Monitoring Compliance with the Life Insurance Code of Practice 2019-20 Retrospective

The Annual Report of the Life Code Compliance Committee

LIFE CODE COMPLIANCE COMMITTEE

SEPTEMBER 2020

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Chair's message

As Chair of the Life Code Compliance Committee (the Committee) – the independent body that administers and enforces the Life Insurance Code of Practice (the Code) – I am pleased to present the Committee's Annual Report for the period 1 July 2019 to 30 June 2020.

It has been yet another challenging year for the life insurance industry. This year began with sweeping regulatory changes in response to the findings of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, and it concluded with unprecedented uncertainty brought about by the impact of COVID-19 on operating and working environments. These challenges underscore both the importance of the Code in guiding subscribers' decision making for managing their business and dealing with customers, particularly those who are vulnerable or enduring financial hardship, and the important role of the Committee in holding subscribers accountable for their Code obligations.

In our third year of operation, we have successfully strengthened our capacity to monitor and enforce the Code's standards and provide subscribers with supporting resources to help them to pro-actively improve the quality and consistency of their compliance reporting. For the first time since the Committee was formed, we have a fully staffed Administrator, which has given us the opportunity to bed down our operational frameworks, make our processes more efficient and improve productivity and outputs. The overall result has been the delivery of 40 Determinations and more guidance resources than previously published. Importantly, this has also provided us with the capacity to engage more closely with subscribers on matters such as compliance reporting, Code interpretation, and emerging issues and risks.

Resourcing improvements have also been pivotal in allowing us to significantly clear the backlog of assessments and investigations from prior years as well as deal with new allegations more promptly. Some of the backlog consisted of matters that formed part of the lengthy and resource-intensive investigation into the bulk referral of Code breach allegations by a plaintiff law firm in February 2018. We were pleased to be able to publish our report on the investigation, *Claims and Complaints Handling Obligations*, in March 2020.

In June 2020, we published the 2018–19 Annual Industry Data and Compliance Report (Data Report) which provided a snapshot of the life insurance industry and its compliance with the Code for the year. Unfortunately, inconsistencies in the content and quality of subscribers' data submission and an error identified in our own collation and reporting of the closing number of lives insured by cover type and distribution method in the 2017-18 Data Report made it difficult to provide meaningful insights or analysis about Code compliance. More detail about the challenges involved in completing the Data Report can be found on **page 9** but, I would like to acknowledge here the willingness subscribers have shown during the first half of 2020 to work with the Committee to improve

the accuracy and timeliness of their data submissions for the 2019–20 Data Report, particularly given the operational difficulties associated with COVID-19.

The Committee is encouraged that its various report recommendations, newly introduced website, supporting Guidance Notes and engagement with industry is having a positive impact on subscribers' compliance outcomes, as well as subscriber responsiveness to the Committee's queries. In 2019–20, the Committee received 36% fewer customer allegations of potential Code breaches than in 2018–19. This included 27% fewer claims-related breach allegations and 59% fewer complaints-related breach allegations. This was particularly encouraging given that these two Code chapters featured prominently in the plaintiff law firm's 2018 bulk referral to the Committee. Following a positive initial take-up, the Committee continues to encourage subscribers and other interested stakeholders to sign up via the Committee's website to receive timely notifications regarding the publication of Determinations, guidance notes and reports.

Disappointingly, we continue to see subscribers report low numbers of significant breaches. It is our belief that not all significant breaches are being reported. We urge subscribers to regularly review their compliance monitoring frameworks to gain assurance of their effectiveness, but also to encourage and support staff at all levels of the organisation to identify and report significant breaches.

I would like to thank our Administrator, the Code Compliance and Monitoring team (Code team) at Australian Financial Complaints Authority (AFCA) for its diligent work throughout the year. Led by General Manager, Sally Davis, and Compliance and Operations Manager, Ankit Dang, the Code team provides invaluable assistance to the Committee in monitoring subscribers' compliance with the Code and providing support for our many other activities throughout the year. My thanks also to David Locke, AFCA CEO, and to Nick Kirwan and Jamie Kennedy at the Financial Services Council (FSC) for their continuing support over the course of the year.

Finally, I thank my fellow Committee members, Alexandra Kelly and David Goodsall, and also Philippa Heir, the Committee's alternative consumer representative. Each has provided invaluable industry and customer insight in Committee discussions and decision-making during the year. The initial term of appointment for Alexandra and David ended on 30 June 2020, and I am delighted that both have been re-appointed to serve on the Committee for a further term.

I look forward to working with you all for another productive year ahead.

Anne T Brown
Independent Chair
Code Compliance Committee

Year at a glance

Monitoring and enforcement activities

102
Investigations and assessments completed

44
Significant Code breaches received from 21 referrals

33
Significant breaches assessed and confirmed

127
Alleged Code breaches received from 74 referrals

65
Code Allegations determined as breaches

44
Determinations, case studies and guidance notes issued

Committee achievements

- Published 40 Determinations, 2 Guidance Notes and 2 Case Studies to help subscribers improve the quality and consistency of their compliance reporting
- Launched the Life Code Compliance Committee website – www.lifeccc.org.au
- Significantly cleared the backlog of investigations from the previous reporting year
- Completed the investigation into the bulk referral of Code breach allegations by a plaintiff law firm and published the findings in *Claims and Complaints Handling Obligations: A review of compliance by Life Code subscribers*
- Published the 2018–19 Annual Industry Data and Compliance Report

Introduction

2019–20 was the third year of operation for the Life Insurance Code of Practice (the Code). The Code is administered, monitored and enforced by the independent Life Code Compliance Committee (the Committee).

This report summarises subscribers' compliance with the Code in 2019–20 and the Committee's activities and achievements during the year. It provides a snapshot of compliance trends and service standards in the life insurance industry for the reporting period, drawn from an aggregation of Code subscribers' data and insights from the Committee's Code compliance monitoring work. More information about the Code and its purpose is provided in Appendix A.

CODE SUBSCRIBERS

Life insurers that are members of the Financial Services Council (FSC) are required to adopt the Code. As of 30 June 2020, there were 25 Code subscribers, comprising 24 life insurers (including reinsurers) and one non-insurer (listed in **Appendix B**).[1] During the course of the 2019–20 reporting year, St Andrews Life Insurance Pty Ltd and St George Life Limited ceased to be Code subscribers after they stopped writing new business. Pacific Life Re (Australia) Pty Ltd was the only new subscriber to the Code in 2019–20. All life insurers writing new business covered by the Code in the Australian market are subscribers to the Life Insurance Code of Practice.

The Committee

Subscribers' compliance with the Code is monitored by the Committee, an independent body established on 1 July 2017. The Committee's purpose is to support the Code objectives of high customer service standards in order to increase trust and confidence in the life insurance industry. The Committee does this by:

- monitoring, enforcing and reporting on Code compliance
- working collaboratively to improve Code standards and promote industry best practice.

The Committee is bound by obligations set out in its Charter[2] and the Code.

1 The register of subscribers, is published on the Life CCC website at www.lifeccc.org.au, A copy of the register is also available on the FSC website https://www.fsc.org.au/policy/life-insurance/code-of-practice/

2 Life CCC Charter - https://lifeccc.org.au/resource/charter/

While it may investigate a possible Code breach, the Committee cannot:

- mediate or resolve individual disputes
- determine a person's legal rights or legal entitlements
- order compensation
- provide individual outcomes such as resolving a disputed claim decline or expediting a claim.

