

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:	CX6355	Date:	14 January 2020
Code sections:	8.19(a), (b) & 13.3(a) 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 8.19(a) & (b). The Life CCC determined that that Subscriber was also in breach of Code obligation 13.3(a).

The Subscriber reported that it had developed a simplified process for the assessment of certain type of claims where only a limited amount of information is required to make a decision. Both the claims assessment process and decision are communicated over the telephone.

Under section 8.19 of the Code, where a subscriber declines a claim it is required to provide the consumer in writing with:

- (a) the reasons for the decision,
- (b) the right to copies of documents relied on to assess the claim and that these will be provided within ten business days if requested, and
- (c) the right to request a review of a decision and information about its complaints handling process.

The Subscriber reported that in the period 1 July 2017 to 6 August 2019, for claims assessed under this simplified assessment process, it had issued 453 decline letters to consumers which did not contain the information as required by section 8.19(a) and (b) of the Code.

As the Subscriber did not have controls and processes in place to enable compliance with section 8.19(a) and (b), the Life CCC also considered section 13.3(a) as part of its investigation.

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

Findings in accordance with Charter clause 7.4(b)(iii)²:

The Life CCC assessed the matter and confirmed the self-reported significant breach of section 8.19(a) & (b) of the Code, which was proven in whole.

The Life CCC further determined that the Subscriber was in breach of section 13.3(a) of the Code, which was proven in whole.

The Life CCC findings and conclusion:

Section 8.19(a) & (b)

The Life CCC found that the Subscriber's claim decline template letter in use prior to 6 August 2019 for those claims assessed under its simplified process did not provide the reasons for the decline (8.19a) or detail the consumer's right to request copies of the information relied upon in making the decision (8.19b).

To immediately address the breach, from 6 August 2019, the Subscriber introduced the use of the decline letter template it currently issues for claims assessed under its standard claims assessment process, to its simplified process. The Life CCC has previously determined that this template contains the information as required by section 8.19 (a), (b) and (c) of the Code.

The Subscriber reported that it subsequently intended to launch a template letter specifically tailored to the simplified claims assessment process in December 2019. The Life CCC will monitor the implementation of this template letter.

The Subscriber did not contact the 453 impacted consumers because it considered that as it had already provided the reasons for the decline during the telephone claims process, the impact of the breach was lessened. The Subscriber also confirmed that it has not received any complaints about the claims that were declined through this assessment process.

The Life CCC noted that failure to include this information in a follow up decline letter was somewhat mitigated by the fact that the reasons for a declined claim were already provided to the consumer over the telephone.

Similarly, the Life CCC considered the impact to consumers from the Subscriber's failure to provide details about their right to information used to assess the claim was lessened, given the letter did contain details about the complaints process.

Section 13.3(a)

The Subscriber submitted that it was not in breach of section 13.3(a) of the Code because the breach of section 8.19(a) & (b) was limited to a subset of claims (assessed under the simplified process) and therefore did not impact on its wider claims systems and processes.

The Life CCC considered that the fact that this matter is limited to a subset of claims only is irrelevant; the Code makes no such distinction between product type or method of assessment. As the Subscriber's previous template letter did not contain the information required by section 8.19(a) and (b), it therefore did not have systems and processes in place to enable compliance with the Code, albeit this was limited to claims assessed under its simplified process.

² 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 also noted that the Subscriber continued to use the non-compliant letter for over a year impacting more than 400 consumers, which further demonstrated the lack of appropriate systems and monitoring the Subscriber had in place at the time of the breach.

Given section 13.3(a) of the Code relates to a subscriber's overall processes it has in place to enable compliance of the Code, the Life CCC determined that the breach of section 13.3(a) was both serious and systemic in nature.

Key Learnings

Although the Subscriber's simplified process is designed to speed up the assessment of certain claims by processing these over the telephone, the Code still requires a claim decline decision to be communicated in writing. Whilst the use of a template decline letter is therefore best practice, it is important that it contains all the information required to enable the consumer to fully understand their rights when a claim is declined.

The Life CCC also noted that the Subscriber took two years (from the adoption of the Code in July 2017 to reporting the Significant Breach in August 2019) to identify that its Code compliance processes were insufficient. The Life CCC considers this delay excessive.

The Code has been operational for more than two years and the Life CCC expects all subscribers to now have comprehensive Code compliance processes fully embedded into their business operations.

The Life CCC also encourages subscribers to regularly review their systems and processes to ensure full and demonstrable compliance with all obligations of the Code and where relevant, to ensure that any remaining "transitional" measures introduced upon adoption of the Code are still fit for purpose.

Relevant Code Sections

Section 8.19

If we decline your claim we will let you know in writing:

- a) the reasons for our decision;
- b) that you have the right to copies of the documents and information we have relied on, and if you request we will provide you (or your doctor, where appropriate) with copies within ten business days, in accordance with the Access to Information section of the Code; and
- c) that you have the right to request a review if you disagree with our decision, and we will give you details of our Complaints process.

Section 13.3(a)

We will:

- a) have appropriate systems and processes in place to enable 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.