

Notice of Determination

by the Life Code Compliance Committee (Life CCC) on alleged non-compliance with the Life Insurance Code of Practice by a subscriber

Reference:	CX4321	Date:	21 June 2019
Code sections:	14.7 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

The Consumer purchased an Income Protection (IP) policy from a Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code). In May 2017 the Consumer requested the removal of his payment details from the policy. As a result, the Consumer's IP policy lapsed.

On 31 August 2017, the Consumer's legal representatives requested a copy of the Consumer's file from the Subscriber, including the Consumer's Life Insurance Policy documentation.

As the Consumer's legal representatives were experiencing difficulty in relation to obtaining the information requested from the Subscriber, the Consumer's legal representatives made a referral to the Life CCC in January 2018.

The Consumer's legal representatives alleged a breach of section 14.7² of the Code on the basis that the Subscriber had not provided the Life Insurance Policy documentation to the Consumer promptly.

Findings in accordance with Charter clause 7.4(b)(iii)³:

The Life CCC determined that there was a breach and that the allegation in relation to section 14.7 of the Code was proven in whole.

¹ The Code sections are provided in full in the last section of the Determination.

² The Code sections are provided in full in the last section of the Determination.

³ The Life CCC is bound by its Charter to use the terminology 'the reported allegation was proven in whole or in part or was unfounded.' This in essence requires the Life CCC to state if it determined there was a breach or not. The Life CCC will explain its determination in plain language in the body of the Determination.

The Life CCC findings and conclusion:

The insurer became a Subscriber of the Code on 30 June 2017, at which stage it was bound by all obligations of the Code. As a result, the Consumer's information request on 31 August 2017 was covered by the Subscriber's obligations under section 14.7 of the Code.

Definition of Life Insurance Policy documentation

The term 'Life Insurance Policy documentation' is not defined under the Code. The average consumer may not be aware of the specific documents to which this term refers, and there is a risk of disparity of interpretation by Subscribers that may lead to inconsistent behaviour across the industry which would not be in the best interests of consumers.

Accordingly, **the Life CCC has determined that the term 'Life Insurance Policy documentation' as referenced in the Code should, at a minimum, include the following documents:**

- **Product Disclosure Statement (PDS),**
- **Policy Document, and**
- **Policy Schedule.**

Subscribers should, at a minimum, provide the documents listed above when a Consumer makes a request for their Policy documentation.

In this instance, the Consumer requested the Policy Document and the Policy Schedule. However, the Subscriber noted that they were unable to provide the Policy Schedule as they did not maintain a copy of the original Policy Schedule. This was because the policy was originally underwritten by another insurer.

In such cases, the Life CCC would expect the Subscriber to work with the Consumer to offer alternatives to assist the Consumer in obtaining the information that the Consumer is requesting. While the Subscriber eventually was able to provide the information requested by the Consumer, the Life CCC considered that the timeframe taken by the Subscriber was not compliant with section 14.7 of the Code.

Definition of Promptly

Section 14.7 of the Code requires the Subscriber to provide any Life Insurance Policy documentation 'promptly'. 'Promptly' is not defined under the Code. In order to ensure consistency and appropriateness of practice across the industry, **the Life CCC has determined that a 10 business day timeframe is an acceptable definition of 'promptly' under section 14.7 of the Code.**

The Life CCC notes that there could be legitimate reasons as to why a Subscriber is unable to provide the requested documentation within 10 business days. For example, in this matter the Subscriber was not able to provide a copy of the Policy Schedule to the Consumer because the policy was originally underwritten by another insurer and the Subscriber did not maintain a copy of the original Policy Schedule.

In such cases, the Life CCC retains the discretion to review each case on its merits.

In this instance, the Consumer's initial request was made on 31 August 2017. The Subscriber's first response to the request was on 6 November 2017, and the Subscriber provided all the information that the Consumer requested on 11 April 2018.

As the Subscriber took over 7 months to fully respond to the Consumer's request and took over 2 months to acknowledge the Consumer's initial request, the Life CCC determined that the Subscriber was in breach of section 14.7 of the Code as the Subscriber did not provide the Policy documentation requested by the Consumer promptly.

Serious or systemic non-compliance

The Subscriber identified that the delay was caused by an isolated administrative error, following the results of internal investigations which included:

- interviews with senior claims and operational staff,
- a review of its internal incident database,
- an audit of the Subscriber's complaint register for a 13 month period between 1 January 2018 and 31 January 2019, and
- a review of 23 complaints relating to requests for Life Insurance Policy documentation.

As a result, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)⁴ that there was no basis to conclude that the Subscriber's breach of section 14.7 of the Code amounted to serious or systemic non-compliance with the Code.

Key Learnings

Section 14.7 of the Code requires the Subscriber to provide Life Insurance Policy documentation to the Consumer promptly. The Life CCC has determined that 'promptly' means that the documents should be provided within 10 business days, and that 'Life Insurance Policy documentation' should at a minimum include the PDS, the Policy Document and the Policy Schedule.

In instances where it is not possible for the Subscriber to provide the Consumer with the Life Insurance Policy documentation within 10 business days, the Life CCC retains the discretion to review each case on its merits.

Relevant Code Section

Section 14.7:

If **you** request any of **your Life Insurance Policy** documentation from **us**, **we** will provide this to **you** promptly and in an electronic form if **you** request, subject to any process for releasing policy documentation that **we** are required to carry out by law.

The Life CCC 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 CCC Charter, which sets out the powers, duties, functions and responsibilities of the Committee, subject to any provisions in the Code. This Determination is issued in accordance with clause 7.4 of the Life CCC's Charter in order to facilitate agreement between the Life CCC and the Subscriber on corrective measures and the relevant timeframes for their implementation.

⁴ The Life CCC is bound by its Charter to state, where applicable, whether it finds that a subscriber is responsible for serious and/or systemic non-compliance with the Code.