

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:	CX4674	Date:	13 March 2020
Code sections:	9.12		
Investigation:	AFCA Referral		

The alleged Code breach:

On 18 September 2018, the Life CCC received a referral from the Australian Financial Complaints Authority (AFCA) to consider a possible Code breach in relation to a Subscriber's compliance with section 9.12 of the Code. The Life CCC commenced its investigation in January 2019.

As the Consumer's Privacy Authority form could not be obtained, the Life CCC was unable to commence an individual investigation into the Code breach allegation. However, as it appeared likely from the information available that the Subscriber was in breach of the Code, the Life CCC conducted a de-identified review of the Subscriber's processes around section 9.12 of the Code.

As a response to the Life CCC's review, the Subscriber reported 1,808 breaches of section 9.12 of the Code.

Findings in accordance with Charter clause 7.4(b)(iii)¹:

The Life CCC determined that the Subscriber breached section 9.12 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 9.12

Section 9.12 requires Subscribers to provide a final response to a Consumer's complaint within 45 calendar days.

Section 9.12 also requires the Subscriber to tell the Consumer about the:

- (a) Subscriber's final decision in relation to the complaint;

¹ 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.

- (b) Consumer's right to copies of the information relied on and that if requested, the information will be provided within ten business days;
- (c) Consumer's right to take the complaint to the relevant External Dispute Resolution (EDR) scheme; and
- (d) relevant contact details for the EDR scheme.

The Subscriber submitted that the template which was used from the time the Code commenced did not include a sentence containing the requirement specified in section 9.12 (b) of the Code, resulting in 1,795 breaches of section 9.12. In addition, the Subscriber noted that there were 13 instances where it did not meet the 45-calendar day timeframe in section 9.12 of the Code.

The Subscriber confirmed that the non-compliance of section 9.12 of the Code was due to misinterpretation of the Code. The Subscriber misinterpreted section 9.12 (b) as being a claims-only requirement with an assumption that the Claims department would provide Consumers with all the relevant documents in cases where the claims are declined. Therefore, the Subscriber did not include the required information under section 9.12 (b) in its template letter.

Serious and Systemic

The Subscriber has confirmed that non-compliance of section 9.12 of the Code resulted in 1,808 breaches of section 9.12 of the Code.

As the number of breaches was excessive, the Life CCC determined that the breaches of section 9.12 amounted to serious and systemic non-compliance with the Code, as per clause 7.4(b)(iv) of the Life CCC Charter.

Remedial Action

The Subscriber has confirmed amendment of its template letters. The amendments took place as per below:

1. For claims cases, the templates were amended in July 2018.
2. For Customer Advocates, the templates were amended in August 2018.
3. For the remaining group, the templates were amended in February 2019 (including those for Customer Advocates when Internal Dispute Resolution (**IDR**) responses were reviewed).

Key learnings

Subscribers should have appropriate systems and processes as well as appropriate training and monitoring to ensure compliance with the Code. Given that the Code has been in force since 1 July 2017, the Life CCC expects Subscribers to have appropriate measures to ensure their accurate understanding of the Code and enable compliance with all the obligations under the Code.

Subscribers should conduct regular reviews of their processes to ensure that their understanding and interpretation correctly reflects their obligations under the Code. Failure to have adequate processes would result in breach of the relevant Code section, in addition to a possible breach of section 13.3 (a) of the Code.

Relevant Code Section

Section 9.12

Where possible, **we** will provide a final response to **your Complaint in writing** within 45 calendar days. **We** will tell **you**:

- a) **our** final decision in relation to **your Complaint** and the reasons for that decision;
- b) that **you** have the right to copies of the documents and information **we** relied on in assessing **your Complaint**, 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**;
- c) **your** right to take **your** Complaint to the Financial Ombudsman Service (**FOS**) if **you** are not satisfied with **our** decision, and the timeframe within which **you** must take **your** Complaint to **FOS**; and
- d) contact details for **FOS**.

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.