MEMBERS

The Committee is made up of three members:

- **an independent Chair**, Ms Anne T Brown, co-appointed by the FSC and the Australian Financial Complaints Authority (AFCA) Board
- **an independent industry representative,** Mr David Goodsall, appointed by the FSC
- **a consumer representative**, Ms Alexandra Kelly, appointed by the consumers' directors of the AFCA Board.

Profiles of the Committee members are provided in **Appendix C**.

During the reporting period, Ms Kelly identified actual and/or potential conflicts of interest in relation to a small number of Code breach referrals and investigations and recused herself from any Committee deliberations on such matters. In accordance with the Committee's Charter, its alternate consumer representative, Ms Phillipa Heir, took Ms Kelly's place on these occasions.

Following the end of the reporting period, Mr Goodsall and Ms Kelly were each re-appointed to the Committee for a second three-year term.

ADMINISTRATOR

The Code Compliance Monitoring team (Code team) at the Australian Financial Complaints Authority (AFCA) acts as Administrator for the Committee under an outsourcing agreement with the FSC. The Code team is led by the General Manager, Sally Davis. Ankit Dang is the Compliance and Operations Manager for the Committee. Profiles of key Code team staff are at **Appendix C**.

The Code team supports the Committee by:

- providing administrative support
- engaging with subscribers and stakeholders
- investigating alleged Code breaches
- undertaking Code monitoring work
- collecting and analysing aggregated industry data
- preparing reports for the Committee
- promoting compliance with the Code
- undertaking other work as directed by the Committee.

CODE REVIEW

To date, the Committee has not received any formal feedback from the FSC about our proposed changes and improvements to the Code. However, we are pleased to note that the FSC has given an undertaking for the Committee to have greater involvement in the ongoing Code review process and we look forward to further engagement with them in the near future prior to the release of the next draft.

Committee activities and achievements

The Committee had a productive and successful year, recording a number of significant achievements and carrying out the strategic priorities set out in its 2019–20 work plan. As part of this process, the Committee met nine times during the year, including two meetings involving the Alternate Consumer Representative. The Committee's meetings in April and June 2020 were conducted by video-conference due to COVID-19 travel restriction measures. (**Appendix D** contains details of the Committee's meetings in 2019–20.)

Better resourcing and a focus on improving efficiency have been key to many of the Committee's achievements this year. A fully-staffed Administrator throughout most of the period made it possible for the Committee to complete a large increase in the number of investigations and assessments, and to make significant progress on clearing the backlog of investigations that had built up during 2018–19 due to resourcing constraints at that time.

The Committee also took steps to make its compliance monitoring and breach investigation processes more efficient. This included the introduction of a Delegations Framework to allow the Code team to more effectively triage Code breach allegations and allocate the Committee's resources towards those matters which indicated greater customer harm or which the Committee considered to be an emerging risk.

Progression of other complex matters and initiatives, included:

- development of the Life Code Compliance Committee website, launched in September 2019;
- publication of 40 de-identified Determinations, two case studies and two Guidance Notes during the year;
- the publication of *Claims and Complaints Handling Obligations: A review of compliance by Life Code subscribers* – a report on the findings of the Committee's investigation into the bulk referral of over 700 Code breach allegations by a Plaintiff law firm in February 2018 (**p. 10**), which was released in March 2020; and
- the publication of the 2018–19 Annual Industry Data and Compliance Report (**p. 9**), published in June 2020; and
- additional meetings with individual subscribers during the year to discuss compliance reporting and data quality, as well as current industry developments and issues (**p. 11**).

Pleasingly, feedback from subscribers suggests that the additional reports, guidance materials and increased Committee and Code team engagement has created greater understanding of the Committee's role and expectations, enabling subscribers to better understand their Code obligations and how to achieve more effective compliance.

The Committee continues to encourage subscribers to use their resources to train and educate staff to improve their knowledge, understanding and interpretation of the Code, the importance of Code compliance and the need to report all Code breaches.

> **the Committee continued its engagements with subscribers and stakeholders remotely due to the impact of COVID-19.**

In the final months of the 2019–20 reporting year, the Committee continued its engagements with subscribers and stakeholders remotely due to the impact of COVID-19. Whilst acknowledging that the pandemic would have a significant and unprecedented impact on the industry, the Committee reminded subscribers of their ongoing obligations under the Code and the need to uphold the spirit of the Code, with a particular focus on the need to prioritise the treatment of vulnerable customers and those experiencing financial hardship. The Committee also provided assurance to industry that it would provide reasonable flexibility and support throughout the relevant period, including the relaxing of some reporting deadlines during 2020–21 and taking account of restrictions or limitations faced by subscribers in the Committee's assessment of proposed breach remediations. (Further detail about the Committee's COVID-19 engagement with subscribers is on **page 11**.)

Annual Industry Data and Compliance Report

Under its Charter, the Committee is required to publish an annual data report on the life insurance industry and its compliance with the Code of Practice. Accordingly, the *2018–19 Annual Industry Data and Compliance Report* (Data Report) was published on 26 June 2020.

The Data Report was based on data collected from 25 Code subscribers who each completed a detailed data workbook that was developed in consultation with stakeholders. This quantitative data was complemented with data on subscribers' compliance with the Code, sourced either directly from subscribers or from the Committee's compliance monitoring work. This year, the Committee also requested some qualitative information focused on subscribers' frameworks and procedures for training and monitoring skills of underwriters and claims assessors.

One of the purposes of the Committee's Annual Data Report is to provide meaningful insights into how subscribers have improved their Code compliance. Unfortunately, the Committee's ability to achieve this objective for this year's Data Report was limited due to an error in the collation of data last year and inconsistencies in the content of data received from subscribers in 2017-18.

In addition, the initial 2018–19 data submitted was of poor quality in many cases, requiring subscribers to make amendments and resubmit. The Committee worked through these issues with subscribers and re-engineered some of its own operational processes to correct errors in 2017-2018 and ensure the collation of data was robust. While these challenges caused delay in producing the final report, the Committee is confident

that the measures it took to engage with subscribers to clarify data requirements and reporting expectations, alongside the internal improvements it has made to data collations processes will mitigate the recurrence of the same issues in the future.

Notwithstanding these challenges, the Committee was able to make a number of worthwhile findings, including the apparent ineffectiveness of some subscribers' staff training programmes and monitoring frameworks and the need for subscribers to improve their claims management processes and recording and analysis of complaints. It also highlighted the need to improve and embed a more pro-active and consistent compliance culture throughout subscriber organisations.

The Data Report made suggestions to help subscribers to remediate these issues by implementing minimum standards of training and education for underwriting and claims, developing a common industry complaints classification regime, and promoting a top-down organisational culture which aligns with the values in the Code.

The Committee expects subscribers – particularly their Boards and Executive Management teams – to take on board the lessons learnt from the 2018–19 Data Report and the data collection process. Pleasingly, there has been a marked improvement in subscriber compliance responsiveness during the first half of 2020, and the Committee acknowledges the positive attitude of subscribers towards improving the data collection process for the 2019–20 Data Report, which is currently underway.

