

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:	CX4789	Date:	11 June 2019
Code sections:	8.18 ¹		
Investigation:	Self-reported non-compliance by a Code subscriber		

The Code breach:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) self-reported a significant breach of Code obligation 8.18.²

Under this section of the Code, if a subscriber accepts a lump-sum claim, the subscriber is required to suggest to the consumer that they seek financial advice to help manage the claim payment.

In this instance, the Subscriber contacted the Life CCC and advised that it may not be compliant with section 8.18 of the Code. The Subscriber became aware of this as a result of a review of its processes and procedures completed in response to the Life CCC's investigation of a separate Code breach referral involving the Subscriber.

The Subscriber noted that when it adopted the Code on 30 June 2017, its process in relation to section 8.18 involved the manual insertion of a paragraph advising consumers to seek financial advice (the financial advice paragraph) into claim acceptance letters.

However, some of the Subscriber's claims teams did not follow this process and failed to include the financial advice paragraph within claim acceptance letters. This was because the claims teams did not believe that the financial advice paragraph was necessary when the claim acceptance letter was sent to a trustee or advisor.

The Subscriber reported that between 1 July 2017 and 30 July 2018 approximately 433 non-compliant letters were sent.

The Subscriber further noted that it had to manually review each claim acceptance letter to identify if it was compliant with section 8.18 of the Code. Due to this manual process, the subscriber was unable to provide the exact number of non-compliant letters sent.

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

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

The Life CCC assessed the matter and determined that there was a breach of section 8.18 of the Code which was significant, as assessed by the Subscriber, and which was proven in whole.

The Life CCC findings and conclusion:

The Life CCC further determined in accordance with Charter clause 7.4(b)(iv)⁴ that the Subscriber's breach of section 8.18 of the Code amounted to serious and systemic non-compliance with the Code as the Subscriber did not have adequate arrangements to ensure compliance with section 8.18 of the Code.

The Life CCC further noted that the Subscriber did not detect the breach of section 8.18, but that the Subscriber's review was initiated as a result of concerns raised by the Life CCC as part of a separate Code breach referral.

As part of the remedial action the Subscriber has amended its claim acceptance template letters to include the financial advice paragraph and has implemented an enhanced process to actively review correspondence to ensure that the appropriate templates have been utilised.

The Subscriber has also provided additional training to its staff in relation to the usage and adoption of the amended claim acceptance template letters.

The Life CCC was satisfied that the amended template letters and the additional training and checks implemented was sufficient to rectify the non-compliance with section 8.18 of the Code. Given that most of the affected consumers would have already received payment of the lump sum, the Life CCC considered that, in this instance, further additional corrective correspondence providing the financial advice paragraph would likely cause confusion and would not be appropriate.

Relevant Code Section

Section 8.18:

If we accept your claim and it includes a lump sum payment, we will suggest you seek financial advice to help manage your claim payment. For an income-related claim, if we offer to pay you a lump sum instead of ongoing payments in order to finalise your claim, we will suggest that you seek financial and legal advice before accepting our offer.

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.

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.

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.