code).

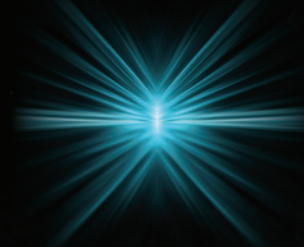
This is done through a door-to-door compliance approach for each province within the Republic of South Africa, from identification of industry participants to education and subsequent recording. This in turn gives the MIOSA the ability to record both compliant and non-compliant individuals and businesses within the automotive and related industries.

The Inspectorate Department carries out regular follow-ups and handles queries in relation to industry

participants, ensuring that the MIOSA database is always up to date.

Compliance and awareness visits were carried out in the various provinces during the past year in cooperation with the compliance officers from the National Consumer Commission, National Credit Regulator, and the South African Police Service. There was a clear focus on outlying areas as non-compliance in the smaller and remote areas remains a concern.

With the country experiencing the effects of load-shedding, there are a number of business closures in the automotive and related industries.



## LEGAL DEPARTMENT

**W**e are pleased to present the annual report for the Legal Department of the Motor Industry Ombudsman of South Africa (MIOSA), providing a comprehensive overview of our achievements, challenges, and strategic initiatives over the past year.

In the continued pursuance of support and education in the consumer protection environment, we are proud to report that the National Consumer Tribunal upheld the recommendation of the MIOSA relating to the practice amongst dealerships to sell second-hand vehicles as metal content. The Tribunal stated that the relevant dealership appears to be intentionally misleading and deceiving consumers with the words “sold as metal content” stamped on invoices, in a blatant attempt to defeat the purposes and policy of the Consumer Protection Act 68 of 2008 (CPA).

The Tribunal further stated that the vehicle was sold to the consumer on unfair, unreasonable and unjust terms, all aimed at getting the consumer to waive her consumer rights and the supplier’s liability. The Tribunal ruled that the dealership contravened Sections 48(1)(a)(ii), 48(1)(c), 51(1)(a)(i)(ii), 51(1)(b)(i)(ii)(iii), 51(1)(e), 55(2) and 56(2) of the CPA. The Tribunal ordered a full refund of the vehicle’s purchase price and imposed an administrative penalty.

As an integral part of the MIOSA’s commitment to financial stability and responsible practices, the Legal Department has played a vital role in safeguarding the interests of the Ombudsman through effective strategies to collect arrears contributions.

Throughout the year, the Legal Department made significant progress and successfully resolved a substantial number of outstanding contributions, ensuring that industry participants are compliant with the South African Automotive Industry Code of Conduct (Code) and contribute to the proper functioning of the MIOSA. By implementing a proactive and diligent approach, we have achieved a commendable collection rate, resulting in improved

cash flow and enhanced financial stability for the MIOSA.

During the year under review, 443 industry participants received letters of demand for arrears contributions and 547 summonses were issued against non-compliant industry participants. In 105 court cases, the MIOSA successfully obtained judgment in its favour, with 174 cases being set down or in execution. On 42 cases, active court litigation is still in process. The majority of defended cases, however, settle prior to court proceedings. Subsequent to initiating legal process, 247 industry participants made payment of the full arrears contribution and 104 industry participants arranged for payment over a period of time, while 143 payment arrangements carried over from the previous financial year.

Our legal professionals have demonstrated exceptional expertise in navigating complex legal frameworks and regulations governing collection.

Collecting arrears contributions inherently presents challenges, often requiring delicate negotiation and dispute resolution. Our team has encountered various obstacles, including industry participants in financial distress, legal complexities, cumbersome court processes and occasionally, unnecessary litigation. However, we have mitigated these challenges through a combination of empathy, professionalism, and legal expertise.

To address industry participants in financial distress, we explore mutually beneficial repayment options. This approach allows us to strike a balance between recovering outstanding contributions and supporting industry participants in need, fostering positive relationships even during challenging times.

In conclusion, the Legal Department’s efforts have yielded significant achievements over the past 12 months. Through our diligent and strategic approach, we have maximised collections while upholding legal and ethical standards.



