



**RESEARCH STUDY ON CONFLICT
MANAGEMENT & RESOLUTION
IN RETIREMENT BENEFITS SCHEMES**

By Social Security Study Group

CONTRIBUTORS AND ACKNOWLEDGEMENTS

This research was compiled by members of Enwealth Financial Services Ltd. (Enwealth) in collaboration with Strathmore University. This study addresses key components of Conflict Management Resolution in Retirement Benefits Schemes.

We hope that this work will contribute to the thinking and decision making of individual members of Retirement Benefits Schemes and relevant policy bodies in the spirit of enhancing the social security industry in Kenya.

Special thanks and gratitude to the members of Retirement Benefits Schemes who participated in the survey as well as other stakeholders who gave their support and time towards the fruition of this research.

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ABOUT ENWEALTH FINANCIAL SERVICES

Enwealth Financial Services Ltd (previously Liberty Pension Services Ltd) is licensed by the Retirement Benefits Authority as an Administrator. Enwealth has taken a unique approach by providing customer centric and innovative solutions in social security financial services and earned its position as a trendsetter in the industry.

Within 9 years, the company has registered tremendous success and is currently providing services to over 120 Corporates with over \$620 million in assets under Administration. Our innovative approach to client service and product design, driven on the platform of strong corporate governance and integrity has been the cornerstone of this momentous growth.

We express gratitude to the following team for their insightful contributions towards the development of this research.

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EXECUTIVE SUMMARY

This study addresses key components of Conflict Resolution in Retirement Benefits Schemes. It evaluates the nature of Conflicts encountered in Retirement Benefits Schemes and assesses the consequences of the conflicts. The study also evaluates the extent of understanding of the process of Conflict Management of stakeholders in Retirement Benefits Schemes. In addition, it captures information on Conflict across the Financial Service Industry and gives a market comparison with other markets.

The respondents were both male and female from different sectors with highest number being from Financial Services and Public Service Sector. Out of every 10 respondents, 4 had encountered 1-5 cases of conflict within the last year, while 1 out of every 10 had encountered 5 cases indicating the occurrence of conflicts in Retirements benefits management in considerable frequency. 52% of the respondents noted that at least 1-6 hours are spent handling the conflict that arise.

The study indicated that the leading causes of conflicts are lack of information, non- remittance of pension deductions and delayed payments. 40% of the conflicts encountered resulted from processing of the final benefits, 13% from expenses charged to the fund and 11% from appointment of trustees. The amounts involved in the conflict highlighted in the study, ranged from KES 1 - 6 million with 40% of the conflict involving money less than a million Kenya shillings. Contrary to the norm, the study also shows that conflict can result in positive feedback that can catalyze change. 29% of

respondents experienced a better understanding of how to handle such conflicts, 23% had an increased awareness on the importance of active member participation in retirement benefit matters and 13% of the responses indicated an improved working relationship between parties. However, 5% of the respondents did not have positive outcome from conflicts with some of the negative outcomes being Personal insults/attacks, harassment, reputation tarnishing of the incidences.

The study findings indicate that 72.2% of stakeholders may not be aware of the existence of a conflict resolution policy in their schemes. This shows that most of the conflicts are resolved in a manner that doesn't adhere to scheme guidelines (for schemes that have a conflict resolution policy) or a "wing-it" manner.

The report prospects that the current conflict resolution mechanisms are not holistic resulting in escalation of disputes. The major areas of conflicts require further investigation and rehabilitation action by stakeholders in the industry. Some of the recommendations include; Improved retirement benefit governance, effective communication between stakeholders, members training and effective policy formulation.



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RESEARCH BACKGROUND

1.1 Introduction

Worldwide, pension systems are under more pressure than ever before because of rising life expectancy, increased government debt, uncertain economic conditions, inflation risk, and a shift towards defined-contribution plans. (Folger, 2020)

With daily interaction of service providers and customers in the Retirement Benefits Schemes and the entire Financial Services Industry, Conflict is Inevitable. Moreover, with diverse personalities, attitudes, values, perceptions, languages and cultures, conflict cannot be avoided and has different consequences, both positive and negative. Conflicts in Retirement Benefits Schemes exist at different stages of operation.

- At the time of appointment of trustees and service providers
- At the time of onboarding a member
- At the time of distributing a benefit

For this reason, it is extremely important for retirement benefits sector to appreciate principles on conflict management and resolution.

Research done by Yirgalem Abera in Assessing conflict Management says, not all conflict is bad. In fact, some types of conflict encourage new solutions to problems and enhance the creativity in an organization. In these cases, parties will want to encourage the conflict. Therefore, parties should stimulate functional conflict and prevent or resolve dysfunctional conflict. This is the key to conflict management. However, the difficulty lies in trying to test the difference between dysfunctional and functional conflict. The consequences of conflict can be positive or negative. (Nelson and Debra, 1956).

Businesses can benefit from appropriate types and levels of conflict. That is the aim of conflict management, and not the aim of conflict resolution. Conflict management does not imply conflict resolution. (Wikipedia, 2020) Conflict resolution involves elimination of all types and all forms of conflict whereas conflict management involves limiting the negative aspects of conflict while increasing the positive aspects of conflict.

Understanding the process of conflict management of stakeholders in Retirement Benefits Schemes is crucial to ensuring that the negative impact of conflict is minimized and the positive outcomes are looked into with the aim of improved learning and group outcomes, including effectiveness or performance in spaces. For a proper understanding of the process of conflict management, the stakeholders in the industry need to have an insight in the nature of the conflicts encountered in Retirement Benefits Schemes' space and the kind of impact that they have.

This research will solely focus on the nature of Conflicts encountered in Retirement Benefits Schemes and assessment of the consequences of the conflict. It will also focus on the extent of understanding of the process of Conflict Management of stakeholders in retirement benefits Schemes with the aim of exposing areas of weaknesses that need improvement for the betterment of the Retirement Benefits Schemes governance.

1.2 Conflicts in Retirement Benefits Schemes

Regulation 7(v) of the Retirement Benefits (Occupational Retirement Benefits Schemes) Regulations require that scheme rules shall make provision for "the manner in which disputes between the parties of a scheme shall be resolved".

Conflicts in Retirement Benefits Schemes may arise between different entities within the sector; Trustees, Members, Beneficiaries, Sponsors, Service providers, Regulators.

Conflicts between the trustees and beneficiaries are unique. Beneficiaries lay claim to the benefit dues of a deceased member of the retirement benefit scheme. The trustee is expected to act in the best interest of the beneficiary, regarding who benefits from the benefit dues.

It is always not clear who is the ultimate beneficiary to the pension due is, especially where the documentation of the beneficiaries is outdated, missing or for any other reason.

The trustees have the discretion on how the pension dues are paid out to beneficiaries even in cases where the trust deed does not give clear guidelines; the beneficiaries may dispute the actions of the trustees leading to conflict between the trustees and the beneficiaries (Nation Newspapers, 2019)

Retirement schemes in Kenya are required by law to have mechanisms to resolve conflicts between the trustees and the scheme members, service providers, scheme sponsors and beneficiaries. Developing a conflict resolution policy for the retirement benefits schemes provides a clear procedure on how disputes arising between various parties of the scheme will be resolved.

The RBA guidelines on conflict resolution provide that, conflicts between the Board of Trustees and service providers are referred to an arbitrator for determination or resolved in line with the provisions of the signed agreement between the Trustees and the service provider. The Trustees may seek the opinion of experts to advise on issues in dispute based on the facts of each case to assist them in arriving at an informed decision. If the decision of the Trustee Board is still disputed, and alternative dispute mechanisms exhausted, the complainant/disputant has the right to refer the matter to Retirement Benefits Authority (RBA). RBA Tribunal makes the dispute resolution final. However, some conflicts remain unresolved and can continue for an extended time.

