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FWA Tribunal & Dispute Resolution Reform

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Purpose

- Provide clarity on adjudication and escalation pathways.
- Explain the role and scope of the FWA Tribunal.
- Strengthen confidence in independent dispute resolution.

Why Reform Dispute Resolution

Context for reform

- Fragmented escalation routes.
- Prolonged disputes and litigation.
- Perceived lack of impartiality.
- High cost and adversarial outcomes.

Objective

A structured, lawful, and proportionate dispute-resolution framework

Ministerial Engagements & Oversight

Ministerial engagement on FWA reform

- Regular engagements between CMS and the Minister of Health.
- Ministerial guidance provided on:
 - Separation of investigation and adjudication
 - Strengthening independent dispute-resolution mechanisms
 - Ensuring procedural fairness and constitutional alignment

Key message from Ministerial engagements

- Reform must restore trust.
- Adjudication must be independent, fair, and credible.
- CMS must act within the law while protecting the public interest.

What the FWA Tribunal Is

The FWA Tribunal

- A specialised adjudicative forum for FWA-related disputes.
- Independent from investigative processes.
- Focused on fairness, proportionality, and reasoned outcomes.

Adjudication forum – not an investigative body

Structure & Mandate

Key design features:

- Independent decision-makers.
- Clear terms of reference.
- Defined procedural rules.
- Written, reasoned determinations.

Mandate:

- Adjudicate designated FWA disputes.
- Improve consistency and efficiency.
- Reduce unnecessary litigation.

Jurisdiction & Scope

Within scope:

- Defined FWA-related disputes.
- Matters referred after internal processes.
- Prospective and ongoing cases.

Out of scope:

- Investigations.
- Broad retrospective reviews.
- Replacement of courts or statutory appeals.

Interface with Existing Processes

How the Tribunal fits in

- Existing mechanisms remain in place:
 - Registrar-level processes.
 - Internal resolution mechanisms.
 - Appeals structures under the Medical Schemes Act.
- The Tribunal adds a specialised adjudication layer.

Courts remain the ultimate forum of review.

Integrated Section 59 & FWA Dispute Resolution Pathway

Section 59 & FWA Process Flow

Claims Submitted & Paid (s59(2))



FWA Detection / Investigation



Notice & Engagement



Internal Resolution Attempt



FWA Tribunal (Independent Adjudication)



Outcome & Directions



Appeal / Judicial Review (if applicable)

Why This Strengthens Confidence

For providers:

- Independent and impartial adjudication.
- Predictable procedures and timelines.
- Reduced reliance on litigation.

For schemes:

- Legal certainty.
- Consistent outcomes.
- Reduced legal exposure.

For CMS:

- Credible oversight.
- Defensible regulatory decisions.

Governance & Procedural Safeguards

Safeguards built into the framework

- Procedural fairness (PAJA-aligned).
- Separation of investigation and adjudication.
- Transparency in reasoning.
- Proportionate, reasoned outcomes.

Current Status & Next Steps

Current position:

- Legal design refined and aligned.
- Integration with Section 59 reforms.
- Ministerial and stakeholder engagement ongoing.

Next steps:

- Phased implementation.
- Continued consultation.
- Operational readiness and capacity planning.

Closing

- **The FWA Tribunal is about restoring trust — not centralising power.**
- It forms part of a broader effort to ensure that fraud, waste, and abuse disputes are resolved fairly, independently, and lawfully, while protecting beneficiaries and the sustainability of the healthcare system.



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THANK YOU

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