

# 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

<b>Reference:</b>	CX6169	<b>Date:</b>	22 July 2020
<b>Code sections:</b>	8.4		
<b>Investigation:</b>	AFCA Referral		

## The alleged Code breach:

The Consumer had 2 Life Insurance policies (the policies) with the Subscriber. On 5 October 2015, the Consumer lodged a trauma claim with the Subscriber under both policies for deafness of his ear.

On 12 November 2015, the Subscriber declined the claims (“**First Declinature**”). The Subscriber declined the claims on the basis that the Consumer did not meet the definition of “*total and irreversible and irreparable loss of hearing*” under the policies. On 17 November 2016, the Consumer requested the Subscriber to reopen and re-assess the claims on the basis of a new medical report.

On 2 December 2016, the claims were reopened, and a letter was issued by the Subscriber to the Consumer requesting for further information for claim assessment. On 7 June 2017, the Subscriber maintained the decline on the claims (“**Second Declinature**”).

On 8 November 2017, the Consumer’s lawyers wrote to the Subscriber requesting an update on the claims and asking why no update had been provided.

The allegation made by the Consumer was that the Subscriber failed to respond within 10 business days of the Consumer’s request which may be a breach of section 8.4 of the Code.

The Subscriber responded on 17 November 2017 stating that a decline letter was sent to the Consumer on 7 June 2017 and confirming that a copy would be provided once they receive the lawyer’s authority form.

On 20 November 2017, the lawyers issued their authority to the Subscriber. On 24 November 2017, the Subscriber sent an email to the lawyers attaching a copy of the claims decision letter that was issued to the Consumer on 7 June 2017.

On 29 May 2019 the file was referred to the Life CCC by Australian Financial Complaints and Authority (**AFCA**). The matter was placed on hold by the Life CCC, pending completion of the AFCA’s investigation.

On 14 October 2019, the Life CCC commenced its investigation on the matter.

## Findings in accordance with Charter clause 7.4(b)(iii)<sup>1</sup>:

The Life CCC determined that the Subscriber was not in breach of section 8.4 of the Code and that the allegation was unfounded.

### The Life CCC findings and conclusion:

#### Section 8.4

Section 8.4 sets out two separate elements for subscribers.

#### ***Assessment of the First Element of Section 8.4 of the Code.***

The first element is in relation to providing regular progress updates on a claim at least every 20 business days.

The Subscriber adopted the Code on 30 June 2017. The decisions on the claims (12 November 2015 and 7 June 2017) were made prior to the Subscriber adopting the Code. As a result, there was no requirement for the Subscriber to communicate with the Consumer every 20 days during the relevant period.

#### ***Assessment of the Second Element of the Section 8.4 of the Code***

The second element is in relation to responding to requests for information about a claim within ten business days.

The allegation made by the Consumer was that the Subscriber failed to respond within 10 business days of the Consumer's request. The Consumer's lawyers made the information request on 8 November 2017. The Subscriber initially responded on 17 November 2017 stating that a decline letter was sent to the Consumer on 7 June 2017 and confirming that a copy would be provided to them once they receive the lawyer's authority form.

On 20 November 2017, the lawyers provided the completed authority form to the Subscriber and on 24 November 2017, the Subscriber provided the requested information to the lawyers.

Based on the information provided, the Subscriber complied with second element of section 8.4 of the Code when it responded to the lawyer's request on 24 November 2017. The Subscriber had reasonable grounds to not provide any information without first having the authority form.

### Relevant Code Section

#### **Section 8.4:**

Prior to making a decision on **your** claim, **we** will keep you informed about the progress of your claim at least every **20 business days** unless otherwise agreed with **you** or the **Group Policy-owner**. **We** will respond to **your** requests for information about your claim within ten **business days**. **Section 9**

<sup>1</sup> 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 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.