Often, beneficiaries go to courts to seek remedy when these conflicts arise, especially when the process prescribed above takes a long time to be resolved. However, according to Section 26 of the Retirement Benefits Act (Cap 197) laws of Kenya provides that upon the death of a member of the scheme, the benefit payment shall not form part of the estate of the member for purposes of administration. Hence the courts seldom get involved in retirement benefits conflicts brought before them by the beneficiaries.

1.3. Objectives of the study

The main objective of this study was to assess the extent of and consequences of conflicts resolution in Retirement Benefits Schemes.

Other objectives were as follows;

- a) To determine the nature of conflicts encountered in Retirement Benefits Schemes;
- b) To assess the extent to which the stakeholders in Retirement Benefits Schemes management understand the process of conflict management;
- c) To evaluate the consequences of conflicts in retirement benefit fund management;
- d) Role of Trustees in conflict resolution.
- e) Role of Retirement Benefits Authority (RBA) in conflict resolution.

Retirement schemes in Kenya are required by law to have mechanisms to resolve conflicts between the trustees and the scheme members, service providers, scheme sponsors and beneficiaries.

Research study on conflict management & resolution in retirement benefits schemes

CHAPTER 2

METHODOLOGY

This chapter gives an overview of the research methodology used in the study. It gives an outline of research design used, the population under study, the sample used in the study, the methods used in data collection.

3.1. Research Design

This study was descriptive, and it drew data from stakeholders within the retirement benefit sector as they are the ones likely to understand the process of conflict management in the retirement benefit sector. The respondents included fund members, trustees, fund managers, administrators, custodians and other service providers in Kenya.

3.2. Sample Size

Sample size is one of the four inter-related features of a study design that can influence the detection of significant differences, relationships or interactions (James E. Bartlett, 2001). Two hundred (200) questionnaires were sent to targeted respondents working in the retirement benefit sector via survey monkey. One hundred and Seventy-six (176) valid responses were received, and data were analyzed using descriptive statistics

A substantial description of the experience of the Beneficiaries, stakeholders and members was realized through the analysis of the 176 responses across participants.

The questionnaires used to collect data from all the three categories of participants were distributed on Survey Monkey. The links to the questionnaires are as below;

- Beneficiaries-<https://www.surveymonkey.com/r/NGJCW7S>
- Members - <https://www.surveymonkey.com/r/NGG56H7>
- Stakeholders - <https://www.surveymonkey.com/r/NG5MWB6>

Developing a conflict resolution policy for the retirement benefits schemes provides a clear procedure on how disputes arising between various parties of the scheme will be resolved

Research study on conflict management & resolution in retirement benefits schemes

CHAPTER 3

DATA PRESENTATION AND ANALYSIS OF RESEARCH FINDINGS

3.1. Introduction

This chapter consist of research findings and data collected. The data was obtained through administering of questionnaires. The findings are summarized, interpreted and compared to other studies in the area of interest. Data was analyzed using descriptive statistics and the findings are presented using charts, graphs and figures.

3.2 Demographic Summary

3.2.1. Gender

As presented in figure 1 below, 52.6% of the respondents were female and 47.4% were male. This findings illustrate balanced response rate from both genders.

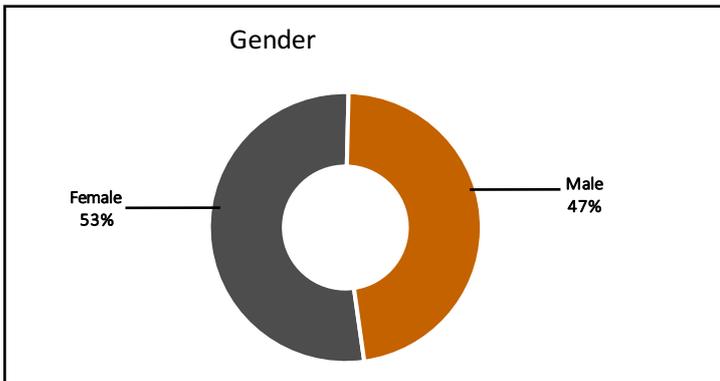


Figure 1: Respondents by gender

3.2.2. Respondents by industry

The highest percentage of respondents worked in the financial services and public sectors. The hospitality and Non-governmental sectors had a representation of more than

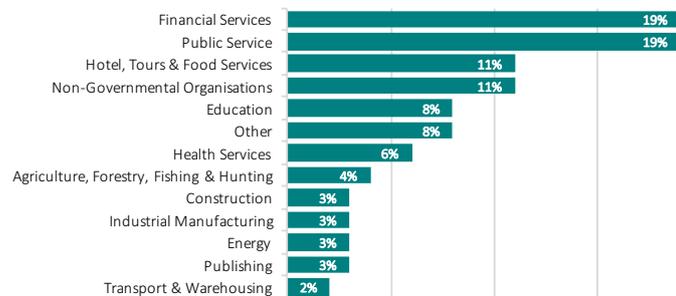


Figure 2: Respondents by Industry

10% of the respondents.

3.2.3. Role in management of retirement benefit schemes

The pie chart below shows the distribution of the stakeholders according to the role they played in the retirement benefits sector at the point of data collection.

52% of the respondents were current trustees in Retirement Benefits Schemes, while less than 13% of the respondents were service providers. 34.7 % of the respondents did not have any role in Retirement Benefits Schemes' management.

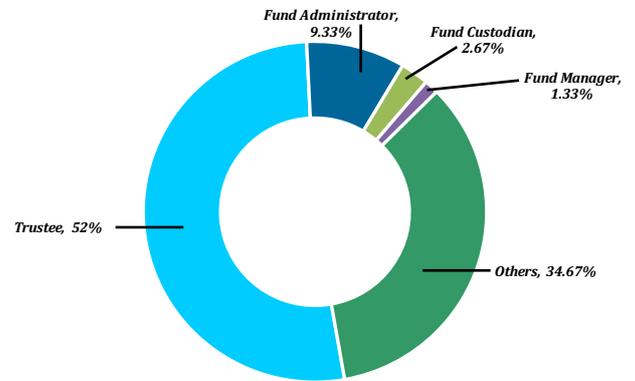


Figure 3: Stakeholders' role in the retirement benefits sector

3.3. Conflicts Encountered

3.3.1. Nature of conflicts encountered

The nature of conflicts is of key interest in management and resolution of conflicts. By knowing where the conflict stems from and identifying the parties involved, one is at a better position to apply the most appropriate conflict resolution mechanism. Some of the conflicts regarding retirement benefit require simple interventions such as having a conversation while some are more complex hence require adverse mechanisms like change in policies and regulations.

Some of these conflicts are recurrent and can be categorized so as to come up with a set of agreed rules and guidance on how to handle them.

According to this study's findings, 40% of the conflicts encountered by the respondents were due to the processing of the final benefits, 13% due to expenses charged to the fund and 11% were to do with the appointment of trustees. Other conflicts identified by the respondents were due to the investments made by the scheme, delayed benefits transfers, selection of service providers, reporting & accounting, delayed membership into the scheme, sponsor interference in scheme matters and delayed funding by the

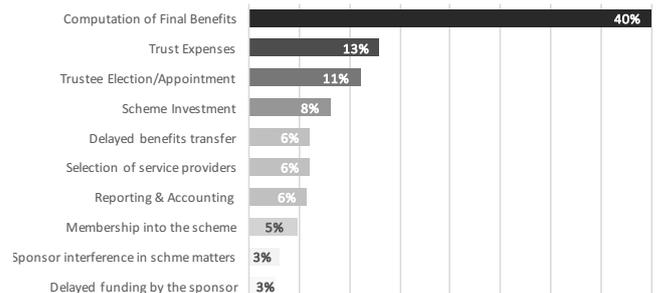


Figure 4: Nature of conflicts encountered sponsor.

