

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:	CX4840	Date:	21 August 2020
Code sections:	Chapter 4 and section 5.14 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

On or around 23 November 2018, the Consumer made an application for a Life Insurance policy online with a Subscriber to the Life Insurance Code of Practice (the Code). Shortly after, the Subscriber's outsourced call centre contacted the Consumer via telephone to discuss his incomplete application and offered to walk him through the remainder of the application process.

The Consumer subsequently completed an application over the phone and was informed that his application would need to be assessed by the Subscriber's underwriters. The Consumer was also informed that he was required to submit his payment details to proceed with his application.

On 28 November 2018, the Consumer contacted the Life CCC to lodge a Code breach allegation in relation to the Subscriber's requirement that the Consumer provide his payment details when he was only requesting a quote. The Consumer noted that the sales methods may be a breach of Chapter 4 of the Code.

The Subscriber had resolved the issue by offering to provide the Consumer with the underwriting results prior to the Consumer having to provide his payment details. However, the Consumer wished to raise a Code breach allegation as other people might not be aware of this option. The Life CCC notes that the Consumer's application was declined by the Subscriber's underwriting team.

As a result, the Life CCC reviewed the Subscriber's compliance with Chapter 4 and section 5.14 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 Consumer's allegation of the Subscriber's non-compliance with Chapter 4 of the Code was not applicable in this instance, and that the allegation was unfounded, and
- the Subscriber was in breach of section 5.14 of the Code, and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Obligations in Chapter 4

The Consumer alleged that the Subscriber was in breach of Chapter 4 of the Code but did not specify a specific section in relation to his allegation. As a result, the Code team reviewed the Subscriber's compliance across Chapter 4 of the Code.

Chapter 4 of the Code creates various obligations for Subscribers. These obligations range from:

- how policies are advertised (section 4.1),
- training requirements for staff who sell policies (section 4.2),
- having documented sales rules to conduct sales appropriately (section 4.3),
- having a framework in place to monitor compliance with sales rules (section 4.4),
- obligations relating to Authorised Representatives (section 4.5),
- making clear that pressure selling is not permitted (section 4.6),
- obligations relating to consumer credit insurance (section 4.7),
- obligations relating to replacing an existing policy (section 4.8), and
- an obligation to investigate concerns about the Subscriber's sales practices (section 4.9).

The Subscriber disagreed with the Code breach allegation on the basis that the Consumer was able to apply for an initial quote without providing a payment method and whilst payment details are requested as standard as part of completing the application process, payment is only used if the application is accepted and a policy established.

Chapter 4 was not applicable

The Consumer's allegation related to the Subscriber's request for the Consumer to provide his payment details before proceeding with the underwriting assessment of the Consumer's application for his life insurance policy.

This did not prevent the Consumer from obtaining an initial quote (which he did). The Subscriber confirmed that an initial quote is available online once a customer has provided the information requested, selected the cover amount, and selected the premium frequency. In addition, the Subscriber confirmed that for such policies, the first month's premium is waived and that there is a 30 day cooling off period which enables a Consumer to cancel a policy without any charges. Any charges incurred before the 30 day period is fully refunded.

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.

Based on the information available, none of the obligations in Chapter 4 of the Code applied to the Consumer's allegation. As a result, the Life CCC determined that the Consumer's allegation of the Subscriber's non-compliance with Chapter 4 of the Code was unfounded.

Acknowledged breach of section 5.14

Section 5.14 of the Code requires a subscriber to provide the information included in section 5.14 (a) to (c) to a Consumer if the subscriber does not offer any insurance cover or offers the cover on alternative terms.

The email from the Subscriber's outsourced call centre to the Consumer on 30 November 2018 informed the Consumer that the Subscriber was unable to offer cover based on the assessment of the application, but did not provide the reason for declining the application. As a result, the Subscriber acknowledged a breach of section 5.14 of the Code.

The breach in this instance was caused by the Subscriber's outsourced call centre's employee communicating with the Consumer. The Subscriber's standard process is for its underwriting team to communicate directly with the Consumer about the decision outcomes for any applications.