Bulk referral investigation into claims and complaints handling obligations

The Committee completed its investigation into 11 subscribers' compliance with sections of the Code relating to the timely processing of claims and complaints, initiated by the receipt of a bulk referral of more than 700 alleged breaches from a Plaintiff law firm in February 2018.

As part of the investigation, the Committee reviewed the adequacy of subscribers' processes and procedures as they related to sections 8.16, 8.17 and 9.10 of the Code, and sought explanation for any non-compliance. More than 300 of the alleged breaches were confirmed as Code breaches.

The investigation took more than 18 months and involved a substantial amount of work with each individual subscriber, helping them to correctly interpret their obligations under sections 8.16, 8.17 and 9.10 of the Code, reviewing their compliance frameworks and advising them on the best corrective actions where breaches had occurred.

The findings were published in a report titled *Claims and Complaints Handling Obligations: A review of compliance by Life Code subscribers* in March 2020.

Engaging with stakeholders

During 2019-20, the Committee and the Code team remained committed to engaging with a range of stakeholders during 2019–20, including Code subscribers, consumer groups, regulators and AFCA. As the COVID-19 pandemic took hold in the last few months of the reporting period, and travel and other social restrictions were enacted across the country, this engagement was undertaken remotely.

During the final months of the reporting year, the Committee and Code team held meetings with subscribers to examine the impacts of COVID-19 on the life insurance industry.

SUBSCRIBERS AND INDUSTRY

There was ongoing subscriber engagement by both the Committee and the Code team, with a focus on improving subscribers' Code practices, data quality and compliance reporting.

The Committee met with the Boards and leadership teams of a number of subscribers for high-level discussions on matters including Code compliance, culture and corporate governance, industry issues, and insights gleaned from the Committee's monitoring activities. These meetings were fruitful and well received by subscribers, and the Committee looks forward to continuing this engagement programme throughout 2020–21.

With support from the Committee, the Code team worked with individual subscribers during the year, guiding them through various reporting and compliance matters, and helping them to interpret particular Code sections that were the subject of a number of breaches and significant breaches.

Extensive subscriber engagement was also undertaken to complete the Annual Data and Compliance Programme (ADCP), with the Code team engaging with subscribers for the development of the data workbook and as part of the Code team's validation of the data provided.

The Committee and the Code team liaised with the FSC throughout the year, meeting its executives and members of the FSC's Life Board Committee to provide updates on key monitoring activities and investigations. Whilst a number of industry conferences were cancelled or postponed due to COVID-19, Committee and Code team members attended the FSC's annual Summit in August 2019.

During the final months of the reporting year, the Committee and Code team held meetings with subscribers to examine the impacts of COVID-19 on the life insurance industry. These meetings provided an opportunity to discuss the operational and economic challenges facing subscribers as a result of the pandemic, particularly in relation to meeting some Code commitment timeframes. They also provided the Committee with insight on ways to streamline its own processes to help support subscribers to meet their Code obligations in this challenging environment, including relaxing reporting deadlines for the 2019–20 ADCP and maintaining alignment with the data reporting obligations of APRA where possible to avoid duplication of effort.

Consumer groups also play a valuable role in promoting awareness of the Code and informing clients of their rights to refer a potential breach of the Code to the Committee.

CONSUMER GROUPS

Consumer groups, such as consumer advocates and plaintiff law firms, are an important source of information about current issues affecting people in life insurance. This information can feed into how the Code is interpreted, as well as provide practical insight into the types of harm the Code addresses. Consumer groups also play a valuable role in promoting awareness of the Code and informing clients of their rights to refer a potential breach of the Code to the Committee. During the year, the Committee and the Code team met with plaintiff law firms and other consumer advocates to raise awareness of the Code and the Committee's work, and to better understand consumer concerns about life insurance. Code team members also attended the Suncorp Consumer Advocates Day in March 2020.

REGULATORS AND POLICY

The Committee and Code team met with ASIC, APRA and Treasury during the year to share high-level information on its current monitoring work and priorities and discuss regulatory matters of relevance to the life insurance industry. The Committee also welcomed AFCA's Lead Ombudsman, and ASIC's Senior Executive Leader for Insurance as guest speakers at Committee meetings during the year. Topics discussed included life insurance complaints trends and systemic issues, industry data collection processes and issues, the status of the Code review, impending Code enforceability legislation, and the progress of the Committee's bulk referral report.

In August 2019, the Committee Chair, along with the Chairs of all other Code Committees, met with Treasury to discuss its work to implement the Recommendations of the Royal Commission into Financial Services, in particular Recommendation 1.15 regarding enforceability of Codes. There were also periodic follow-up meetings throughout the year between Treasury and the General Manager – Code Compliance and Monitoring.

AFCA

As the provider of administrative services to the Committee and a key referrer of alleged Code breaches, AFCA is an important stakeholder. In 2019–20, the Code team provided internal training on the Code to AFCA systemic issues and external dispute resolution staff to assist their understanding of the content and the information needed to refer any Code breach allegations to the Committee. The Code Team also provided subject matter expertise to assist in the development of a dedicated e-learning module to train AFCA staff about the Life Code.

Complying with the Charter

The Committee complied with its Charter obligations for the 2019–20 period.

Looking ahead

In addition to ongoing focus on the core functions and responsibilities outlined in its Charter, the Committee will continue to produce guidance resources to help subscribers improve their compliance reporting, and further develop and refine internal processes for monitoring subscribers' Code compliance. Specific priorities for the Committee in 2020–21 include the following:

✔ PRIORITY MONITORING FRAMEWORK

The Committee is currently developing a Priority Monitoring Framework (PMF) to identify and track emerging risks in the industry and to better focus its resources to monitor and investigate areas of the Code where subscribers commonly experience compliance issues. Results from analysis of both quantitative and qualitative information gathered throughout the year will assist the Committee's future monitoring work, as well as inform the focus and scope of specific investigations and reports such as its Own Motion Inquiries (see below).

✔ OWN MOTION INQUIRIES

The Committee plans to conduct two Own Motion Inquiries (OMI) in 2020–21 to examine and report on subscribers' compliance with specific sections of the Code.

The first OMI will focus on section 3.2 of the Code, which relates to the obligation for subscribers to review, update and notify customers of any changes to the medical definitions in their on-sale policies for benefits that are payable after a defined medical event. The inquiry will examine whether or not subscribers have reviewed the medical definitions in these policies within the requisite three-year timeframe and if that review has been conducted in consultation with relevant medical specialists.

The second OMI is planned for early 2021. The specific focus of this inquiry will be informed by the Committee's Priority Monitoring Framework and an analysis of any emerging or upcoming areas of risk.

