Financial Services Tribunal

THE FINANCIAL SERVICES TRIBUNAL

CASE NO. A17/2026

In the matter between:

DR PETER-JOHN KARLE KANE **APPLICANT**

and

FINANCIAL SECTOR CONDUCT AUTHORITY **FIRST RESPONDENT**

AON SA (PTY) LTD **SECOND RESPONDENT**

Tribunal Panel: Judge LTC Harms (Tribunal chairperson), Adv. William Ndinisa and Zama Nkubungu-Shangisa.

Appearance for Applicant: The applicant appeared in-person.

Appearance for Respondent: Ms. Z Mshunqane on behalf of the first respondent.

Date of Hearing: 27 May 2026

Date of Decision: 12 June 2026.

Summary: Reconsideration application in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 (“the FSR”). In limine decision on jurisdiction and powers of the FSCA and the Tribunal.

DECISION

1 The parties to this application are the Applicant, Dr Kane; the Financial Sector Conduct Authority (“the FSCA”) and AON SA (PTY) Ltd, a company licensed in terms of the Financial Advisory and Intermediary Services Act 37 of 2022 (“the FAIS Act”) as a financial services provider.

2 The applicant applies under in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 (“the FSR”) for the reconsideration of an alleged decision by the FSCA, which is reflected in the letter of the FSCA of 19 February 2026.

3 We begin by setting out the background.

4 AON, as financial service provider, placed the Applicant on a Pinion/Santam homeowners' policy, effective 26 October 2018.

5 The policy schedule reflected "Limited Subsidence and Landslip: Yes" and "Extended Subsidence and Landslip: Not Taken/ RO.OO."

6 The Applicant's property subsequently sustained structural damage consistent with soil movement. He submitted claims to Santam in 2021 and again in 2024. Both claims were rejected because of the limited subsidence cover notation mentioned and related exclusions. The Applicant pursued his claim against Santam through its Internal Arbitrator without success. Since the Santam claim is not a matter with which we are concerned, we do not deal with it any further.

7 The Applicant then moved his focus to AON because, so he alleged, he was at no stage properly informed of this material limitation, nor did he knowingly elect limited subsidence cover. He therefore alleged that AON had breached the General Code of Conduct for Authorised FSPs and Representatives promulgated under the FAIS Act.

8 Complaints about non-compliant advice is dealt with by the FAIS Ombud under the FAIS Act, but the Applicant, for reasons of his own, pursued other routes, and did not lay a complaint with the Fais Ombud. And he did not institute legal proceedings. So much for his submission that if the Tribunal does not assist him, it means that the law and Constitution have failed him.

9 The Applicant lodged a complaint in May 2025 with the FSCA against AON. He sought a finding of liability against AON based on a breach of AON's statutory obligations under FAIS and the Code “in connection with the October 2018 insurance placement specifically” because AON had failed to conduct a proper informed consent and disclosure process, resulting in the Applicant holding limited subsidence cover without his knowledge or meaningful consent.

10 The response of the FSCA to his complaint is contained in the mentioned letter in which the FSCA dealt with the allegations and AON’s answer; it informed the Applicant that it had considered his complaint and the applicable legislative framework. It then notified him that it was satisfied that no regulatory breach warranting any “enforcement action” had been established and that its file was accordingly closed.

11 The Applicant then filed this reconsideration application. The main relief and the alternatives run to nearly two closely typed pages and will not be repeated in full. What the applicant in essence claims is an order that AON pay the applicant compensation equivalent to the amounts that would have been payable by Santam if the policy limitations had not been present in the policy. This would be based on a finding or declaratory order that AON had breached its obligations under the Code.

12 We do not propose to analyse the alternatives because if the key issues are determined in the Applicant's favour, we must remit the matter to the FSCA (the Tribunal does not issue directions) and if they are determined against the Applicant the application stands to be dismissed.

13 The Chairman of the Tribunal decided that the question of jurisdiction, which had been raised by the FSCA, should be dealt with as a separated matter.

14 As the Tribunal has often indicated, the legal principle, confirmed by the Constitutional Court in *Gcaba v Minister for Safety and Security* 2010 (1) BCLR 35 (CC), 2010 (1) SA 238 (CC) para. 75, is that jurisdiction is determined with reference to the allegations in the pleadings and not by the substantive merits of the case. In the event of jurisdiction being challenged at the outset (*in limine*), the complaint is the determining factor since it contains the legal basis of the claim under which the complainant has chosen to invoke the Tribunal's competence.

15 On that basis, the first question is what the powers of the FSCA are if it receives a complaint from a member of the public about an entity that is

subject to its jurisdiction. It obviously investigates the complaint administratively and if it concludes that there is merit in the complaint it may proceed to "enforcement action" and (a) debar a natural person who had contravened a financial sector law in a material respect under sec 153 of the FSR Act and/or (b) it may impose an administrative penalty in terms of sec 167 and/or (c) withdraw or suspend the licence or authorisation of the FSP under sec 9 of the FAIS Act.

16 What it cannot do is to order the FSP to pay the complainant loss or damages or anything else. It is not an Ombud or a court of law.

17 When this was explained to the Applicant, he changed tack and insisted (as we understood it) that AON's licence should be withdrawn and/or that an administrative penalty should be imposed on it.

18 The simple question is then whether the Applicant will be any richer or poorer depending on what the FSCA does, and the answer is that he will be neither. He, consequently, has no legal interest in whatever administrative action the FSCA takes or does not take. This means that he is not a person aggrieved by the decision of the FSCA not to take any action against AON.

19 The issue about the meaning of "person aggrieved" as a jurisdictional requirement for this Tribunal to consider a "decision" has been dealt with *ad nauseam* by the Tribunal, more recently in **I-Prop (Pty) Ltd and Another v Polson N.O. and Others (A35/2025) [2026] ZAFST 22 (13 April 2026)** and **Boshomane v Johannesburg Stock Exchange and Others (JSE1/2026) [2026] ZAFST 32 (23 April 2026)**.

20 The Applicant did not offer any argument to show that these decisions, which apply superior courts' decisions, were wrong. Retribution is not a legal interest.

21 The reconsideration application therefore stands to be dismissed in limine because of lack of jurisdiction.

ORDER: The reconsideration application is dismissed.

Signed on behalf of the Tribunal on 12 June 2026.

__*Sgd L T C Harms*____
LTC Harms (chairperson)