## CASE MANAGEMENT DEPARTMENT

The Motor Industry Ombudsman of South Africa (MIOSA) provides a platform where recourse may be sought in disputes between consumers and suppliers, and suppliers and suppliers, within the supply chain of the automotive and related industries. This platform is a cost-free way in which a neutral and independent third party hears the dispute and provides a recommendation in which the parties may find resolution by applying principles of good engineering practice, good customer relations, natural justice and law.

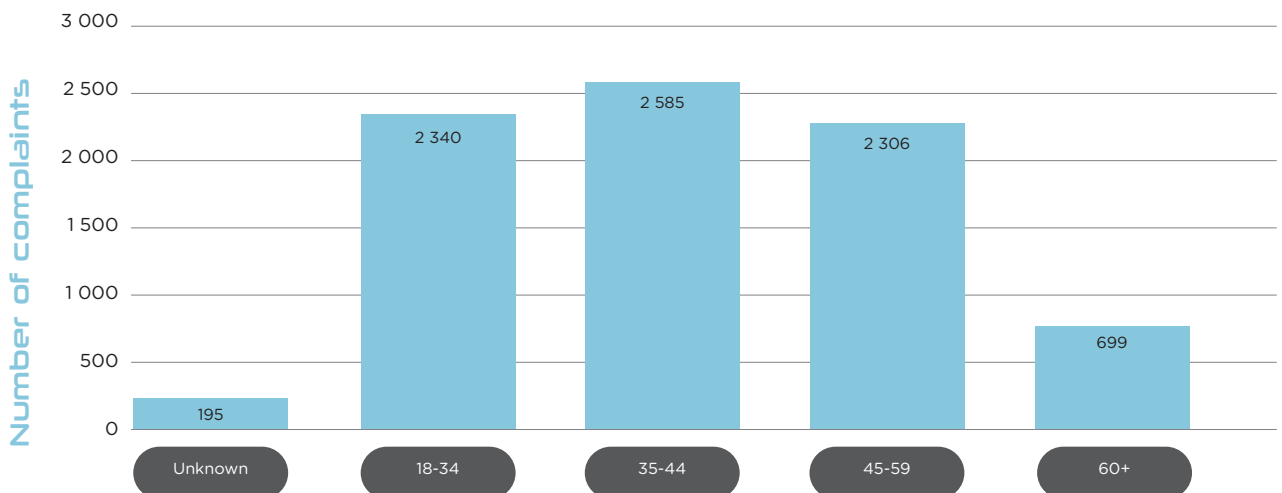
The Case Management Department comprises of the head of the department, who has three senior case managers reporting to him, each managing teams of five people – two case managers and three assistants. All case managers have a co-signer, so case managers check each other's work. The senior case managers compile weekly reports on the quality of closing letters and the application of the aforementioned principles.

Therefore, all work produced by the Case Management Department is triple checked.

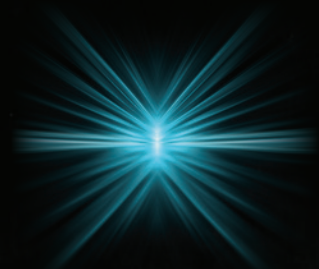
The MIOSA's average closing rate was 65 business days from receipt of a complaint to its closure. This is an improvement of 12 days over the previous year. The MIOSA received 8 123 new applications during the year under review. Of these 912 cases were deemed outside of MIOSA's jurisdiction and were referred to other forums, while 6 715 cases were referred to the industry for response. Of those 4 750 industry participants responded to the allegations within the allotted time. This then left 1 965 non-compliant industry participants that failed to abide by the MIOSA's request. This behavior is deemed a contravention of the Consumer Protection Act No.68 of 2008 in terms of Section 82, Subsection 8. These cases were brought under the attention of the National Consumer Commission for further investigation.