✔ GUIDANCE NOTES

The Committee plans to publish several Guidance Notes in 2020–21 to help subscribers interpret and apply specific sections of the Code which continue to present compliance issues, including:

- **Sections 8.16 and 8.17**, which deal with subscribers' obligations to customers when assessing claims. The way subscribers assess claims is an enduring pain point for life insurance customers, as evidenced by the consistently high number of breach allegations received and determined by the Committee over the last three years (see **page 16**). In addition to helping subscribers achieve their section 8.16 and 8.17 compliance obligations, these Guidance Notes will further enhance the recommendations provided in the Committee's *Claims and Complaints Handling Obligations* report.
- **Section 6.5**, which deals with subscribers' obligations when customers wish to change their policy or are experiencing financial hardship. The treatment of vulnerable customers, such as those who may be victims of family violence and those experiencing financial difficulty, was a particular focus of the Financial Services Royal Commission. With the COVID-19 pandemic continuing to have a detrimental impact on the finances and mental health of millions of Australians, the need for subscribers to work closely with vulnerable customers and those experiencing financial hardship has never been more necessary or important.

> **... we have successfully strengthened our capacity to monitor and enforce the Code's standards and provide subscribers with supporting resources to help them to pro-actively improve the quality and consistency of their compliance reporting.**
>
> - ANNE T BROWN
> INDEPENDENT CHAIR
> CODE COMPLIANCE COMMITTEE

Monitoring and enforcement of subscriber compliance

HOW THE COMMITTEE MONITORS COMPLIANCE

The Committee monitors subscribers' compliance with the Code in a number of ways, including by:

- investigating significant breaches reported by subscribers[3];
- receiving and investigating referrals from members of the public and others that a subscriber has breached the Code; and
- undertaking proactive, targeted investigations of compliance in specific areas.

In this report, the term 'referral' means a referral to the Committee of one or more alleged Code breaches by a person, their representative, AFCA, subscribers or anyone who thinks that a Code breach has occurred.

Total reported Code breaches in 2019–20

When a matter is referred or reported to the Committee, there is usually more than one Code breach involved. For transparency, **Table 1a** in this section deals with each individual breach, while **Table 1b** deals with the number of matters. In 2019-20, there were 95 matters containing 171 alleged Code breaches reported to or identified by the Committee. This total of 171 is down 29% from the prior year, however the Committee does not consider it appropriate to draw particular conclusions at this stage, given the relative newness of the Code and the still-evolving subscriber compliance frameworks. 44 of the 171 were reported as significant breaches by subscribers, while the remaining 127 were reported by individuals or their representatives as breach referrals or identified by the Committee through its monitoring activities. **Table 1a** provides a comparison of significant and alleged Code breaches over the last 3 years, broken down by applicable Code chapter.

3 Subscribers are required to report all other breaches they do not deem to be significant, as part of their ADCP submission.

As has been the case since the Code came into effect on 1 July 2017, the majority of both significant and alleged Code breaches related to the Code's obligations on claims handling - over 52% and 60% respectively. The majority of customer-lodged breach allegations have related to this issue every year since the Code was adopted. Subscribers reported more than twice as many significant breaches relating to claims in 2019–20 than the previous year, suggesting an improved understanding by Subscribers of their claims handling obligations under the Code and their breach monitoring processes in this area.

Complaints handling is the category with the second highest total of reported breaches, although reported allegations are well down from last year. The way Code subscribers manage complaints is likely to come under further external scrutiny, especially given the implementation of shorter timeframes for complaints handling set out in ASIC's recently released Regulatory Guide 271 Internal Dispute Resolution.[4]

In light of the recommendations outlined in the Committee's *Claims and Complaints Handling Obligations* report, and the detailed remediation discussions held with relevant subscribers as part of that investigation, the Committee will continue to monitor these areas and would expect to see a reduction in non-compliance over the next 12 months.

TABLE 1A.

Significant breaches and alleged breaches, by Code chapter

	2017-18			2018-19			2019-20		
Code chapter	Significant	Alleged	Total	Significant	Alleged	Total	Significant	Alleged	Total
Claims *	5	43	**48**	9	106	**115**	23	77	**100**
Complaints and disputes *	1	14	**15**	1	39	**40**	2	16	**18**
Policy changes and cancellation	7	1	**8**	7	6	**13**	7	9	**16**
Sales and advertising	4	3	**7**	4	11	**15**	-	4	**4**
Code objectives	-	3	**3**	1	8	**9**	-	13	**13**
Policy design and disclosure	2	-	**2**	-	8	**8**	-	2	**2**
Access to information	-	6	**6**	-	8	**8**	1	5	**6**
Buying insurance	3	-	**3**	7	2	**9**	3	1	**4**
Monitoring, enforcement and sanctions	-	-	**-**	14	-	**14**	8	-	**8**
Additional consumer support	-	3	**3**	-	3	**3**	-	-	**-**
Third party underwriting and claims	1	1	**2**	-	2	**2**	-	-	**-**
Information and education	-	2	**2**	-	1	**1**	-	-	**-**
Key Code promises	-	-	**-**	-	4	**4**	-	-	**-**
Total *	23	76	**99**	43	198	**241**	44	127	**171**

* excludes 2017-18 bulk referral numbers to allow more realistic year-to-year comparison. The bulk referral allegation of more than 700 potential breaches were dealt with via a dedicated investigation, with results published in the Committee's report: *Claims and Complaints Handling Obligations: A review of compliance by Life Code subscribers*. The report is available on the Committee website at www.lifeccc.org.au.

4 ASIC's RG271 Internal dispute resolution comes into effect on 5 October 2021. For complaints received by financial firms before that date, RG 165 Licensing: Internal and external dispute resolution applies. ASIC will withdraw RG 165 on 5 October 2022.

Investigation Activity by the Committee

Table 1b below provides a summary breakdown of the investigation-related work undertaken by the Committee during the last three years.

In 2017-18, its first year of operation, the Committee was not resourced to deal with the 79 matters which were received (many more than expected), quite apart from dealing with the additional bulk referral received in February 2018.[5] Only a limited number of matters - 19 - were closed in that first year.

In 2018-19, whilst some additional staff resources were added, overall staffing remained below plan and was not sufficient to make substantial inroads into completion rates for investigations, a number of which were complex and involved multiple allegations. In 2018-2019, the Committee received an additional 102 matters. In addition to continuing work on the bulk referral, 40 assessments and investigations were completed, ending the 2018-2019 reporting period with 122 matters remaining open.

In early 2019-20, additional Administrator resources brought the team to full strength. Having a fully resourced and more experienced Administrator team for much of the year, together with further maturation of the Committee's triage process and delegation framework has resulted in improved productivity across all areas of its work, particularly for investigations which saw a much higher throughput of work in 2019-20 as shown in **Table 1b**. In 2019-2020, the Committee received a further 95 matters. The Committee completed 101 matters including those related to the bulk referral investigation.

As of 30 June 2020, the Committee had 116 matters open, a small number of which are on hold as they are subject to investigations by other bodies. From 30 June 2020 to 1 September 2020, a further 37 matters were completed, and the Committee looks forward to reporting a further decrease in the number of carried over matters in next year's annual report.

TABLE 1B.