3.3.2. Number of conflicts encountered

The study sought to establish the number of cases of conflicts encountered by respondents in the past year. More than 4 out of every ten respondents had encountered 1-5 cases of conflict in the last year, while more than 1 out of every 10 the respondents had encountered more than five cases. This is an indication that conflicts occur often in retirement benefits

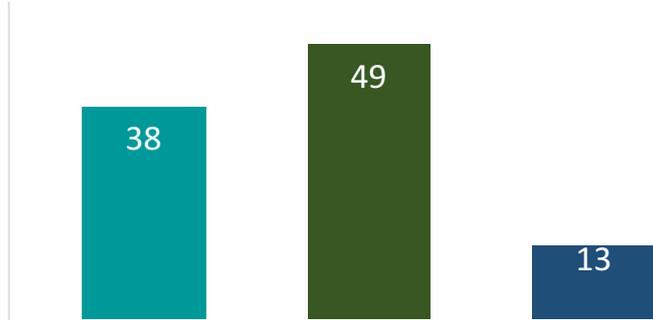


Figure 5: Number of conflicts encountered in the last year schemes.

3.3.3. Category of members with most conflicts

Active members reported having experienced the most conflicts across the three groups that took part in the survey. This could be attributed to the fact that Active members, Pensioners and Deferred members are all in the scheme space. However, pensioners have gone through the processes and therefore know how the system works, unlike active members who might be accessing their benefits for the first time and may have no idea how it works.”

Further to this, the majority of conflicts, being 46%, emanated from members who had been terminated by the employer as shown in the chart below, while 27% of the cases were among members who had retired from employment.

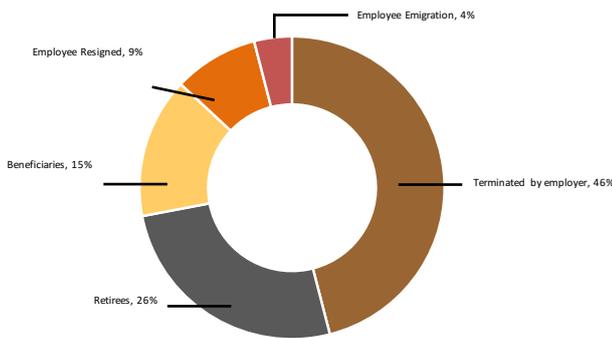


Figure 6: Category of members with most conflicts

3.3.4. Estimated amounts in the conflict

Figure 7 shows the breakdown of amount of money involved in most of the conflicts encountered based on age and gender. The study indicates that in 40% of the conflict cases, the amount of money involved was less than KShs. 1 million. In 25% of the conflict cases, the amount of money involved was KShs. 3-6 million and in 23% of the cases between KShs. 1 and 3 Million.

This is supported by the profile of most members under our administration whereby about 87% of them have funds amounting to less than Kes 2,000,000 as shown in the chart in figure 7.

This could be attributed to the fact that most people who have larger savings are not meticulous about tracking their savings due to the diversification of their incomes. It could also be that the very people with larger savings are too busy managing their other portfolio to notice anything that would otherwise result in conflict.

This exposed the need to carry out an executive strategic plan to target the group with over a million worth of savings.

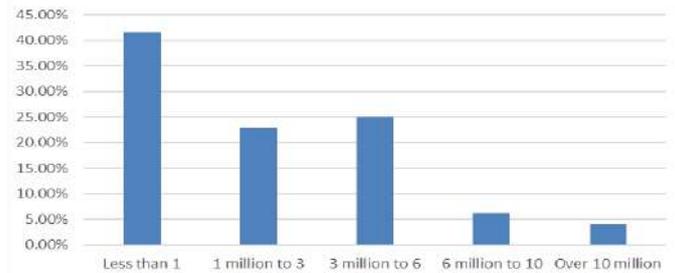


Figure 7: Estimated Amounts in the Conflict

Also, 52% of the respondents indicated that they spend 1-6 hours per week dealing with retirement benefit-related conflicts. The study led to the conclusion that time spent to deal with conflicts can be a little stretched sometimes, especially for the case of beneficiaries which can take up to six months. However, in ideal cases most member conflicts are solved within a week and few may stretch up to a month or so.

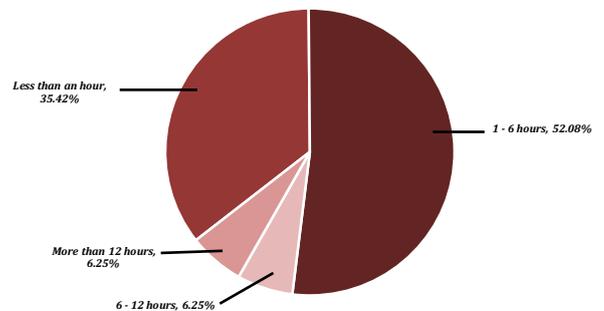


Figure 8: Number of hours spent dealing with conflicts



3.4. Role of Trustees in Conflict Resolution Process

According to this study, trustees played the most significant role in conflict management and resolution. Trustees are the focal point of most scheme issues; they are charged with the responsibility of acting impartially, prudently, responsibly, honestly and in the best interest of scheme members and beneficiaries. They act in line with the trust deeds, scheme rules and the legal framework provided by the retirement benefit authority.



Apart from the above roles, trustees also appoint service providers, ensure scheme compliance and audit is done on time among others.

The figure below summarizes the responses to the question who had the ultimate responsibility in managing conflicts in Retirement Benefits Schemes. 50% of the respondents indicated that it was the responsibility of trustees to manage conflicts, and 22.5% thought that RBA had the responsibility. These responses showed that the respondents were aware of the role of trustees in managing conflict, but some of them expected RBA to be involved in managing conflict.

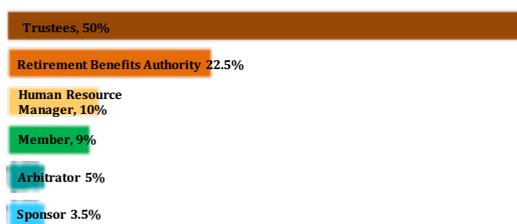


Figure 9: Ultimate responsibility in managing conflicts in retirement benefits schemes

3.5. Process of Conflict management

3.5.1. Conflict Resolution Policy

When faced with a conflict, trustees rely on the Conflict Resolution Policy which provides guidelines on how certain issues are supposed to be approached. This is because stakeholder engagement in policies governing is widely lauded as an essential methodology for improving processes. It is vital for each scheme to have written down guidelines of how things are run in the scheme. One of them is a conflict resolution policy that provides steps to:

- Resolve a conflict or complaint quickly, fairly and without reprisal;
- Improve communication and understanding between parties involved in the conflict.
- Ensure confidence in management decisions by providing a mechanism whereby management decisions can be objectively reviewed;
- Identify policies and procedures which need to be clarified or modified to suit emerging issues.

As shown in the figure below, only 26% of the respondents indicated that they had a conflict resolution policy for their scheme. 37% of the respondents indicated that they did not have a policy, and an additional 37% did not know if the scheme had such a policy. This could indicate that certain issues that arise are not solved according to what is stipulated within the scheme's conflict resolution policy.

