

Community Schemes Ombud Service Dispute Resolution Process

In terms of Section 38 of the CSOS Act, any person in a community scheme may make an application to the CSOS if such a person is a party to or is materially affected by a dispute.

The CSOS provides an Alternative Dispute Resolution service. This entails the resolution of disputes outside of the courts. This method is often preferred as the most cost effective and speedy way of settling disputes through methods such as conciliation and adjudication.

Stage 1: New application

The first step of the dispute resolution process includes receipt, registration and acknowledgement of a new application.

Applications for Dispute Resolution may be lodged in person (walk ins), online on this website, by e-mail on complaints@csos.org.za, fax on (010) 590 6154 and post.

All new applications must be captured on the **Application for Dispute Resolution Form**

The **Application for Dispute Resolution Form** must be completed in full and all relevant information pertaining to the application must be recorded accurately to eliminate any ambiguity.

In the event of a late application the complainant must complete the Application for Condonation for Late Submission Standard Form

Stage 2: Assessment

Once registered, the application will be assessed to determine validity.

There are grounds for which an application may be rejected by the CSOS for example:

- The matter falls outside of the jurisdiction of the CSOS
- Failure to exhaust the internal disputes mechanism processes that exist within the particular community scheme
- Failure by the applicant to comply with the 14 day written request for further information
- Another competent authority such as a court of law and/or tribunal can best deal with the matter.
- Application for waiver of adjudication fees is denied.

Where there is no internal dispute resolution mechanism in a community scheme, applicants are entitled to approach the CSOS directly.

Once it has been established that an application is valid and that the dispute is capable of being amicably resolved, the application will be set down for conciliation.

Step 3: Conciliation

At the conciliation stage, applications are categorised into:

1. Informal Type – quick telephone conciliation
2. Formal Type - conciliation hearing

All parties to a dispute participate in a conciliation hearing which is chaired by the CSOS Conciliator who is there to assist the parties in finding a resolution.

If the matter is not resolved, the conciliator will issue a **Notice of Non-Resolution and Referral to Adjudication**.

Step 4: Investigation and Adjudication

Matters that are referred for adjudication will be subject to a thorough investigation prior to presentation at the adjudication hearing.

The investigation process may include inter alia:

- Requests for additional information and/or documentation
- Requests for sworn statements or affidavits
- Analysis of photo evidence
- Conducting inspections in loco as per section 51 of the Act
- A review of all relevant and applicable legislative and other prescripts.

At the adjudication hearing the Adjudicator will consider all the evidence presented and will hand down a determination which is binding on all parties to the dispute.

Adjudicator orders are enforceable in the Magistrate Court or High Court depending on the quantum or nature of relief granted in the determination.

The Dispute Resolution Process Map

Take on Process – 5 days

Day 1 – registration of complaint on Caseware system and issue of a reference number; issue of acknowledgement letter.

Day 4 – Escalate matter to complaints manager for assessment

Assessment Process - Complaints Manager – 5 days

Day 6 – Screening of complaints to determine jurisdiction

- (1) if rejected -reject and send rejection letter and close matter
- (2) if accepted - accept and proceed to conciliation – allocate the matter to a conciliator

Conciliation – 40 days

- (1) Conduct preliminary enquiry
 - (a) Informal route – quick resolutions
 - (i) Facilitate telephonic resolution and resolve the matter – settlement agreement and matter is closed
 - (b) Formal Route
 - (i) Issue notice of set down to parties (21 days notice)
 - (ii) Formal conciliation hearing with both parties present
 - (a) Resolved - settlement agreement and matter is closed
 - (b) Unresolved - matter is referred to investigations for adjudication and the issue of adjudication notice and notice of non resolution

Investigation – 14 days

- (1) Information gathering and evidence collation
- (2) Conduct and inspection in-loco if required
- (3) Determine applicable legislative framework
- (4) Produce and investigation report with recommendations.

Adjudication – until finding is made

Adjudicator to evaluate the evidence and make a decision

- (1) Review of the documentary evidence and decision
 - (a) Adjudicator makes a finding and issues an adjudication order, with appropriate remedial action. – Matter is then closed
- (2) Adjudicator Issues an Adjudication Notice with a date of the hearing
 - (1) Formal Adjudication Hearing is held
 - (2) Adjudicator makes a finding and issues an adjudication order and appropriate remedial action – matter is then closed