Summary status of Matters overseen by the Committee

	Received	Closed in 2017-18	Closed in 2018-19	Closed in 2019-20	Open at 30 June 2020
2017-18 Matters					
Investigations	56	16	11	19	10
Significant Breaches	23	3	5	15	0
Total 2017-18 Matters	**79**	**19**	**16**	**34**	**10**
2018-19 Matters					
Investigations	79		17	27	35
Significant Breaches	23		7	7	9
Total 2018-19 Matters	**102**		**24**	**34**	**44**
2019-20 Matters					
Investigations	74			27	47
Significant Breaches	21			6	15
Total 2019-20 Matters	**95**			**33**	**62**
All Years					
Investigations	209	16	28	73	92
Significant Breaches	67	3	12	28	24
Total Matters All Years	**276**	**19**	**40**	**101**	**116**

5 Excludes 2017-18 bulk referral numbers to allow more realistic year-to-year comparison. The bulk referral allegation of more than 700 potential breaches were dealt with via a dedicated investigation, with results published in the Committee's report: *Claims and Complaints Handling Obligations: A review of compliance by Life Code subscribers*. The report is available on the Committee website at www.lifeccc.org.au

Significant breaches

Under the Code, subscribers are required to report significant Code breaches to the Committee within 10 business days of identifying the breach. Under the current Code, whether a breach is significant can only be determined by a subscriber using the definition of a significant breach set out in Chapter 15 of the Code.[6] In 2019–20, subscribers reported a total of 44 significant breaches – an increase of just one from the previous year. The Committee reviewed 34 and confirmed 33 as significant Code breaches during the reporting period (**Table 2**).

The Committee remains of the view that subscribers are under-reporting significant breaches, particularly given the comparatively high number of breach allegation referrals over the same period (**Table 3**) and in light of the breach data submitted by subscribers as part of the Annual Data and Compliance Programme (ADCP).

During 2018–19, for example, one subscriber did not report a single significant breach to the Committee, despite reporting 7 breach events and 43 isolated breaches in the ADCP.[7] Another subscriber, who reported 12 breach events and 5 isolated breaches in the 2018–19 ADCP, reported just one significant breach to the Committee during the same period. Given that a breach event results in multiple breaches of a Code section from the same cause at the same point in time, and often impacts many customers, the Committee is concerned that these breach events were not also assessed and reported by subscribers as significant breaches.

The Committee has observed that not all subscribers appear to have robust processes and procedures in place in relation to identifying and reporting significant breaches to the Committee. This is illustrated by some subscribers having never reported a significant breach to the Committee, while others – including some of the larger insurers – continue to report very few significant breaches each year. This is disappointing and was part of the driver towards our inclusion of a dedicated section on compliance culture in our recently released Annual Industry Data Report to help subscribers better understand our expectations and improve their organisational cultures from the Board down. Whilst repeated and/or habitual reporting by the same subscriber would appropriately raise Committee concerns, a more general increase in levels of self-reporting across the industry would, in one respect, be welcomed by the Committee as indicating that subscribers were taking their auditing and monitoring functions seriously, and that their breach detection mechanisms were robust and effective. It would also indicate a subscriber is more open to reporting Code breaches, investigating and learning from the root causes, putting in place measures to prevent a recurrence, and ensuring that its employees are appropriately trained and actively encouraged to identify and report incidents that could be significant breaches of the Code.

The Code has now been in operation for three years and the Committee expects subscribers to have developed robust Code compliance frameworks in place to identify, capture and manage all breaches, and to assess and report those that are determined to be significant breaches as soon as they occur. As we have previously reiterated, even if there is doubt about whether a breach is significant or not, subscribers should err on the side of caution and report it.

6 Life Insurance Code of Practice - https://lifeccc.org.au/resource/codes-of-practice/

7 Data about breach events and isolated breaches is collected for the ADCP, not for the Annual Report. At the time this report was published, the 2019–20 ADCP data was not yet available. For comparative purposes, we have therefore referenced significant breaches reported by subscribers during the 2018–19 reporting period.

TABLE 2.

Significant breaches reported*, reviewed† and confirmed‡ by Code chapter

	2017-18		2018-19			2019-20		
Code chapter	Significant	Confirmed	Self-reported Significant	Reviewed	Confirmed	Self-reported Significant	Reviewed	Confirmed
Policy changes and cancellation	7	6	7	-	-	7	4	4
Sales and advertising	4	4	4	4	-	-	-	-
Claims	5	1	9	4	4	23	12	12
Policy design and disclosure	2	2	-	-	-	-	-	-
Buying insurance	3	2	7	-	-	3	8	8
Third party underwriting and claims	1	1	-	-	-	-	-	-
Code objectives	-	-	1	1	1	-	-	-
Access to information	-	-	-	-	-	1	1	1
Monitoring, enforcement and sanctions	-	-	14	-	-	8	7	7
Information and education	-	-	-	-	-	-	-	-
Key Code Promises	-	-	-	-	-	-	-	-
Complaints and disputes	1	1	1	-	-	2	2	1
Total *	**23**	**17**	**43**	**9**	**5**	**44**	**34**	**33**

* A significant breach reported by a subscriber to the Committee.

† Significant breach reviewed by the Committee.

‡ Significant breach confirmed as such by the Committee.

CLAIMS

Chapter 8 of the Code accounted for just over half of the 44 significant breaches reported by subscribers in 2019–20. The protections in the Code relating to how subscribers handle claims are among the most important, as they are designed to ensure that customers receive a high standard of service at a time when they are at their most vulnerable.

Subscribers reported 23 significant claim breaches, a considerable increase on the 9 recorded in the previous year.

The key Code clauses in Chapter 8 that were breached in 2019–20 related to:

- the timing around explaining the cover and claim process to a customer once the subscriber is notified of the claim (section 8.3 – 6 reported breaches)
- the timing around informing a customer about the progress of their claim (section 8.4 – 5 reported breaches)
- the timing around informing a customer about a decision on their claim (section 8.15 – 4 reported breaches).

Subscribers nominated a range of people-related issues, including inadequate staff training, human error and a failure to follow the correct processes and procedures, as the cause of most claims-related breaches.

MONITORING, ENFORCEMENT AND SANCTIONS

The Code chapter that was subject to the second highest number of reported significant breaches was chapter 13, which deals with the adequacy of subscribers' compliance monitoring. There were 8 such reported significant breaches in 2019–20, all relating to section 13.3(a) of the Code, which requires the subscriber to have appropriate processes and procedures to enable compliance with the Code. A breach of this section is most often (and unsurprisingly) reported as a secondary breach, alongside the (primary) breach of another Code section, where the subscriber has identified serious or systematic failings in their compliance processes or procedure around the primary breach.

Chapter 13 was the subject of the highest number of reported significant breaches (14) during 2018–19 and the Committee notes that reported significant breaches of this kind have almost halved over the last 12 months. Due to the small sample size, the Committee is unable to draw any meaningful conclusions from this decrease. However, Chapter 13 of the Code continues to be a key focus of the Committee's monitoring and compliance work and the Committee encourages subscribers to always consider compliance with section 13.3(a) when reporting a significant breach of another section of the Code.

> **Chapter 13 of the Code continues to be a key focus of the Committee's monitoring and compliance work**

Case study

Reporting a significant breach of one Code section, a subscriber was also in breach of section 13.3(a) for lacking appropriate processes to enable Code compliance

In an effort to speed up the assessment of certain types of claims, the subscriber developed a simplified claims assessment process whereby only a limited amount of information was required from the customer, and both the assessment process and the claim decision were communicated to the customer over the telephone. Where a decision was made to decline a claim, the Subscriber also issued a confirmation letter to the customer.