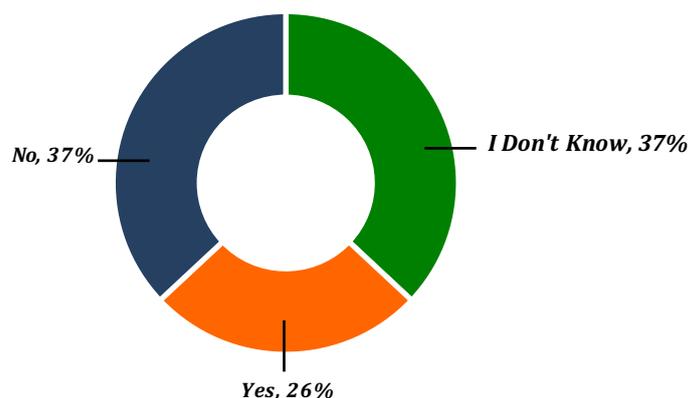


Figure 10: Availability of a Conflict Resolution Policy

3.5.2. Training on how to handle conflict

Given the nature of the retirement benefits sector, two things are for sure; one is the inevitability of conflicts, and two is the need to manage and resolve conflicts in a professional manner. Most stakeholders need help improving their ability to approach conflicts with confidence and calmness, as opposed to avoiding them or just trying to smooth things over. For this reason, there is a need to continually improve conflict resolution skills through training.

As shown in figure 11 below, 76% of the stakeholders admitted to have received training in managing retirement related conflicts from RBA, retirement benefit fund administrators and even the internet.



Figure 11: Have you received training on managing retirement benefits related conflicts

3.6. Causes and Consequences of Conflicts.

3.6.1. Top causes of conflicts

There exist many factors that trigger conflicts in Retirement Benefits Schemes. However, according to the findings of this study, the top causes of conflict are;

Information

People nominated as beneficiaries are not informed by members because of mistrust or lack of preparedness at the time of demise.

Teaser: So, what happens if your life insurance beneficiary murders you?

In 2018 in Kenya, a man was accused of killing his nephew over KShs. 9M insurance cover.

Teaser: Do you think he still got the money? # Slayer rule!

Most stakeholders in the industry have inadequate information and yet they play the role of disseminating information to members through trainings and interactions. This percolates to the members.

Non-remittance of pension deductions

According to this study, members reported that non-remittance of pension deductions is one of the major issues resulting in conflict. This is common among companies that have been or are facing financial issues which impact negatively on their remittance of funds.

There have been practical cases where sponsors have not been able to remit pension deductions, yet the deductions are indicated in the pay slips of the employees.

Delayed payments

Some processes that need to be completed to enable one access their benefits take longer than they should causing misery and inconveniences to both members, pensioners and dependents.

Finding out who may be responsible for delays may be difficult in this regard causing disagreements

3.6.2. Consequences of conflicts

Common definitions tend to associate conflict with negative features and outcomes that paint a picture of dysfunctional relationships. However, some sort of conflict can be healthy and could bring about creativity and improved ways of working. Contrary to the norm, conflicts could result in positive feedback when they are thought of as catalysts of change as opposed to clashing opinions.

The respondents of this study were asked to identify the positive and negative outcomes due to their interactions with different stakeholders in the sector as well as the interactions among the stakeholders themselves.

a) Positive outcomes

Figure 12 below details the positive consequences out of the conflicts experienced. 29% of the responses showed that respondents experienced a better understanding of how to handle retirement benefit matters and a better solution to handling retirement benefit-related matters. A further 23% of responses had an increased awareness on the importance of active member participation in retirement benefits matters. 14% of the responses indicated an improved working relationship between various parties, and only 5% of the responses had no positive outcome.

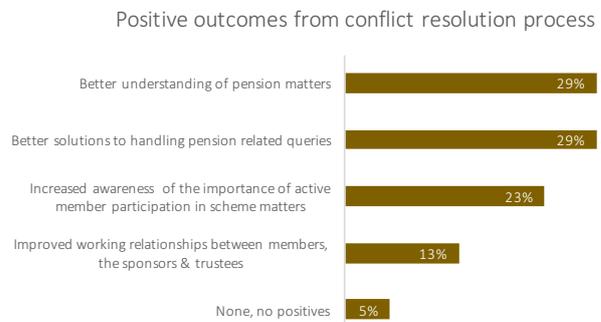


Figure 12: Positive outcomes from conflict resolution process

b) Negative outcomes

However, conflict is also associated with adverse outcomes that may get out of control if not well managed. Figure 13 below shows the adverse incidences encountered out of conflicts in managing Retirement Benefits Schemes. 16.5% of the respondents indicated that they had encountered personal attacks; whereas 16% had been harassment and a further 16% had their reputations tarnished. Other frequent incidences included increased employee-employer conflict, financial loss, legal consequences and penalties by the regulator.

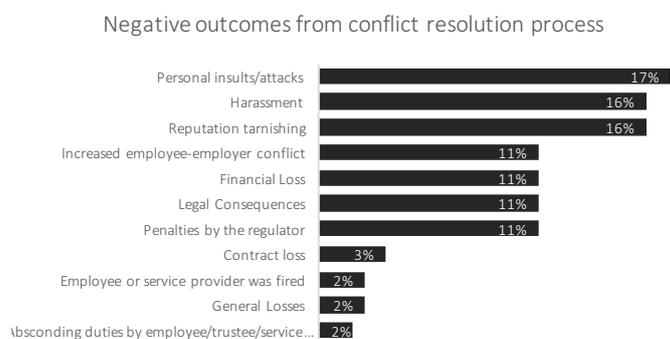


Figure 13: Negative outcomes from conflict resolution process

3.6.3. Recommended interventions to improve conflict management

The responses in figure 14 below are the opinions of the respondents regarding interventions that could be put in place to reduce conflicts and enhance management of conflicts in retirement benefit management. 27.5% of the respondents believed that increased member trainings would be an effective way to help reduce conflicts. Improved governance and communication between different parties in the industry was another intervention, according to 16.7% of the respondents, which could help reduce conflicts in retirement benefit management.

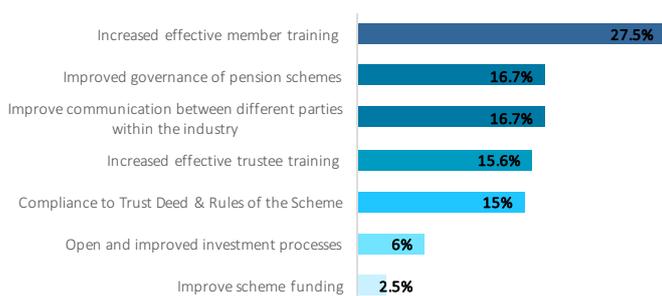


Figure 14: Interventions to improve conflict management





CHAPTER 4

DISCUSSIONS

4.1. The role of Retirement Benefits Authority (RBA) in managing or resolving conflicts that arise in Retirement Benefit Schemes.

The Retirement Benefits Authority (RBA) is a statutory body established under the Retirement Benefits Act, No. 3 of 1997. It has since establishment, had the mandate, to protect the interests of members and sponsors of retirement benefits schemes and to this end, the Authority investigates and makes decisions on complaints or disputes between parties to a retirement benefits scheme and especially between trustees and members.

Section 46 of the Act provides that:

“...Any member of a scheme who is dissatisfied with the decision of the manager, custodian or trustees of a scheme may request, in writing, that such decision be reviewed by the Chief Executive Officer with a view to ensuring that such decision is made in accordance with the provisions of the relevant scheme rules or the Act under which the scheme is established. A copy of every request under this section shall be served on the manager, trustees or custodian of the scheme...”

The Authority therefore has the power to make decisions on matters relating to retirement benefits, investigate and decide on complaints and disputes relating to the way retirement benefits schemes are run where its presence has been requested by the scheme's parties. The Authority's decision is binding on all the parties to the complaint and can be enforced in a court of law.

Who can make a claim to the Authority?