## CASE STATISTICS

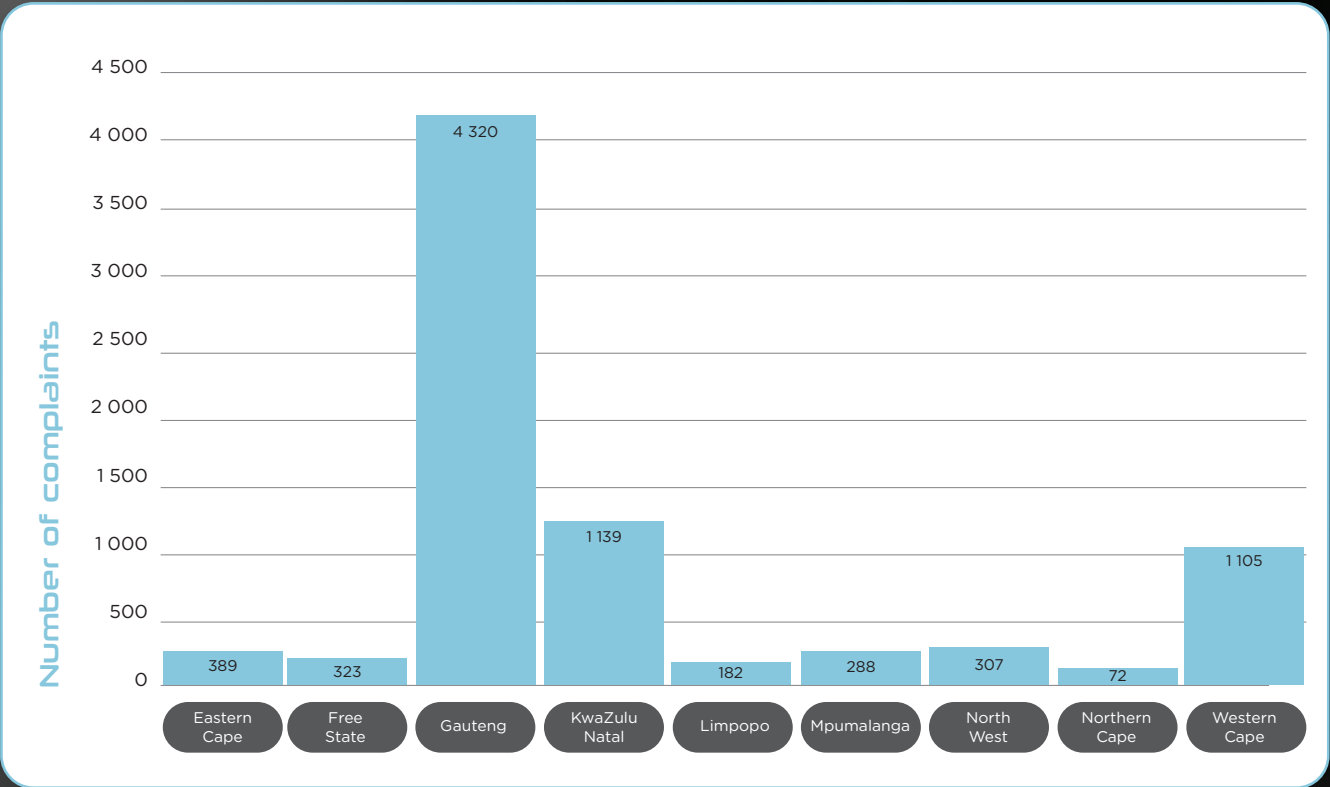
### Age group of complainants



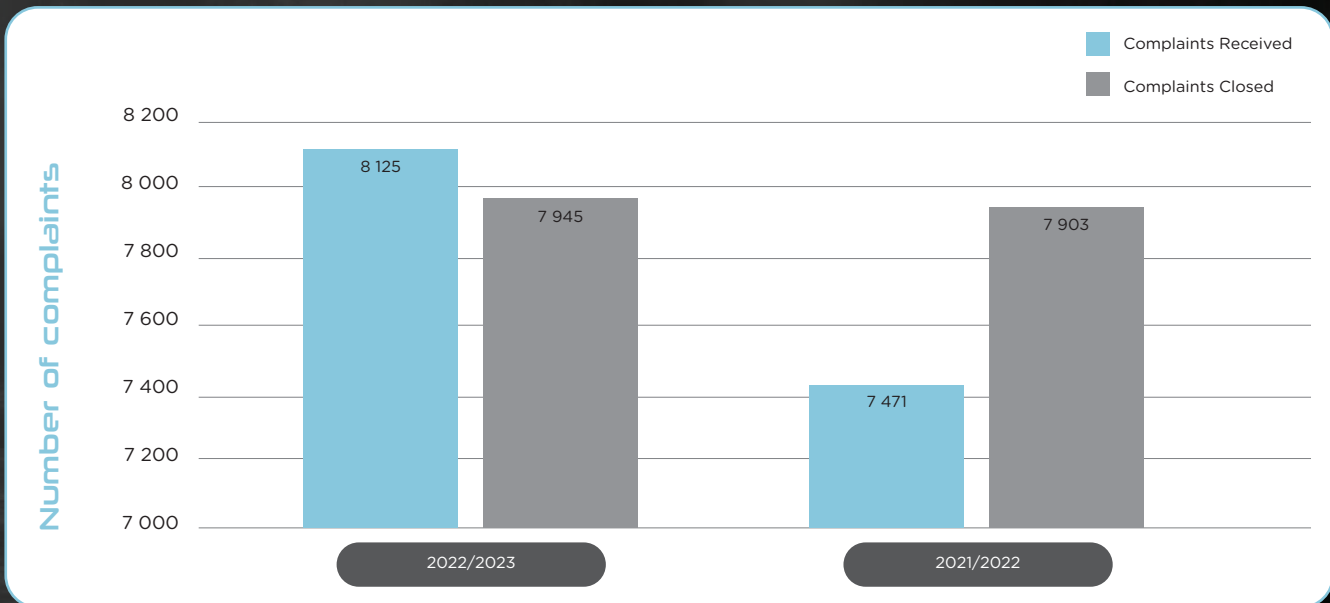




### Province where complaint originated



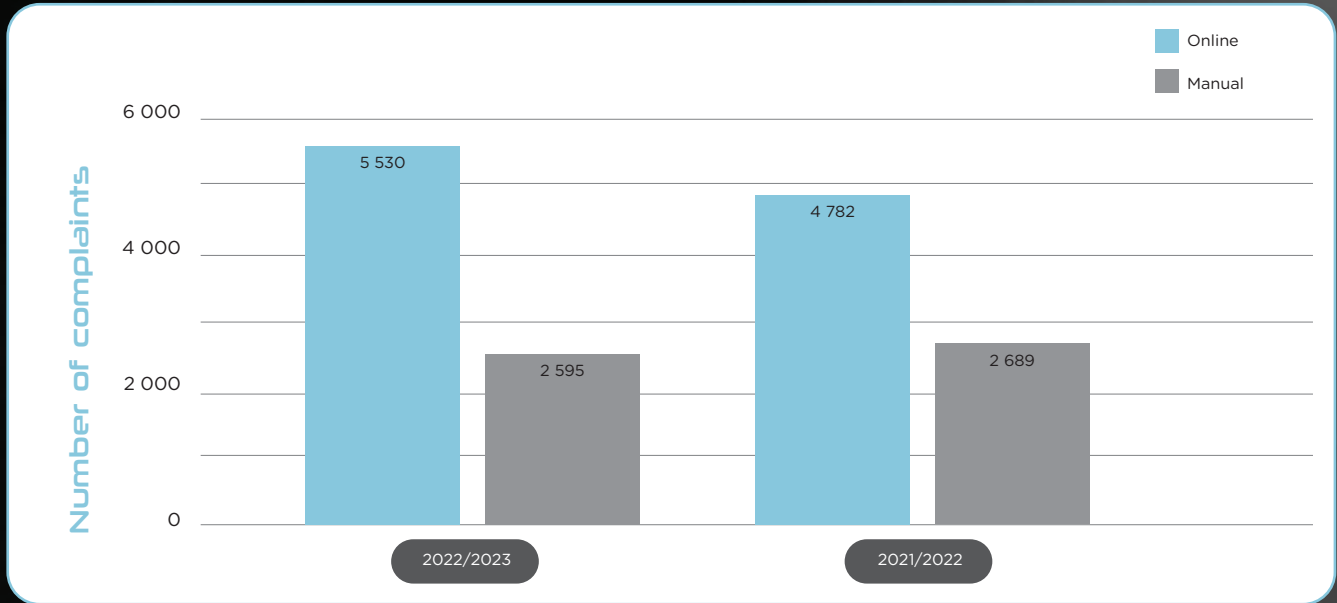
### Complaints received and closed



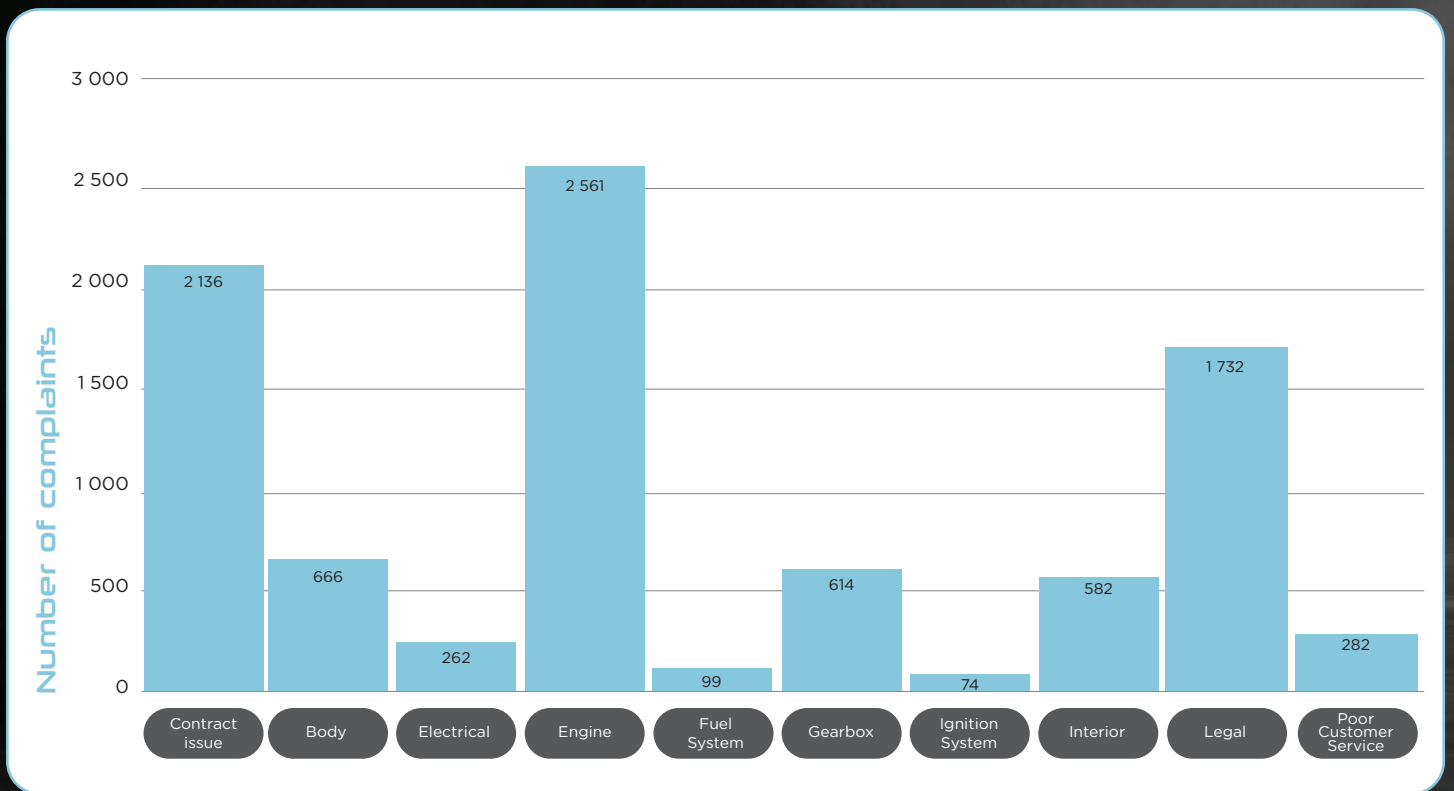


