

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:	CX4659	Date:	24 October 2019
Code sections:	5.4, 5.12 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 obligations 5.4 and 5.12.²

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

The Life CCC assessed the matter and determined that there were breaches of sections 5.4 and 5.12 of the Code which were significant, as assessed by the Subscriber, and were 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 sections 5.4 and 5.12 of the Code amounted to systemic but not serious non-compliance with the Code.

The Subscriber reported that it failed to communicate underwriting decisions to consumers within 5 business days. The breach related primarily to underwritten products through the Subscriber's Group and Retail business and impacted 1,246 decisions (out of 123,156 applications) on separate occasions, during the period of 1 July 17 to 30 June 2018. A further 372 decisions made outside of the timeframes specified by sections 5.4 and 5.12 were detected up to 31 August 2018.

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.

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 report used by the Subscriber to monitor its compliance with the requirements of sections 5.4 and 5.12 of the Code used incorrect start/ status change dates. The error arose in the Code Compliance report design due to human error in understanding and selecting the data field to calculate the time taken to reach an underwriting decision.

This report design error had a flow on impact on the Subscriber's systems which resulted in delays in providing timely underwriting decisions to consumers. The Life CCC determined that the breaches of sections 5.4 and 5.12 amounted to systemic non-compliance with the Code, as per clause 7.4(b)(iv) of the Life CCC Charter.

As the self-reported breaches mainly related to underwriting within the Subscriber's Group business, the Life CCC agreed with the Subscriber's view that the sole impact to consumers was a delay in the communication of the decision, confirming if an application for additional cover has been accepted or not.

The average length of the delays over and above the Code timeframes was six days and there has been no identified financial detriment to consumers.

Given the minimal impact to consumers, the Life CCC determined that the breach of section 5.4 and 5.12 did not amount to serious non-compliance with the Code, as per clause 7.4(b)(iv) of the Life CCC Charter.

Process changes

Following identification of the breaches, the Subscriber took steps to prioritise the assessment of those applications impacted by the breach. In addition to correcting the date used by its underwriting system, the Subscriber has also improved its compliance monitoring by introducing early warning indicators and widening management oversight. Since these changes were introduced, in November 2018, the Subscriber reported two breaches of section 5.4 and one breach of section 5.12 of the Code.

The Life CCC was satisfied that the additional breaches were isolated instances and that the Subscriber now has adequate processes in place to enable compliance with the Code.

Consumer impact and remediation

The Life CCC was satisfied that consumers impacted by the breaches had not suffered a financial detriment. In addition, as all impacted consumers have since received their decisions on underwriting applications, the Life CCC took the view that there would be no tangible benefit in writing to the impacted consumers.

Relevant Code Sections

Section 5.4:

Where the information we have received from you is all we need to make our decision on your application, we will let you know our decision within five business days.

Section 5.12:

Once we have all the information we reasonably need and have completed all reasonable enquiries relating to the application,¹⁰ we will let you know our decision about whether to accept the application and on what terms within five business days.

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.