Complaints to the Authority (RBA) for a decision can be made by the following:

- i. Members or ex-members of occupational or personal retirement benefits schemes.
- ii. Spouses or dependents of members or ex-members who have died.
- iii. Anyone claiming to be a member or ex-member, or the spouse or dependent of one, as long as their complaint is about that claim.
- iv. Persons entitled to pension credits following divorce of a scheme member.
- v. Personal representatives appointed on the death of people in categories 1 to 4.
- vi. A suitable person representing the interests of a minor or a person unable to act for themselves in one of categories 1 to 4.
- vii. Trustees or managers of occupational retirement benefits schemes.
- viii. Employers in relation to occupational retirement benefits schemes.

Generally, schemes are required by law to have a formal internal dispute resolution mechanism. The Authority

expects that in the first instance, a complaint should be taken up in writing with the party thought to be at fault. In most instances, a complainant is advised to seek dialogue with the respondent as the Authority has noted that most issues arise due to lack of communication between the parties or misinterpretation of the rules of a scheme.

It is also a requirement that complaints be lodged formally on an official complaints form and any trustees, sponsors and service providers wishing to complain are required to do so in writing. There is no time limit to which complaints can be launched.

Where applicable, further information shall be requested with regard to the complaint within fourteen days. Upon compiling of all relevant papers, the Authority shall commence the complaints process and copy all correspondence to the complainant. Whereby RBA cannot address the complaint, an explanation shall be rendered to the parties concerned.

Decisions by the Authority can only be challenged by appealing to the Retirement Benefits Appeal Tribunal.

4.1.1. The Retirement Benefits Appeals Tribunal

This tribunal is established under Section 47 of the Retirement Benefits Act and it consists of the Chairman and four other members appointed by the Minister for Finance and who hold office for a period of three (3) years and/or upon such terms and conditions prescribed by the Minister.

This Tribunal is expressly vested with jurisdiction to hear appeals by any person aggrieved by a decision of the Authority or the Chief Executive Officer within thirty days of receipt of the decision. It has the powers of a first-class subordinate court as follows:

- a) To summon witnesses;
- b) To take evidence upon oath or affirmation;
- c) To call the production of books and other documents;
- d) To award costs of any proceedings and where costs have been awarded, the party may file the certificate of costs in the High Court and upon being so filed, shall be deemed to be a decree of the High Court and executed as such;
- e) To receive evidence by way of affidavit and administer interrogatories and require the person to whom the interrogatories are administered to make a full and true reply to the said interrogatories within the time specified; and
- f) In its determination of any matter, take into consideration any evidence which it considers relevant to the subject of an appeal before it, notwithstanding that the evidence would not otherwise be admissible under the law relating to admissibility of evidence.

In addition to the above, the Tribunal is set to ensure the effective administration of retirement benefits once earned in an employer/employee relationship. Such administration

of disputes is to ensure a fast and expeditious process as the first instance by the body exclusive to handle such matters. Decisions of the Appeals Tribunal under the Act though defined can be traced to the Constitution under Article 169(1) (d).

4.2. Best Pension Systems in the World according to Melbourne Mercer Global Pension Index 2019 and how they resolve Conflicts

This chapter focuses on the best pension systems in the world that have continued to thrive despite the pressure. It shades light on some of the conflicts that they have encountered and how their systems have supported the management and resolution of these conflicts.

Melbourne Mercer Global Pension Index 2019 ranks The Netherlands, Denmark and Australia as first, second and third best pension systems in the world with 81%, 80.3% and 75.3% respectively as their index scores.

a. The Netherlands

Despite having the most robust pension system, the Netherlands' pensions system is being hit by too much complexity and ineffective regulation. (Pressman, 2018).

Dutch workers took to the streets in 2019 to protest at pension reforms that could mean a higher state retirement age and uncertainty over income in old age. According to Financial Times, at the heart of the unrest was the prospect that thousands of retired Dutch workers faced cuts to their pensions as early as January of that year, which placed enormous pressure on the government, employer representatives and trade unions to find a solution to the nation's looming retirement predicament.

The government, intervened by indicating that it was willing to provide financial support, including tax changes, to ensure a smooth transition and to minimize any uneven effects across age cohorts and different groups of scheme members. Costs have been estimated at between €25bn and €100bn.

In his interview with Leen Pressman, pension's expert Keith Ambachtsheer stated that the financial assessment framework (FTK), introduced just prior to the financial crisis, was designed to ensure pension funds have sufficient assets to pay out all their obligations. The problem was that it is very sensitive to market volatility, which means benefit cuts are likely in times of economic headwinds. As cuts severely impact people's trust, a pension system must be designed to avoid discounts. The simplest way to ensure this is to have separate pools for return generation and payment safety. (Pressman, 2018)

To avoid the conflict-creating mechanics of collective intergenerational risk-sharing and to restore trust he suggested that agreement be sought on how the structure of pension plans can be explained and understood by ordinary people. Show fairness and the promise to never cut pensions except in extreme circumstances.

b. Denmark and Norway

Around 1990, trade unions in both Norway and Denmark moved shifted from their previous hostile stance, and started actively to promote occupational pensions. Over time, full coverage of occupational pensions was achieved in both countries, yet with different scopes, degrees of risk-sharing and modes of governance. Why did both countries go through similar institutional changes, and why were the outcomes still so different? The roads to full coverage were different: In Denmark, this was achieved through wage bargaining; in Norway, through mandating. Denmark developed far more collectivistic schemes than Norway, but recent developments indicate convergence: efforts are being made in Norway to develop encompassing schemes more similar to the Danish ones, while the Danish system appears to be moving in a more individual direction. In both countries, strong trade union branches have at critical junctures forged alliances with their employer counterparts at the expense of trade union solidarity. Both mandatory and negotiated schemes thus have the potential to be sources of solidarity as well as of self-interest within the union movement. (Pedersen A. W., 2018)

c. Australia Pension System

In 2019, Australia's need to fix age pension superannuation conflict was in the spotlight and Funds were expected to see a renewed interest by the regulators as to whether trustees, in practice, are prioritizing the interests of their members and managing conflicts. Trustees were also needed to immediately review fees being deducted from members' accounts and ensure that any ongoing fees were limited to advice about particular superannuation investments.

The below recommendations were made:

- The Trustee of a Registrable Superannuation Entity (RSE) should have no other role or office other than those arising from or in the course of its performance of the duties of a trustee of a superannuation fund
- Deduction of any advice fee (other than for intra-fund advice) from a My Super account should be prohibited
- Deduction of any advice fee (other than for intra-fund advice) from superannuation accounts other than My Super accounts should be limited and prohibited unless certain preconditions are met
- No hawking of superannuation products
- A person should have only one default superannuation account. Machinery should be developed for 'stapling' a person to a single default account
- No 'treating' of employers with the purpose to have the employer nominate the fund as a default fund or become a member of the fund. This provision should be a civil penalty provision enforceable by ASIC
- Civil penalties for breach of trustee covenants and like obligations
- Adjustment of APRA and ASIC's roles
- Over time, provisions modelled on the Banking Executive Accountability Regime (BEAR) should be developed for RSE licensees (Smith, 2019)

Referrals have been made to Conflict Policy by Australian Catholic Superannuation retirement funds. According to the

research, published by the University of New South Wales, pensions that outsourced fund operations to firms their board members had previous ties with — a practice most commonly seen in Australia's retail superannuation funds — underperformed peers by roughly 0.77% per year between 2004 and 2016.

The research noted that the issue of director affiliation affects a number of pension funds surveyed; over 94% of the retail superannuation funds were managed by boards on which at least 50% of members were considered affiliated with a service provider.