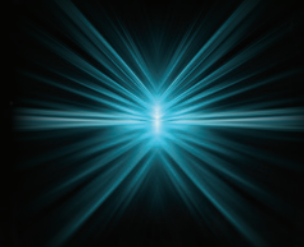
# CASE STATISTICS

Complaints submitted Online vs Manual



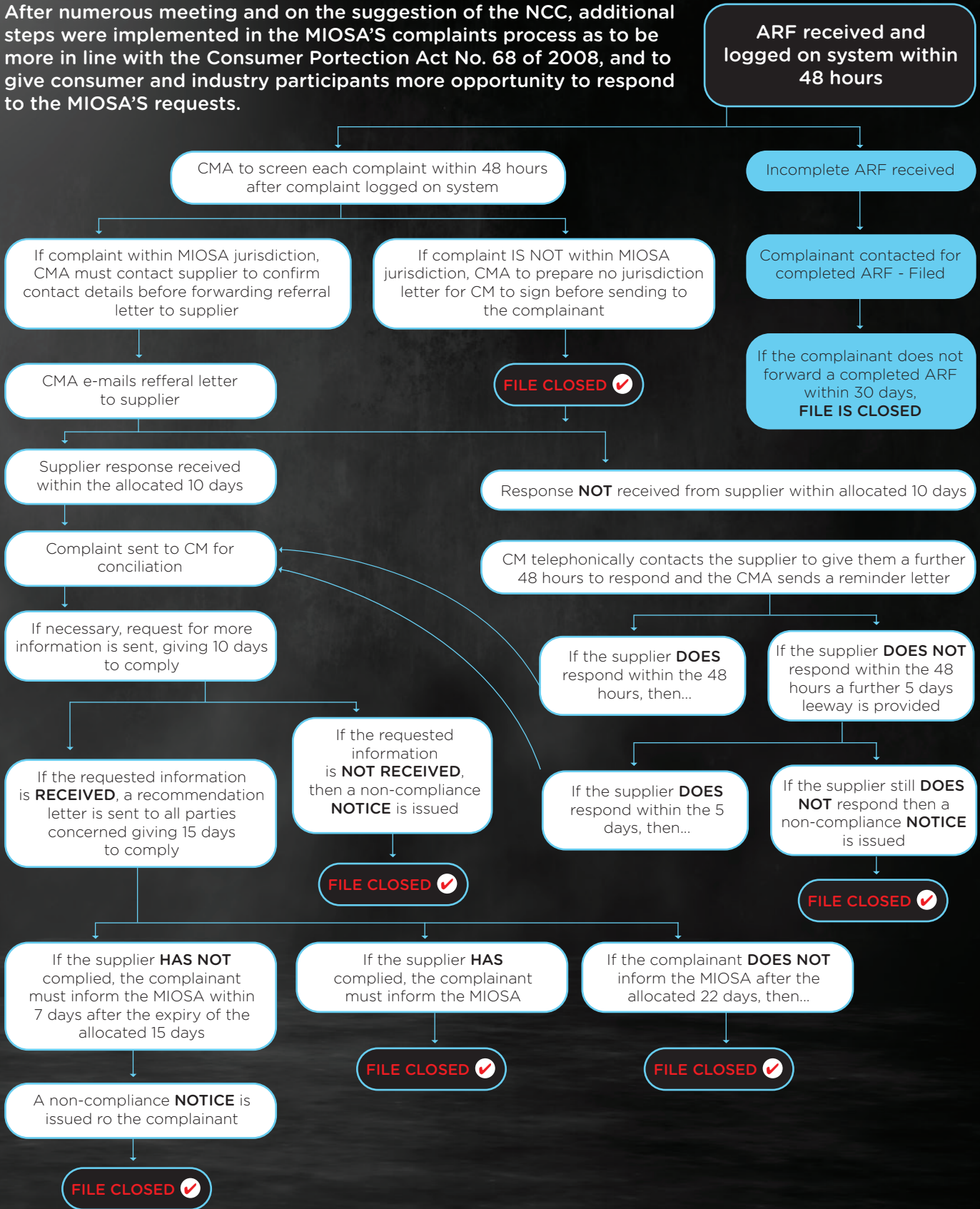
## Top Ten problem groups





# COMPLAINTS PROCEDURE

After numerous meeting and on the suggestion of the NCC, additional steps were implemented in the MIOSA'S complaints process as to be more in line with the Consumer Protection Act No. 68 of 2008, and to give consumer and industry participants more opportunity to respond to the MIOSA'S requests.





## CASE STUDIES

### Complaint

The complainant purchased a used 2016 vehicle from a second-hand car dealership (industry participant). Shortly after taking delivery of the vehicle, the complainant had it inspected by a manufacturing dealership, whereupon he was informed that the vehicle's curtain airbags had been tampered with. A report was issued, stating that the airbags were cable-tied, and the wiring was found to have been tampered with to clear the airbag warning light.