For a period of just over two years, the subscriber declined more than 450 claims assessed under this simplified process. In declining these claims, the subscriber issued template letters to customers that failed to comply with section 8.19(a) and (b) of the Code. Under this section, a subscriber must give the customer a reason for declining the claim and advise the customer of their right to copies of the documents the subscriber used to assess the claim. Accordingly, the subscriber reported a significant breach of section 8.19(a) and (b) of the Code, which, after investigation, the Committee confirmed.

The Committee also confirmed that the subscriber did not have processes in place to ensure compliance with section 8.19(a) and (b). This meant that the subscriber was also in breach of section 13.3(a) of the Code, which requires all subscribers to have systems and processes in place to enable Code compliance.

Under the Code, a claim decline decision must be communicated in writing. While the use of a template decline letter is therefore best practice, it is important that it contains all the information required to enable to the customer to fully understand their rights when a claim is declined.

The Code has been operational for more than three years and the Committee expects all subscribers to have comprehensive Code compliance processes fully embedded into their business operations. We also encourage 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.

The third highest number of reported significant breaches in 2019–20 concerned policy changes and cancellation rights, covered in chapter 6 of the Code. These are an important group of protections because they keep insurers accountable to customers, particularly during times of economic uncertainty (such as the COVID-19 pandemic), when people may be looking to amend or cancel their policy following changes to their financial situation.

Mirroring the previous reporting period, subscribers reported 7 significant breaches of this kind in 2019–20. All but one related to section 6.3, which obliges subscribers to provide customers with an annual written notice outlining the details of their policy, including the type of cover, the amount they are insured for and an explanation of any increase in premiums. The remaining reported significant breach concerned the customer's entitlement to a refund within 15 business days when they cancel their life insurance policy (section 6.7).

Most of the 7 reported significant breaches were caused by legacy policies (off sale policies) and limitations with IT systems, with an example outlined in the following case study.

Case study

A subscriber fails to provide policy-holders with their annual notice prior to the policy anniversary

Under section 6.3 of the Code, subscribers are required to provide customers with an annual notice, in writing, prior to the anniversary of the Life Insurance Policy. The notice must include information about the customer's level of cover, the amount for which they are insured, the details of any increase in their premiums, and advice about policy changes and cancellation rights.

The subscriber reported a significant breach of section 6.3 to the Committee after it identified that 805 annual notices were sent out late, resulting in some customers potentially not receiving their notice until after the anniversary of their policy.

The subscriber had in place an arrangement whereby its annual notices were printed and distributed several weeks prior to the anniversary date. A dedicated administrator was assigned to collect the notices from the printer and organise for them to be posted to customers.

In the case of the 805 annual notices, the administrator arranged for them to be printed before going on leave. A second administrator was designated the task of collecting and dispatching the notices but did not attend work due to illness. A staff member from another team with access to the same printer collected the notices and placed them in a secure cupboard for confidentiality. That staff member then went on leave for two weeks and did not provide the notices to the dedicated administrator for distribution until after returning to work.

While there were unavoidable disruptions to the subscriber's process that were outside of its control, the Committee noted that the subscriber did not have any form of monitoring or control process in place to ensure that it was compliant with section 6.3 of the Code.

As the subscriber did not have adequate arrangements to monitor its compliance with the Code and did not have proper control processes in place to prevent the single point of dependency, the Committee confirmed that the subscriber's breach of section 6.3 of the Code amounted to systemic non-compliance with the Code.

The subscriber has since removed the single point of dependency by training two additional staff members to perform this task and has also implemented greater management oversight of the process. The subscriber also wrote to the impacted customers, advising them of the breach and inviting them to discuss the matter further if they had any concerns.

The Committee noted that, whilst the breach of section 6.3 was compounded by human error, its root cause was the single point of dependency. Subscribers should ensure they have sufficient processes in place to mitigate against the risk of such an event occurring – for example, by implementing wider management oversight or through the allocation of additional resourcing to the task.

Alleged Code breaches

Anyone can refer an alleged breach of the Code to the Committee. The Committee then has the discretion to investigate the referral; determine whether a breach or breaches occurred with the alleged breach or any Code obligation; agree with the subscriber on corrective measures; and monitor their implementation.

TABLE 3.

Code breaches reported*, assessed† and determined‡ by Code chapter

	2017-18			2018-19			2019-20		
Code chapter	Reported	Assessed	Determined	Reported	Assessed	Determined	Reported	Assessed	Determined
Claims	86	1	1	126	23	17	77	71	42
Complaints and disputes	24	1	1	36	10	9	16	24	20
Policy changes and cancellation	1	-	-	6	-	-	9	-	-
Sales and advertising	2	-	-	10	-	-	4	1	1
Code objectives	3	-	-	8	-	-	13	-	-
Policy design and disclosure	-	-	-	8	-	-	2	1	-
Access to information	6	-	-	11	3	2	5	1	1
Buying insurance	-	-	-	4	-	-	1	-	-
Monitoring, enforcement and sanctions	-	-	-	-	-	-	-	-	-
Additional consumer support	3	-	-	3	-	-	-	-	-
Third party underwriting and claims	1	-	-	3	-	-	-	-	-
Information and education	1	-	-	1	-	-	-	1	1
Key Code promises	-	-	-	4	-	-	-	3	0
Total	**127**	**2**	**2**	**220**	**36**	**28**	**127**	**102**	**65**

* Alleged Code breaches reported to the Committee by a person, personal representative, AFCA or other third party.

† Code breach allegations assessed by the Committee. This can include allegations received in previous reporting periods.

‡ Allegations determined by the Committee as Code breaches.

The Committee assessed 102 breaches during the year (**Table 3**) and determined that 65 of them were Code breaches. Most of these were reported during the 2017–18 and 2018–19 reporting years. However, due to the prevailing resourcing constraints, the Committee was unable to complete its assessment of these prior to 30 June 2019. The majority of these breach matters concerned Code chapters 8 (claims) and 9 (complaints and disputes) and included allegations that were received as part of the bulk referral discussed on **page 10** of this report.

Alleged Code breaches: from referral to remediation

1. REFERRAL

A person, personal representative or AFCA makes a referral. We apply a triage process to check whether the referral is covered by the Code and to decide whether and how to proceed.

Where a matter falls within the Committee's jurisdiction, we consider whether the subscriber involved is currently being (or has previously been) investigated by the Committee for a breach of the same Code section. If not, we will commence an investigation. If so, we will consider the merits of investigating the new matter, taking into account factors including (but not limited to):

- impact on the person or people involved
- whether the matter is likely to be isolated or industry wide
- whether guidance or a key principle could be developed as a result of any investigation
- whether the Committee should conduct a wider inquiry into the area of concern, rather than an individual investigation.

We will also consider whether the issue being raised in the new referral occurred before or after the previous investigation took place. If it occurred before the previous investigation, we will look at whether the cause of the issue has been addressed by the remedial outcomes of the investigation. If it occurred after the completion of the previous investigation, it may indicate that the remedial action was insufficient or that an event was not isolated, and that escalation and investigation is warranted.

We apply a triage process to check whether the referral is covered by the Code and to decide whether and how to proceed.

2. INVESTIGATION AND DETERMINATION

If we decide to investigate, we ask for necessary information from the person (including an appropriate Privacy Authority) and the subscriber. We review the facts to ascertain whether a breach or breaches have occurred and whether the issue may be systemic and/or serious.