The Subscriber noted that it had processes in place to ensure compliance with section 5.14 since its adoption of the Code in 2017 and these included:

- formal underwriting process guidelines requiring that the reason for a decision be communicated to the Consumer by the underwriting team;
- use of a template letter to communicate with Consumers regarding the outcome of their insurance application; and
- stationing an Operations Manager at its outsourced call centre with full oversight of the call centre's complaints register.

The Life CCC considers the latter initiative to be good practice and encourages Subscribers who utilise third party entities not bound by the Code to consider similar arrangements.

As the communication to the Consumer was done by the outsourced call centre's employee, the Subscriber's section 5.14 template and process was not used in this instance. The Life CCC reviewed the template letter, which is compliant with section 5.14 of the Code.

As part of its investigation of the allegation, the Subscriber also conducted a review which confirmed that the event was an isolated instance. The Subscriber has since re-confirmed its Consumer communication policy with its outsourced call centre.

In assessing the Subscriber's processes and documentation in relation to section 5.14, the Life CCC acknowledged that the Subscriber had generally robust processes in place to both enable and monitor its compliance with the Code.

Key learnings

The Subscriber was in breach of section 5.14 in this instance due to the action of an employee of its outsourced call centre, notwithstanding its own generally robust processes.

This reinforces the need for subscribers who utilise third party entities not bound by the Code to be vigilant in ensuring that compliance and process performance responsibilities and expectations are clear.

The Life CCC also expects subscribers who outsource services to third party entities not bound by the Code to conduct regular reviews and audits to ensure that high service standards to Consumers are maintained.

Relevant Code Section/s

Section 4.1

When **we** advertise and market **our Life Insurance Policies**, **we** will:

- a) be clear and not misleading;
- b) consider the target audience for the advertisement or marketing communication and whether it provides adequate information for that audience;
- c) ensure statements in advertisements or marketing communications are consistent with the features of the relevant policy and the disclosures in any corresponding **PDS**;
- d) ensure that any images used do not contradict, detract from or reduce the prominence of any statements used;
- e) if price or **premium** are referred to, ensure that these are consistent with the price or **premium** likely to be offered to the target audience for the advertisement or marketing communication;
- f) make clear if a benefit depends on a certain set of circumstances;
- g) ensure any use of phrases such as “free” or “guaranteed” are not likely to mislead; and
- h) comply with the Australian Securities and Investments Commission (**ASIC**)’s guidance for advertising financial products and services and guidance regarding unsolicited sales.

Section 4.2

Our staff and the staff of **our Authorised Representatives** who sell **our** policies will:

- a) receive appropriate training initially and on an ongoing basis covering **our** policies, suitable customers for **our** policies, acceptable and unacceptable sales practices, the best interests duty of financial advisers when providing personal advice, and the requirements of the **Code**; and
- b) receive additional remedial training as needed to correct any identified performance shortcomings.

Section 4.3

We will have clearly documented sales rules to ensure **our** staff conduct sales appropriately and prevent pressure selling or other unacceptable sales practices. These will include:

- a) how to identify if someone is unlikely to ever be eligible to claim the benefits under a policy;
- b) having clear rules on when **our** staff must stop selling if **you** indicate **you** do not want a **Life Insurance Policy** being offered or if it becomes clear that **you** will be unlikely to ever be eligible to claim the benefits under the policy;
- c) how to record and keep adequate evidence that **you** have genuinely consented to purchase the **Life Insurance Policy**;
- d) the minimum information that must be disclosed to **you** about the **premium**, features, benefits, exclusions, limits and cooling-off period of the **Life Insurance Policy**; and
- e) compliance performance measures included in **our** staff incentive programs including consequences if **we** identify they have engaged in pressure selling, incentivisation of financial advisers contrary to law or other unacceptable sales practices.

Section 4.4

We will have a framework in place to monitor **our** staff’s compliance with **our** sales rules, including:

- a) quality assurance measures for reviewing sales such as call monitoring, mystery shopping and post-sale call surveys; and
- b) analysis and reporting on key data, such as sales results, lapses, claim declines and **Complaints**.