The supplier stated that the complainant had the vehicle's airbag housing opened by a third party prior to their inspection and as such, it would be difficult for them to accept responsibility.

### Finding

The office of the MIOSA made a finding that, in line with Section 56 Subsection 2 of the Consumer Protection Act No. 68 of 2008 (CPA), the sales transaction be cancelled, and the complainant be refunded the purchase price less cost of usage as stipulated in Section 20 Subsections 5 and 6 of the CPA.

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### Complaint

A complainant experienced a breakdown with her vehicle after the engine had been repaired by a service provider. The repairer assessed the vehicle but informed her that said breakdown was not related to the work they had carried out.

### Finding

An independent assessment was carried out on the vehicle which revealed that the engine failed as a result of the work carried out on the engine by the repairer. The MIOSA's finding was that the vehicle's engine be repaired by the repairer at no cost to the complainant in terms of Section 57 of the CPA.

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### Complaint

According to the complainant, he experienced a gearbox problem with his newly purchased model year 2020 vehicle during 2021. It was repaired but the same concern arose during August 2022 and the complainant wanted the manufacturer to replace the vehicle.

### Finding

The investigation by the MIOSA discovered that the gearbox failed approximately 13 months after the six months implied warranty in terms of Section 56 Subsection 2 of the CPA had lapsed. The manufacturer had complied with its warranty terms and conditions by replacing the complete gearbox unit at no cost to the complainant and the vehicle was operating normally once again. As the vehicle was operating within manufacturer's specification, the MIOSA found that the vehicle replacement request by the complainant would not be reasonable.

### Complaint

The complainant purchased a used tractor and soon after taking delivery, the head gasket blew. The complainant had the tractor repaired by his own diesel mechanic and states that upon further investigation, many other issues were found. The tractor was also a 2006 model and not a 2012 model as advertised. He wanted a refund.

### Finding

Although the tractor failed within the parameters of the six-month implied warranty as per Section 56 Subsection 2 of the CPA, the complainant elected to have it taken to a mechanic of his choice for the necessary repairs. The respondent in full and final settlement offered the complainant an amount of R15 000, which he accepted. The MIOSA cannot alter or change the contents of agreements entered into and by accepting the settlement, the complainant acted in a manner consistent to having settled the matter with the respondent. The office of the MIOSA cannot support the expectations as stated in the submission made by the complainant.

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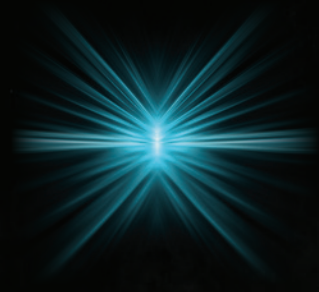
### Complaint

The complainant purchased a used motorcycle from the respondent, and after taking delivery, the motorcycle's stand broke off. The respondent refused to assist and said the motorcycle was sold without any warranty. The vehicle then developed electrical concerns and it also did not have a full service history as advertised. The motorcycle was returned for repairs on four different occasions, but no documented proof of the repair work carried out was provided. The customer indicated that he no longer wanted the motorcycle.

### Finding

The MIOSA found in the complainant's favour, in terms of Section 55 Subsection 2 as well as Section 56 Subsections 2 and 3 of the CPA. This states that within six months after the delivery of any goods to a consumer, the consumer may return the goods to the supplier, without penalty and at the supplier's risk and expense, if the goods fail to satisfy the requirements and standards contemplated in Section 55. In addition, the supplier must, at the direction of the consumer, either repair or replace the failed, unsafe or defective goods; or refund to the consumer the price paid for the goods. Also, if a supplier repairs any particular goods or any component of any such goods, and within three months after that repair, the failure, defect or unsafe feature has not been remedied, or a further failure, defect or unsafe feature is discovered, the supplier must replace the goods; or refund to the consumer the price paid by the consumer for the goods.

As per Section 20 of the CPA, the respondent was allowed to charge the consumer a reasonable amount for usage during the period of ownership.



## LETTERS RECEIVED

"I would like to express my sincere gratitude for the good work you are doing and honouring your oath in protecting the rights of the consumers and fairly handling consumer and supplier disputes. May you carry on affording ordinary people access to justice and fair treatment."