Though the practice is almost standard in Australia's pension fund industry, at least, the study concluded that it should change. "As this business model is significantly detrimental to fund members' interest, it represents a major source of inefficiency in the superannuation system and hence should be the focus of current and future governance reforms in the superannuation industry," it said.

4.3. Conflict Resolution in other institutions in Financial Sector

Different institutions in Financial Sector handle different conflicts differently or similarly depending on the nature and dynamic of the conflict. This section covers how Insurance Sector, SACCOs Sector and Banking Sector handle Conflict.

a. Banking Sector:

Commercial Banks in Kenya, according to a recent research, have adopted the two-dimensional 'Thomas-Kilmann Model of Assertiveness or Cooperativeness'. It suggests that when one becomes engaged in a conflict, there are two major concerns to be taken into account; Achieving own goals and maintaining a good relationship with the other person.

Case in point;

A prominent politician, took a loan in 2015 from EADB and thereafter in 2016 stopped servicing the loan. Follow ups on the loan payments became futile which made the bank to head to London for Arbitration as per the contract terms. The arbiter processed the application and ruled in favor of the bank. The client thereafter appealed, unsuccessfully. The conflict has been on going with no much progress (Daily Nation, 2020).

b. Insurance Sector:

Insurance companies are at a higher risk of tension because most of the time they are in contact with clients who may not necessarily be happy with the outcome of their insurance claims. With added stress to their role, the employees of these companies may find themselves vulnerable to dispute among themselves.

Just like in the banking industry, mediators are a tool for conflict resolution in the industry. They apply effective strategies to ongoing conflict as well as provide training for staff in order to prevent it.

Negotiation, also known as self-help, is another effective way that is used to solve claim disputes. It is where a client can express their dissatisfaction and then sort the issue out with

the insurer without involving a third-party. The pro is that there is no pay involved. The disadvantage, however, is that you may not have the skills, time and/or leverage to get a fair resolution on your own.

Alternative Dispute Resolution "ADR" involves Appraisal, Mediation, Conciliation, Negotiation and Commercial Arbitration. to resolve disputes.

i. Appraisal

Most property insurance policies, contain wording that allows disputes over the amount/value of a loss to be resolved by a process called "appraisal." An insurance appraisal is different from a real estate appraisal or an art appraisal. An insurance appraisal can determine the scope and severity of a loss (what was damaged and how badly) and the value of the loss (how much repairs should cost). Whether or not the entire loss is covered is a separate issue that is not generally part of an insurance appraisal and must be resolved separately.

ii. Mediation

Private, voluntary, or court-ordered mediations have become the most common ways of re- solving claim disputes. Mediation pros are that it can be fast, and relatively cheap compared to a lawsuit. Cons are that claims often get settled for less than full value in mediation.

There have been many disputes between the insurance companies and their clients. Policy documents have provided guidelines on how to resolve conflicts but this has not smoothed the process of conflict resolution. These can be attested by the numerous cases that have been experienced in the past and continue to mark the path of the insurance industry.

Companies in Insurance Sector often prefer arbitration as a mode of conflict resolution and when this fails to meet the need, court settlement may be pursued. Alternative Dispute Resolution (ADR) has been successfully used for a number of years as an effective method for resolving a wide variety of insurance-related disputes. In the complex world of reinsurance, arbitration has been the preferred method of resolving disputes for more than a century.

c. SACCOs Sector

The Cooperative Societies Act 'Cap 490' provides the following on disputes concerning the business of a co-operative society:

- a) Among members, past members and persons claiming through members, past members and deceased members; or
- b) Between members, past members or deceased members, and the society, its Committee or any officer of the society; or
- c) Between the society and any other co-operative society, it shall be referred to the Tribunal. This seems to have been the trend proving the efficacy of this tribunal

Disputes over rent payments and the operations of Saving and Credit Co-operative Societies (SACCOs) form the highest number of cases filed with tribunals in Kenya, a new report from the Judiciary has shown. Out of about 60 tribunals, those handling disputes between landlords and tenants in business premises and rental houses were the most frequented by Kenyans followed by those pitting members against cooperative societies. "Rent Restriction Tribunal had the highest number of filed cases followed by Cooperative Tribunal and Business Premises Tribunal," says a latest performance report by the Judiciary. Some 3,620 cases were filed in Rent Restriction Tribunal, out of which 889 had been resolved by mid last year (ALUSHULA, 2019) .

4.4. Role of ICT in Dispute Resolution

In recent years, we have witnessed a rapid growth of disruptive technologies with which, no doubt has unprecedented impact on our social lives. Technology has taken a new dimension where artificial intelligence, internet of things and other technologies have continued to change communications in unfamiliar ways.

As much as such technologies have enhanced conflicts, they too have created opportunities to manage and resolve conflicts. To encompass the interface between ICT and conflict resolution, an innovative approach would use 'Internet of Everything' Technological model. This model serves as a framework to 'disrupt' conflict resolution and analysis according to people and things

People:

The emergence of technological age has come along with powerful tech platforms that can be used in dispute resolution. Use of Facebook, twitter, WhatsApp, Instagram and other social media has highly impacted our lives.

A typical example of the level of influence such technological platforms have caused in dispute resolution, can be derived from time taken to resolve a complaint shared by people through social media. It is almost guaranteed that an issue raised through such platforms will be addressed expediently compared to when someone calls or visits an office. While someone is afraid of public exposure, another one is happy that public attention will result to instant complaints handling.

On the flip-side, Information Technology can be used to spread unjustifiable malicious information about an individual or an institution. Five minutes would be enough to cause a million-dollar destruction and a 100 years of reputation damage. That's the power of technology.

Things:

There are many social media platforms e.g. LinkedIn and Facebook that connect people based on where they live, work, study etc. resulting in interactions, trust and corporation and thus helpful in conflicts control. It is surprising that through technology, you can monitor human and object movements. Facebook and google are able to inter-connect people notwithstanding their geographical locations and notify you when they are close to you. Such inventions have been impactful in suppressing animosity and even enhancing customer experience in the corporate world. Human-machine interaction is a powerful tool in conflict resolutions it provides

space for mediations, negotiations and dialogue.

4.5. Training and Quality Assurance

Quite a number of conflicts that arise are due to lack of proper understanding on scheme operations. Members fail to understand the roles played by each party involved in running a Retirement Benefits Schemes as well as the regulatory framework.

Key disputes that have extended to court sessions revolve around members disagreeing with computation of benefits and distribution of death benefits to beneficiaries.

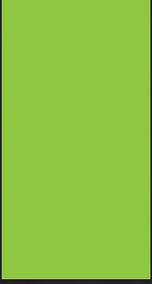
In some of the court cases and complaints raised to the Retirement Benefits Authority in regard to wrong computations, some of them have actually been discovered that they were indeed wrong. This is a sign that even service providers and individuals who participate in the calculations of benefits need to be trained well in their roles.

Member trainings can help to reduce conflicts between themselves and the Trustees. The trainings to members and individuals who have a role to play in the pension space should be of good quality by ensuring:

- There are clear learning objectives.
- The content is targeted towards the right audience.
- The best delivery option is used
- Monitoring, assessing and tracking results
- Post training support and learning reinforcement is offered

In instances where trainings have been held and conflicts are still there, this could be due to poor quality of the trainings held. Some of the causes of poor quality are:

- Lack of motivation/interest, fear, stress among the members
- Inadequate trainings/inadequacy in the skills of the facilitator
- Low-grade training content
- Variation of information provided
- Failing to identify/understand member needs
- Inadequate/poor planning
- Attitude by members towards change



CHAPTER 5

FINDINGS, CONCLUSION AND SUGGESTIONS

5.1. Introduction

In this chapter, the backdrop of the study and the findings of the study are provided in brief. Conclusions are drawn. Moreover, suggestions for improving effective procedures of conflict management and resolution are also given.