We issue a Determination setting out our findings and share it with the person who made the referral, the subscriber involved, and (on a de-identified basis) with all subscribers.

3. REMEDIATION

If there was a breach, we work with the subscriber to identify and agree appropriate remediation. The investigation is closed when we are satisfied the subscriber has completed the agreed remedial action.

ALLEGATIONS RECEIVED DURING THE YEAR

During 2019-20, the Committee received 74 referrals containing a total of 127 alleged Code breaches during 2019–20 (**Table 3**). 45 (35%) of these allegations were referred by third-party advocates (either consumer advocates or legal representatives) on behalf of individuals. Life insurance customers appear to have a growing awareness of the Code and their right to report alleged breaches to the Committee, with 41 (or 32%) of breach allegations coming directly from this source during 2019–20.

The way subscribers handle claims and complaints continues to cause customers the greatest dissatisfaction: Code chapters 8 ('When you make a claim') and 9 ('Complaints and disputes') received the highest number of alleged breaches for the third consecutive year, together accounting for almost three-quarters (74%) of all Code breach allegations in 2019–20.

When compared to 2018–19, however, these figures represent a marked improvement (**Table 4**). The Committee received 36% fewer allegations of potential Code breaches this year than the previous reporting period (127 compared to 198). There were 27% fewer claims-related Code breach allegations (77 this year compared to 106 last year) and 59% fewer Code breach allegations relating to complaints and disputes (16 this year compared to 39 last year).

The Committee is pleased to note the reduction in the number of alleged breaches of Chapters 8 and 9 of the Code in 2019-20, suggesting that Subscribers have a better understanding of their obligations under Chapter 8 and 9 of the Code resulting from the Committee's investigation into the bulk referral matter[8] and the publication of the Guidance Note on section 9.10[9] in November 2019. The gaps identified by the Committee appear to have been addressed and subscribers are heeding the Committee's guidance on compliance with these sections.

TABLE 4.

Comparison of alleged breaches by Code chapter, year on year

	Alleged breaches 2017-2018 and % of Total		Alleged breaches 2018-2019 and % of Total		Alleged breaches 2019-2020 and % of Total	
Code chapter	No.	%	No.	%	No.	%
Claims*	43	58%	106	54%	77	61%
Complaints and disputes*	14	19%	39	20%	16	13%
Policy changes and cancellation	1	1%	6	3%	9	7%
Sales and advertising	3	4%	11	6%	4	3%
Code objectives	3	4%	8	4%	13	10%
Policy design and disclosure	-	-	8	4%	2	2%
Access to information	6	8%	8	4%	5	4%
Buying insurance	-	-	2	1%	1	1%
Monitoring, enforcement and sanctions	-	-	-	-	-	-
Additional consumer support	3	4%	3	2%	-	-
Third party underwriting and claims	1	1%	2	1%	-	-
Information and education	-	-	1	1%	-	-
Key Code promises	-	-	4	2%	-	-
Total*	**74**	**100%**	**198**	**100%**	**127**	**100%**

* excludes 2017-18 bulk referral numbers to allow more reasonable year-to-year comparison

8 Claims and Complaints Handling Obligations - https://lifeccc.org.au/resources/claims-and-complaints-handling-obligations/

9 Interpreting and applying section 9.10 – Guidance Note - https://lifeccc.org.au/resources/interpreting-and-applying-section-9-10-guidance-note/

CLAIMS ISSUES IN ALLEGED CODE BREACHES

In 2019-20, alleged breaches of the standards set out in chapter 8 of the Code ('When you make a claim') accounted for 61% of all alleged breaches in 2019–20 (**Table 4**). The alleged breaches spanned several sections of the chapter, with most relating to the timeframes for advising customers about the status of their claims.

As was the case for the two previous reporting periods, section 8.17 was the Code section with the highest number of alleged breaches in 2019–20. Section 8.17 relates to the requirement to make a decision on a lump sum claim within six months, or 12 months if Unexpected Circumstances apply. If Unexpected Circumstances apply to a claim, the subscriber must inform the customer that this is the case, explain why and give the customer an option to disagree. The subscriber must then provide a decision on the claim within 12 months from the date that the claim was notified.

The majority of section 8.17 matters considered by the Committee involved the subscriber failing to adequately notify the customer that Unexpected Circumstances applied to their claim. Taken together with section 8.16, which creates exactly the same obligations as section 8.17 but with a shorter timeframe for making a claim decision, these two Code sections accounted for almost 43% of claims-related Code breach allegations and 26% of all Code breach allegations for the reporting period.

Given the ongoing issues around compliance with timeframes and Unexpected Circumstances, the Committee is developing Guidance Notes to further assist subscribers in their understanding of and compliance with their obligations under Code sections 8.16 and 8.17.

COMPLAINTS AND DISPUTES ISSUES IN ALLEGED CODE BREACHES

While there were significantly fewer alleged breaches relating to the Code's complaints and disputes obligations in 2019–20 than the previous year, Chapter 9 was once again the source of the second highest number of breach allegations.

Just under half of these (44%) related to the requirement under section 9.12 to communicate the response to a complaint within 45 days, while slightly less than one-third (31%) related to section 9.10, which requires subscribers to respond in a timely way to people's complaints received via a superannuation fund trustee.

20 of the 24 complaints-related Code breach allegations considered by the Committee in 2019–20 were determined to be breaches of the Code. While subscribers have implemented various enhancements to their processes and procedures for handling complaints as a result of the Committee's bulk referral investigation and the issuance of the Guidance Note on section 9.10, there is insufficient evidence to indicate that the industry as a whole is adequately aware of and fully compliant with all of their obligations under Chapter 9 of the Code.

This is especially troubling given the recent release of ASIC's RG 271, which will implement various changes to the allowable timeframes for complaints handling in October 2021. As this is a key area of concern for many customers, the Committee will continue to closely monitor subscribers' compliance with Chapter 9 of the Code.

The subscriber did not provide the trustee with a final decision on the claim until … 291 days outside the 90-day timeframe …

Case study

A subscriber fails to respond to a customer's complaint within 90 calendar days

A man had life insurance with the subscriber as part of his superannuation fund membership. The life insurance policy, which included a Total and Permanent Disability (TPD) benefit, was a group policy held by the trustee for its members, which included the man.

The man's legal representative lodged a TPD claim on the man's behalf which the subscriber declined in March 2017. Dissatisfied with the decision, the man's legal representative sought a review by lodging a complaint with the trustee on 31 January 2018, and the trustee referred the complaint to the subscriber on the same day.

Under section 9.10 of the Code, when a subscriber receives a complaint via a trustee, the subscriber must respond, where possible, in a timeframe that enables the trustee to provide its final response to the complaint within 90 calendar days. The response must include certain information, including the final decision and information about external dispute resolution options.

Accordingly, the subscriber was required to provide a decision on the claim to the man, via his trustee, by 1 May 2018. The subscriber did not provide the trustee with a final decision on the claim until 15 February 2019 – 291 days outside the 90-day timeframe – and the man's legal representative alleged a breach of section 9.10.

