

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: FAB127/2020

In the matter between:

J A S WHEELWRIGHT

APPLICANT

and

LIBERTY GROUP LIMITED

FIRST RESPONDENT

THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

SECOND RESPONDENT

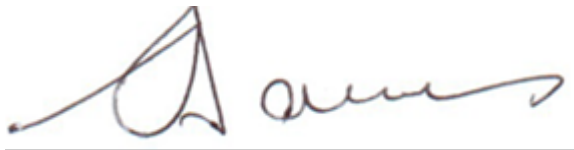
Application for reconsideration of a complaint summarily dismissed by the FAIS Ombud.

DECISION.

1. The applicant (the complainant) applies for the reconsideration of a decision by the FAIS Ombud.
2. The application is under sec 230 of the Financial Sector Regulation Act 22 of 2017.
3. The parties have waived their right to a formal hearing.
4. The complaint was dismissed by the Ombud in terms of Rule 7(b)(i) of the Rules of the Proceedings of the Office of the Ombud. It provides that the Ombud may dismiss a complaint without referral to any other party if on the facts provided by the complainant it appears to the Ombud that the complaint does not have any reasonable prospect of success.
5. The consequence of this decision is that the Liberty Group Ltd, against whom the complaint was laid, was not asked for its input.

6. As was indicated when leave to apply was granted, there are material issues that must be considered, which were not addressed by any party. The documentation is in any event incomplete.
7. It is impossible to make a finding on the papers as they are and, in particular, since the Ombud has not yet applied the audi principle by notifying Liberty of the complaint and inviting its input, the appropriate order is to set aside the decision and refer it back to the Ombud to investigate the complaint in the ordinary course and not summarily.
8. It is so ordered.

Signed on behalf of the Tribunal on 30 April 2021.

A handwritten signature in blue ink, appearing to read 'LTC Harms', enclosed in a thin black rectangular border.

LTC Harms (deputy chair)