The main objective of this study was to assess the extent of and consequences of conflicts resolution in Retirement Benefits Schemes. The specific objectives of the study were: to determine the nature of conflicts encountered in Retirement Benefits Schemes; to assess the extent to which the stakeholders in retirement benefit fund management understand the process of conflict management; to evaluate the consequences of conflicts in retirement benefit fund management; and the role of trustees in conflict resolution as discussed below.

Nature of Conflicts Encountered in Retirement Benefits Schemes

From the study, it was concluded that it is important to understand the nature of the conflict and the stakeholders involved so as to apply appropriate mechanisms to resolve and /or manage these conflicts.

The nature of conflict encountered revolved around the following issues: Delay in processing of Final Benefits and transfers, Trust expenses, Trustee election/appointment, scheme investment, selection in of service providers, reporting and accounting, sponsor interference in scheme matters and delayed funding by sponsor.

It was also be concluded that active members experience the most cases of conflicts across all stakeholders and more so the ones who have been freshly terminated by the employer with amounts of between 1 million and 6 million involved.

Some conflicts take longer to resolve than others especially the ones that involve death benefits. The procedures taken when resolving such issues should be streamlined to reduce the timelines by getting rid of any excruciating and irrelevant procedures. The procedures for such cases should foster trust among the parties involved, show fairness and at the same time, keep the process as short as humanly possible.

The Extent to which stakeholders in Retirement Benefits Schemes Management Understand the process of Conflict Management

26% of the stakeholders indicated that they were aware of a conflict resolution policy in their schemes, this could be an indicator for the kind of knowledge that these people have when it comes to conflict resolution processes within their schemes. This also shows that there is a wide gap in terms of knowledge of the process flow of conflict resolution. This knowledge gap can be filled through effective and continuous trainings. The trainings should be focused towards bringing

the schemes and the importance of such documents for the scheme which will improve the conflict resolution process as a whole.

Trustees rely on conflict resolution policies and schemes' trust deed and rules to resolve and manage conflict which are lauded in the industry as best practice for conflict management and resolution. It is therefore essential for them to understand the policies and the processes well and for the respondents who are not aware of the existence of the policies to be made aware of its existence so that they are able to represent their schemes well, fully.

Consequences of Conflict in Retirement Benefits Schemes Management

It is clear that conflicts lead to both negative and positive outcomes as concluded from this study. This creates need for stakeholders in the industry to be trained to respond positively and to welcome conflict that results to positive impact like better understanding of pension matters, inventions of better solutions to conflict resolution and management, increased awareness of member participation in scheme matters and improved working relations between members, stakeholders and trustees.

Role of Trustees in Conflict Management and Resolution

From the study it was established that trustees play the biggest role in conflict management and resolution and they therefore need to be empowered in all fronts possible to ensure that they are all equipped and are up to the task to deal with matters objectively.

5.2. Suggestions

Observing the practices of the nature of the conflicts, the impact of conflict and attempts to manage and resolve these conflicts studied, the following guidelines can be developed:

i. Conduct Training Programs

- Need based training programmes should be established to identify stakeholders' current level of competency, skill or knowledge in Conflict Management and Resolution in Retirement Benefits Schemes. This will ensure that competency levels are observed to the required competency standard established for service providers in the sector. Certificates should be awarded to encourage this practice.

- Training programs can be conducted frequently by companies and also the Regulatory Authority for all the stakeholders: Trustees, Members, Beneficiaries, Sponsors, Service providers, Regulators. The momentum should be kept throughout the year to ensure new stakeholders are

up to date with information on the material present for referral and skills needed and the right channels and procedures to be followed when conflict occurs.

- A research done stated that the education and training programs should ensure creating a positive and constructive approach to conflict resolution by the trainees. Professional trainers can be engaged to educate and train the employees. Education and training to the employees at all levels without discrimination on any basis is recommended.

ii. Empower key personnel by creating awareness on the importance of having relevant conflict management skills and knowledge

The key personnel such as Trustees, who from the study played the biggest role in conflict resolution and management, should be empowered and should be equipped in terms awareness and techniques on the importance of reacting to a conflict positively. They should also be encouraged to develop open channels of communication.

iii. Performance reviews be carried out frequently to involve conflict management and resolution skills

Conflict management and resolution committees be put in place to advice on how to handle particular issues experienced in the industry. This will help by bringing impartiality when it comes to settling disputes in Retirement Benefits Schemes.

iv. Reporting, Reporting Systems and Reward Systems

Reporting should be done periodically to evaluate the number of conflicts that have occurred and how they were dealt with so improvements can be taken note of. Also reporting systems such as hotlines can be put in place to cater for any harassment arising in the event of conflict encounters.

A system to reward companies and trustees that deal with matters amicably should also be put in place to encourage best industry practice.

v. Timely and effective Government interventions.

Some conflicts arise due to frequent changes in regulations by the government for example tax changes or changes in retirement age brackets. The issue comes up when such changes are many so as to cause disequilibrium in the pension sector and less trust in the pension sector by the members of the public. Rather than implementing changes that drastically affect retirement benefits negatively, the government should instead focus on offering support to the sector by proving financial support,

implementing tax changes that encourage saving through the pension system and ensuring a smooth transition within the sector, if such changes as suggested by the government, are inevitable.

vi. To Media Organizations

Media should be encouraged to adopt best industry practices of reporting conflict so as to maintain a good image for the industry.

vii. Alternative Dispute Resolution (ADR) Mechanism- Mediation

There is need to adopt Mediation as an Alternative Dispute Resolution Mechanism as industry best practice.

Mediation is negotiation with the assistance of a third party. The mediator's role in such a process is to assist the parties in the negotiations and they cannot dictate the outcomes of the negotiation.

Mediation is believed to work best in a conflict in which the parties have had a significant prior relationship or when the parties have an interest in continuing a relationship in the future.

The parties to the conflict are given the opportunity to play the lead role, although the mediator may be involved in direct communications between them or their representatives. The mediator may also seek to transform the relationship between the parties and to lead parties to reach an outcome that addresses the aggregate of their interests in the conflict.

Mediation, with its confidentiality safeguards, offers a much more private, low-keyed approach to conflict resolution. It attempts to remove the parties' adversarial posturing replacing it with a harmonious relationship. Thus, mediation is distinguishable from the other mechanisms of conflict resolution in that the resolution framework is owned by the parties who drive the process of reaching a negotiated outcome. It is voluntarily entered into, parties exhibited autonomy in the choice of the mediator, over the process and the outcome. It is effective, efficient, depicted fairness and addressed power imbalances among parties. Such mediations result in a resolution of the conflict as opposed to a settlement.

Resolution of conflict

Resolution of conflicts prescribes an outcome based on mutual problem-sharing in which the conflicting parties cooperate in order to redefine their conflict and their relationship. Since resolution is non-power based and non-coercive it follows then that conflict resolution entails the mutual satisfaction of needs and does not rely on the power relationships between the parties.

The outcome of conflict resolution is enduring, noncoercive, mutually satisfying, addresses the root cause of the conflict and rejects power based out-comes. A resolution digs deeper in ascertaining the root causes of the conflict between the parties by aiming at a post-conflict relationship not founded on power.

Settlement of conflict

A settlement is informed by the power possessed by the parties to the conflict. In a conflict then a settlement implies that the parties have to come to accommodations which they are forced to live with due to the anarchical nature of society and the role of power in relationships. Since a settlement is power-based and power relations keep changing the process becomes a contest of whose power will be dominant.

Power therefore defines both the process and the outcome in a settlement.

A settlement process, "seeks to mollify the opposition without discovering or rectifying the underlying causes of the dispute". Due to its superficial nature settlement is only reached over the issues of the conflict. As such a settlement may be an effective immediate solution to a violent situation and it will therefore not address the factors that instigated conflict in the first place.

