

Case study 3:

Reporting significant breaches despite uncertainty

The following is a case study based on a matter considered by the Life Code Compliance Committee (Life CCC). The matter was self-reported to the Life CCC and was assessed under its Acknowledgement pathway. No formal Determination was issued. In order to share the learnings with all subscribers, the Life CCC has converted the matter into a case study on a de-identified basis.

The Code requirement

Code section 8.17 sets out the timeframe in which subscribers must make a decision on a claim and inform the consumer.

The matter

A subscriber self-reported a significant breach of section 8.17 when a decision on a claim was not made within six months. The cause of the breach was human error: the assessor did not manage the claim in a timely manner. After identifying the breach through its own monitoring processes, the subscriber reported it to the Committee, and sought guidance on whether it amounted to a significant breach.

The Committee considered that while the subscriber had breached section 8.17, the breach was not significant because:

- it was an isolated breach affecting a single consumer;
- the subscriber had processes for complying with section 8.17, including staff training;
- the subscriber monitored compliance, and had successfully detected the breach; and
- the subscriber had a process for reviewing breaches and determining whether they must be reported to the Committee.

Although the breach was not considered significant by the Committee, it welcomed the subscriber's careful and pro-active reporting approach and the opportunity to work with the subscriber on the matter. The Committee asked the subscriber to audit the assessor's whole portfolio over the previous three months, checking for compliance with the other claims management requirements in the Code. The subscriber was also asked to ensure the assessor had refresher training regarding the Code's requirements.

The Committee's expectation

The Committee expects subscribers to have documented processes in place to:

- meet all Code obligations;
- monitor its compliance with Code obligations;
- report internally on exceptions to Code compliance;
- escalate internally to appropriate staff or committees to determine if the matter is a significant breach;
- capture Code breaches internally and report all these to the Life CCC as part of the annual compliance statements; and
- report significant breaches to the Committee in accordance with section 13.4 of the Code.

The Committee also expects that where a subscriber is unsure as to whether a breach is significant or not, it should prudently report the breach as significant and the Committee will assess it on the information provided.

The Life Code Compliance Committee

The Committee is the independent body responsible for the administration and enforcement of the Life Insurance Code of Practice (the Code). It acts in accordance with the Life Code Compliance Committee Charter, which sets out the powers, duties, functions and responsibilities of the Committee, subject to any provisions in the Code.