**K Nkwana**

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"Thank so much for the feedback, I trust and believe in your investigation. I'm so happy for the outcome."

**K Lekalakala**

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"Thank you for your all assistance with this matter since it was handed over to you. We appreciate the professional way in which you have handled our issue and dealt with us throughout this otherwise difficult time for our family. Thank you so much."

**W Jozi**

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"I just want to take this opportunity to thank the MIOSA again for coming all the way from Bloemfontein to assist in the resolution of this matter. Your explanations and understanding of the situation were greatly appreciated."

**S Paul**

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"We acknowledge your recommendation and thank you for your friendly and professional assistance as always."

**D Snyman**

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"I just spoke to one of your Information & Liaison Agents and was impressed with his professionalism. Thanks for the help."

**W van Helden**

"Thank you MIOSA and Case Manager for taking the time to review my case and provide your feedback. I truly do appreciate all the efforts from the whole team involved."

**C Pretorius**

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"Thank you very much for your quick response. It is always nice to work with professional people like you."

**S Maluleke**

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"We would like to thank each of you involved with the matter, and getting this problem resolved. We are truly grateful for all your advice and assistance during this period and going forward we will put in place all we have learnt from this."

**L Viljoen**

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"I would like to say thank you for assistance with this matter, a new radio and alarm system were installed. I appreciate your help so much."

**S Ngece**

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"Thank you for all that you have done for me, I truly appreciated it. THANK YOU SO VERY MUCH."

**S Nkosi**



## THE WAY FORWARD


With the continued development of technology there are already exciting developments in place for the year ahead.

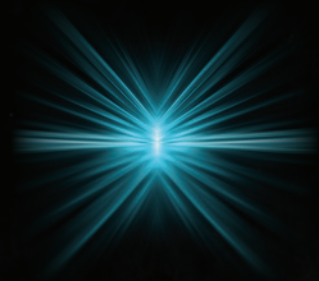
These developments will not only speed up the processes in the office, but also promise to deliver a far speedier resolution to the thousands of complaints received by the MIOSA.

It is easy to criticise the MIOSA for some of the complaints received that did not bring about more favourable recommendations for consumers. However, critics have no idea of the sheer volume of complaints the MIOSA deals with on a daily basis. With this in mind, the MIOSA continuously strives to streamline its processes.

There are very few organisations that have the same in-depth knowledge of not only the South African Automotive Industry Code of Conduct but also the Consumer Protection Act 68 Of 2008.

The MIOSA is secure in the knowledge that it endeavours to try its very best for both consumers and the motor and related industries. This office will continue to maintain its good record of fairness within its mandate to ensure that the outcomes achieved are the best possible for all parties concerned.





## A WORD OF THANKS

The Motor Industry Ombudsman of South Africa (MIOSA) can confidently state that it enjoys the full support of the formal automotive and related industries in South Africa. The MIOSA wishes to thank the following organisations and institutions for their generous support:

- Government, through the Department of Trade, Industry and Competitions, the provincial consumer protection agencies, the National Consumer Tribunal, provincial consumer protectors, the consumer courts, and the Departments of Justice and Transport, with a special word of thanks to the National Consumer Commission;
- The chairpersons and executive directors of the National Association of Automobile Manufacturers of South Africa, the National Association of Automotive Component and Allied Manufacturers, the Retail Motor Industry organisation and the Independent Dealer Association;
- Members of the South African motoring public, who have ensured the ongoing growth of the MIOSA;
- Vehicle manufacturers, importers and the retail automotive and related industries;
- The media through its positive and ongoing support;
- The South African Consumer Union and the South African Fraternity of Attorneys;
- The Ombudsman for Banking Services;
- The Consumer Goods and Services Ombudsman;
- The Credit Information Ombudsman;
- The FAIS Ombudsman;
- The Ombudsman for Short-term Insurance.

The MIOSA also wishes to extend its sincere thanks to the dealer groups and the great number of individual motor-related businesses for realising the importance of customer care and retention as the basis for success. Their support and continued acknowledgement have resulted in the MIOSA growing from strength to strength. We trust that our services will continue to benefit all parties in 2023.



## THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA

Founder Member of the Ombudsman  
Association of South Africa



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