Section 4.5

With **our Authorised Representatives**:

- a) **we** will agree with them their sales approach, staff training requirements and their monitoring and reporting framework, to satisfy **us** that their staff and businesses are meeting their agreed commitments, **our** sales rules, and the requirements of the **Code**; and
- b) **we** will have monitoring arrangements in place to oversee their conduct, such as mystery shopping, independent audits and analysis of key data such as sales results, lapses, claim declines and **Complaints**.

Section 4.6

We will make clear to anyone distributing **our** policies that pressure selling is not permitted.

Section 4.7

If **you** apply for a consumer credit insurance (**CCI**) **Life Insurance Policy** as an add-on to another financial product, either with **us** directly or through **our Authorised Representative**, **we** will:

- a) require **you** to provide consent to purchase the **Life Insurance Policy**;
- b) provide the following information prior to purchase:
 - i. a clear statement that the purchase of the **Life Insurance Policy** is optional;
 - ii. a clear question asking if **you** consent to the purchase of the **Life Insurance Policy**; and
 - iii. a clear explanation of the eligibility criteria for the **Life Insurance Policy**, the main exclusions that apply and the cooling-off period;
- c) inform **you** how the **premiums** will be structured;
- d) if the **CCI Life Insurance Policy** is an add-on to a loan:
 - i. if the option of paying the **premium** through the loan is offered, then at least one non-financed payment option such as a monthly direct debit will also be offered; and
 - ii. if the **premium** is fully funded by the loan, **you** will be informed that **you** will pay interest on the **premium**, and **your** loan repayments will be quoted with and without the **premium** for comparison;
- e) obtain adequate evidence that **you** have consented to purchase the **Life Insurance Policy**;
- f) have a minimum cooling-off period of 30 days; and
- g) provide **you** with an annual notice **in writing** each year prior to the anniversary of **your Life Insurance Policy**. The annual notice will include:
 - i. the period of cover;
 - ii. the types of cover; and
 - iii. contact details if **you** have any questions or need to make a claim.

Section 4.8

When **you** tell **our** sales staff that **you** are replacing an existing **Life Insurance Policy**, they will tell **you** that **you** should not cancel any existing cover until **your** new application is accepted, and explain the general risks of replacing an existing policy, including the loss of any accrued benefits, the possibility of waiting periods to start again, and the implications of any non-disclosure on **your** new application (even where unintentional).

Section 4.9

We will investigate concerns raised or identified with the sales practices of **our** staff and **our Authorised Representatives**. If as a result **we** identify that one of **our Life Insurance Policies** has been sold inappropriately:

- a) **we** will contact **you** to discuss an appropriate remedy. Appropriate remedies will vary depending on the circumstances, and may include:
 - i. cancelling the cover;
 - ii. arranging a refund of **premiums** paid;
 - iii. payment of interest on the refunded **premium**;
 - iv. adjusting the cover or arranging for more suitable cover;
 - v. correcting incorrect information; or
 - vi. honouring a claim;

- b) if **you** are not satisfied with **our** proposed remedy, **we** will review this and tell **you** how to make a **Complaint**; and
- c) **we** will correct any identified sales practice issues including through further education and training.

Section 5.14

If **we** do not offer any insurance cover, or if **we** offer on alternative terms, **we** will let **you** know (or **your** doctor, where appropriate):

- a) the reasons for **our** decision;
- b) that **you** have the right to the information about **you** that **we** have relied on to make **our** decision, and if **you** request **we** will provide this to **you** (or **your** doctor, where appropriate) within **ten business days**, in accordance with the Access to Information section of the **Code**; and
- c) if **you** disagree with **our** decision, or if **you** think that the information **we** have relied on to make **our** decision is incorrect or out of date, **you** can discuss this with **us** and **we** will review **our** decision, and if **you** are not satisfied with **our** review **we** will tell **you** how to make a **Complaint**.

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.