

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:	CX4534	Date:	28 February 2020
Code sections:	8.17 and 8.18 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

The Consumer is a member of a superannuation fund. As part of their membership, the Consumer obtained life insurance including a Total and Permanent Disability (TPD) benefit. The life insurance was issued by a Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code), and the policy was owned by a Group Policy-owner (the Trustee).

The Consumer's legal representatives lodged a TPD claim with the Trustee on 26 September 2017, and the claim was received by the Subscriber on 3 October 2017. The Subscriber assessed the claim and requested additional information from the Consumer on 9 October 2017.

The requested information was provided to the Subscriber over multiple correspondences between October 2017 and February 2018. As at 8 February 2018, the Subscriber had not received the Consumer's Medicare records, and the Trustee informed the Consumer's legal representatives that the claim would be closed if the Medicare records were not provided in 21 days.

On 6 March 2018, the Subscriber wrote to the Trustee to confirm that the claim had been closed due to the non-receipt of the Medicare records.

The Consumer's legal representatives subsequently provided the Consumer's Medicare records on 26 March 2018 and 4 April 2018, and the Subscriber communicated the claim acceptance to the Trustee on 12 April 2018.

The Life CCC received this Code breach allegation in February 2018 as part of the bulk referral from a plaintiff law firm. The plaintiff law firm alleged that the Subscriber was in breach of section 8.17 of the Code as the Subscriber did not provide its decision on the claim within six months.

As part of its review of the file, the Life CCC also raised a possible breach of section 8.18 of the Code.

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 determined that the Subscriber was:

- not in breach of section 8.17 of the Code and that the allegation was unfounded, and
- was in breach of section 8.18 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 8.17

The Consumer lodged a TPD claim with the Trustee on 26 September 2017, and the TPD claim was referred to the Subscriber on 3 October 2017. As a result, the Subscriber had until 3 April 2018 (6 months from receiving the claim) to communicate its decision on the claim.

Based on the information available, on 6 March 2018 the Subscriber communicated the decision to close the claim to the Trustee, instead of the Consumer, as per section 8.1 of the Code. The Subscriber had closed the Consumer's TPD claim due to the non-receipt of the Consumer's Medicare information.

The Consumer provided the Subscriber with the information that it required on 26 March 2018 and 4 April 2018. Subsequently, the Subscriber reviewed the information and accepted the TPD claim on 12 April 2018, 6 business days after receiving the information that it required. The Life CCC noted that this was compliant with the Subscriber's obligations under the Code.

Taking into account the period when the claim was closed, the Subscriber provided its decision on the claim within six months. As a result, the Life CCC determined that the Subscriber was not in breach of section 8.17 of the Code and that the allegation was unfounded.

Unexpected Circumstances

Although Unexpected Circumstances did not apply to this matter, the Life CCC reviewed the Subscriber's overall compliance with section 8.17 and identified that the Subscriber did not have a process for providing consumers with the reasons for the delay (Unexpected Circumstances).

Following feedback from the Life CCC, the Subscriber has since amended its processes and created an Unexpected Circumstances template letter that is compliant with the requirements under section 8.17 of the Code.

Section 8.18

As part of the Life CCC's review of this matter, the Life CCC investigated the Subscriber's compliance with section 8.18 of the Code. As a result of the Life CCC's investigation into section 8.18 in this matter, the Subscriber self-reported a significant breach of section 8.18 of the Code.

The Life CCC notes that the Subscriber's self-reported significant breach of section 8.18 has been remediated and closed, and more information on this matter can be found in the Life CCC's Determination issued on the self-reported breach.³

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.

³ See Determination CX4789, issued on 11 June 2019.

Key learnings

A Subscriber closing a claim due to the non-receipt of information qualifies as a decision on a claim under section 8.17 of the Code.

However, the Consumer may provide the Subscriber with the information that it requires after the claim is closed. In such a scenario, a Subscriber will re-open the claim and continue the assessment of the claim.

The Life CCC notes that section 8.15 of the Code requires that a Subscriber has to provide its decision on the claim within ten business days of receiving all the information that it reasonably needs and completing all reasonable enquiries.

The Life CCC expects that Subscribers will have processes in place to ensure that such 'claim re-opens' are compliant with the obligations under Chapter 8 of the Code.

Relevant Code Sections

Section 8.1:

If **your** claim is covered by a **Group Policy**, **we** may be required to provide the communications referred to below to the **Group Policy-owner** (for example, the superannuation fund trustee which owns **your Life Insurance Policy**) in accordance with section 2.13. The **Group Policy-owner** will then communicate with **you** and assist with **your** claim. When **you** make a claim, **we** and/or the **Group Policy-owner** will let **you** know who will be in contact with **you**.

Section 8.17:

For all claims other than income-related claims, **we** will let **you** know **our** decision no later than six months after **we** are notified of **your** claim or six months after the end of any waiting period, unless **Unexpected Circumstances** apply. Depending on **your** policy, **our** decision may be a requirement that **you** undertake a period of rehabilitation or retraining, or it may be a final decision on **your** benefits. Where **Unexpected Circumstances** apply, **our** decision will be made no later than 12 months after **we** are notified of **your** claim. **We** will let **you** know the reasons for the delay, and if **you** disagree **we** will review this. If **we** cannot make a decision within 12 months, **we** will give you details of **our Complaints** process.

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.

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.