It has been observed that settlement practices miss the point by focusing only on interests and failing to address needs that are inherent in all human beings, parties' relationships, emotions, perceptions and attitudes. Consequently, the causes of the conflict in settlement mechanisms are prone to flare up again in future leading to conflicts.

Mediation in the traditional concept led to a resolution. Mediation in the traditional concept is different from the mediation envisaged in Sections 59A-59D of the Civil Procedure Act which envisages a court-annexed mediation. Court-annexed mediation results in a settlement rather than a resolution due to the lack of voluntariness and party autonomy.

Legal and institutional framework governing mediation in Kenya

i. Constitution

ADR including mediation is now anchored in the constitution vide Article 159 (2) (c) which provides; "—In exercising judicial authority, the courts and tribunals shall be guided by the following principles— (c) alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3)"

ii. Civil procedure act

The Civil Procedure Act defines mediation as an informal and non-adversarial process where an impartial mediator encourages and facilitates the resolution of a dispute between two or more parties, but does not include attempts made by a judge to settle a dispute within the course of judicial proceedings. This definition depicts mediation as taking part in the context that makes the whole process legal.

The Civil Procedure Act provides for mediation of disputes. The Act was amended to introduce the aspect of mediation of cases as an aid to the streamlining of the court process. This amendment of the Act required the setting up of a Mediation Accreditation Committee by the Chief Justice to determine the criteria for the certification of mediators,

propose rules for the certification of mediators, maintain a register of qualified mediators, enforce such code of ethics for mediators as may be prescribed and set up appropriate training programmes for mediators. The Chief Justice has since appointed Members to the Committee and had them gazetted.

iii. Nairobi Centre For International Arbitration (Mediation) Rules, 2015

Mediation is to be conducted in accordance with the Nairobi Centre for International Arbitration (Mediation) Rules, 2015. Mediation is to be conducted in accordance with the Nairobi Centre for International Arbitration (Mediation) Rules, 2015. The rules set out the guidelines that will govern the mediation process.

Rule 2 states that the rules will apply where the parties have agreed to its application and where the rules are not in conflict with any other written law. Rule 15 advocates for confidentiality by the parties and Rule 17 provides for termination of mediation and states that mediation may be terminated under some instances. The Mediation Rules also provide for commencement of mediation, appointment of a mediator, qualifications and limitations of a mediator, costs, administrative assistance and exclusion of liability of mediator and role of a mediator in other proceeding.

Advantages and Disadvantages of Mediation

Advantages

1. It is a fast process compared to the other processes as the timing of the process is within the control of the parties
2. It is informal
3. Cost-effective
4. Flexible
5. Efficient
6. Confidential
7. Preserves relationships
8. Provides a range of possible solutions and there is autonomy over the process and the outcome
9. It is expeditious and time saving since it is often possible to schedule mediation around work schedules or on the weekend. Mediations are thus often marketed as being both economically and time efficient
10. Mediation in the political process is also non-coercive in that parties have autonomy over the forum, the process, and the outcome. There are no sanctions such as are applied in courts and in arbitration.
11. The adoption of ADR may have the effect of lowering the costs of accessing justice as ADR mechanisms are cheaper compared with the court process.
12. It is party centered and this makes its outcome more acceptable to the parties in conflict as they feel they can identify with the mediation outcome or their side of the story influenced such outcome.
13. Mediation address underlying psychological dimensions which cannot be addressed in courts and hence where mediation is utilized, the dispute may not arise again

Disadvantages

1. On confidentiality any admissions, proposals or offers for solutions will not have any consequences beyond the mediation process and cannot, as a general rule, be used in subsequent litigation or arbitration.
2. If one party (or both parties) does not enter the mediation with the intention to make concessions and reach a compromise then the mediation is likely to fail.
3. The cost of the mediation, and the time it took, are not refundable and the parties to a failed mediation typically need to incur the costs of litigation after the failed mediation is over.
4. Mediation is non-binding in nature. This means that, even though parties have agreed to submit a dispute to mediation, they are not obliged to continue with the mediation process after the first meeting. The non-binding nature of mediation also means that a decision cannot be imposed on the parties.
5. Mediation may lead to endless proceedings. Moreover, and unlike in litigation there are no precedents that are set in mediation hence creating uncertainty in the way decisions will be made in future.
6. Lack of capacity in terms of insufficient personnel who can handle disputes using ADR mechanisms and lack of understanding on the working of mediation.
7. Parties may lose their autonomy when ADR is court-mandated; the fundamental quality of mediation, that is, its voluntary nature, is interfered with through the court order calling for mediation;
8. Enforcement of mediated agreements entered into with the assistance of unqualified mediators is excluded;
9. The lack of a reimbursement system for legal fees and other expenses is likely to make parties resistant to court-mandated mediation as it implies extra costs to the parties and there is no provision of taxation of costs

even where a mediated agreement is reached
10. Mediation also risks being a court process because even after the parties have negotiated and even reached a solution to the conflict, they nevertheless have to go back to court for enforcement of the mediated agreement.

There is now in place a comprehensive legal framework governing ADR in Kenya. With the passage of the constitution of Kenya 2010, ADR has now been explicitly recognized by Kenyan law. ADR mechanisms can now be effectively applied in resolving a wide range of disputes and conflicts thus easing access to justice.

It is essential that in the application of ADR and to achieve a just and expeditious resolution of disputes, the Bill of Rights as enshrined in the constitution must at all times be kept in mind and upheld.

The future of Alternative Dispute Resolution in Kenya is promising in bringing about a society where disputes are disposed of more expeditiously and at lower costs, without having to resort to judicial settlements.



DEFINITION OF TERMS

I. Superannuation is an organizational pension program created by a company for the benefit of its employees. It is also referred to as a company pension plan. Funds deposited in a superannuation account will grow, typically without any tax implications, until retirement or withdrawal (Kagan, 2019)

II. A trustee is a person or a body who holds the property in trust property for the benefit of others rather than for their benefit. The trustee is the legal owner of the trust property. Under the Retirement Benefits Act and Regulations of Kenya, the trustee must appoint several parties to help in the management of the trust property (ARBS, 2011).

III. The fund custodian, holds the title to the trust property on behalf of the trustee and acts on behalf of the trustee. They are responsible for keeping safe custody of pension assets on trust on behalf of contributors and settle transactions (National Pension Commission, 2017).

IV. A fund manager is responsible for implementing a fund's investment strategy and managing its trading activities. They oversee pension's investment activities, manage analysts, conduct research, and make important investment decisions (Investopedia, 2020).

V. A fund administrator is a person or company responsible for managing a retirement fund or a pension plan on behalf of its participants and beneficiaries. They are tasked with ensuring the funds are properly collected and distributed to all qualified participants (Kagan, Investopedia, 2019)

VI. Provident fund means a scheme for the payment of lump sums and other similar benefits to employees when they leave employment or to the dependents of employees on the death of those employees (Retirement Benefits Authority, n.d.).

VII. Pension fund at the point of retiring a proportion of the retirement fund is commuted as lump sum with the remainder paid out as periodical payments (Retirement Benefits Authority, n.d.).

VIII. An Active Member is one who is still paying into the scheme but is yet to receive a pension

IX. A deferred member is one that has stopped paying into the scheme but is yet to receive a pension (London Pension Fund Authority, n.d.)

X. Pensioners are members in receipt of a pension

XI. A beneficiary is someone who has been appointed by the member to receive the retirement benefits in the event of death of the member.

XII. Stakeholders – Within the study's context; trustees, fund managers, fund members, legal teams, fund administrators, fund custodians, fund sponsors, Retirement Benefits Authority.

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