The Committee determined that the subscriber was in breach of section 9.10, not only due to the significant delay in issuing a decision about the claim, but also because the subscriber's final decision letter to the trustee did not advise that, if requested by the complainant, the subscriber would supply copies of the documents and other information it relied on to assess the complaint within 10 business days. This is a requirement under section 9.10(b) of the Code.

The Committee also determined that the subscriber was in breach of section 8.7, which requires subscribers to request information from customers as early as possible and to avoid multiple information requests.

Furthermore, the Committee had previously reviewed the subscriber's section 9.10 processes and procedures as part of the bulk referral investigation and confirmed that the subscriber did not have adequate processes between 1 July 2017, when the Code came into effect, and March 2020. This indicated that the non-compliance was serious and systemic.

Investigation outcomes

Resourcing at the Administrator level and the Delegations Framework enabled the Committee to significantly clear the backlog of investigations held over from the previous reporting period and led to 40 Determinations being issued during the year – 23 more than in 2018–19. In line with the Committee's Charter, these Determinations were published on a de-identified basis via our website and shared with all subscribers as a way of informing them about how breaches can occur, how the Committee assesses them and key learnings to assist in the prevention of their occurrence. Two other matters considered by the Committee during the year were converted into de-identified case studies which were also published and shared with subscribers for educational purposes.

As the Committee has consistently stated, we would prefer to be able to publish identifiable information about Code breaches in all our Determinations and case studies in order to increase the transparency of industry activities and enhance customer confidence, and we continue to lobby the FSC for amendments to the Charter and the Code to allow us to do so. We note that, following ASIC approval[10], AFCA now identifies financial firms in its published Determinations, and we firmly believe that allowing the Committee to do so would be an appropriate way to promote transparency and accountability within the life insurance industry as well.

The Committee nonetheless encourages subscribers to circulate Determinations and case studies to staff throughout their businesses, and positive feedback has been received from subscribers regarding the usefulness of our publications for compliance education and training purposes. We also encourage subscribers and other interested stakeholders to sign up via the Committee's website to receive timely notifications regarding the publication of Determinations, case studies and other Committee reports and resources.

In the course of conducting a Code breach investigation made by an individual, the Committee received a complaint regarding its handling of the investigation. The complaint was dealt with in accordance with Clause 9.1 of the Life Code Compliance Committee Charter, with the AFCA Independent Assessor appointed to review the complaint.

The Committee considered a copy of the Independent Assessor's final report to the complainant dated in December 2019. Overall, in respect of the five elements of the complaint which were within the Committee's scope, the Independent Assessor was satisfied that the Committee acted in accordance with the Code and the Charter in handling the complainant's reports of alleged Code breaches.

10 ASIC approves AFCA rule change enabling the naming of firms https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-224mr-asic-approves-afca-rule-change-enabling-the-naming-of-firms/

... the Committee does encourage subscribers to promptly implement remediation if the Committee's investigation uncovers unfair or unjust treatment.

Remediation and Sanctions

As part of the Committee's investigations, subscribers may be required by the Committee to engage in corrective action and remediate any breaches as determined by the Committee.

If so, the Committee will work with a subscriber to agree on the relevant corrective action and the remediation timeframe, as well as to monitor the subscriber's progress and implementation of the corrective action. Remediation may include both internal and external activities.

Internal actions usually focus on improvements to subscribers' compliance frameworks. These often include enhancing the compliance/operational procedures and structures – for example, increased staff training and supervision, amendment of documentation such as letter templates, commissioning a formal review or audit of relevant aspects of the subscriber's compliance with the Code. In some instances, it may also include product amendment/withdrawal.

External actions can include amendment of information on websites or in relevant marketing material, and remedial communications and associated actions with people impacted.

The Committee's investigation process cannot offer customers an individual outcome for their dispute, and any compensation that arises out of an investigation by the Committee is at the discretion of subscribers.[11] However, the Committee does encourage subscribers to promptly implement remediation if the Committee's investigation uncovers unfair or unjust treatment.

As noted under the Code, the Committee has the power to impose sanctions on subscribers, however this is triggered only:

- after a subscriber has failed to implement the corrective measures to address a Code breach within the timeframe agreed in accordance with the Committee's formal determination, **or**
- where the Committee fails to reach agreement in a reasonable time with a subscriber about the corrective action to be taken to address a Code breach.

No sanctions were issued by the Committee during the 2019–20 reporting period, as no events occurred which gave rise to the use of its sanctioning powers.

11 Readers should note that if an individual outcome is desired, particularly in relation to financial disputes, this can be pursued via an appropriate internal or External Dispute Resolution (EDR) process at www.afca.org.au.

Appendix A. About the Life Insurance Code of Practice

Developed by the life insurance industry through the Financial Services Council (FSC), the Code was introduced on 1 October 2016 for a transitional period of nine months, coming into formal effect on 1 July 2017. The Code commits subscribers to continuous improvement and a high standard of customer service.

The Code includes 10 Key Code Promises for subscribers to adhere to:

1. We will be honest, fair, respectful, transparent, timely, and where possible we will use plain language in our communications with you.
2. We will monitor sales by our staff and our authorised representatives to ensure sales are appropriate.
3. If we discover that an inappropriate sale has occurred, we will discuss a remedy with you, such as a refund or a replacement policy.
4. We will provide additional support if you have difficulty with the process of buying insurance or making a claim.
5. When you make a claim, we will explain the claim process to you and keep you informed about our progress in making a decision on your claim.
6. We will make a decision on your claim within the timeframes defined in the Code, and if we cannot meet these timeframes you can access our complaints process.
7. If we deny your claim, we will explain the reasons in writing and let you know the next steps if you disagree with our decision.
8. We will restrict the use of investigators and surveillance, to ensure your legitimate right to privacy.
9. The independent Code Compliance Committee will monitor our compliance with the Code.
10. If we do not correct Code breaches, sanctions can be imposed on us.

These general principles underpin the Code's specific obligations, which cover the many aspects of a customer's relationship with a subscriber, namely:

- policy design and disclosure
- sales and advertising
- buying insurance
- policy changes and cancellation
- customers requiring additional support
- claims
- complaints and disputes
- third party underwriting and claims
- information and education
- access to information.

Appendix B.
List of subscribers

As at 30 June 2020, the Code had 25 subscribers.

Name	Date of adoption
AIA Australia Limited	30 June 2017
Allianz Australia Life Insurance Limited	30 June 2017
AMP Life Limited	30 June 2017
ClearView Life Assurance Limited	30 June 2017
EMLife Pty Ltd*	14 March 2018
General Reinsurance Life Australia Ltd	30 June 2017
Hallmark Life Insurance Company Ltd (part of the Latitude Financial Services Group)	30 June 2017
Hannover Life Re of Australasia Ltd	30 June 2017
HCF Life Insurance Company Pty Ltd	1 July 2018
Integrity Life Australia Limited	1 July 2018
MetLife Insurance Limited	30 June 2017
MLC Limited	30 June 2017
Munich Reinsurance Company of Australasia Limited	30 June 2017
NobleOak Life Limited	30 June 2017
OnePath Life Limited (a company of ANZ Wealth Australia Limited)	30 June 2017
Pacific Life Re (Australia) Pty Ltd	19 February 2020
QInsure Limited	15 September 2017
RGA Reinsurance Company of Australia Limited	30 June 2017
SCOR Global Life Australia Pty Ltd	30 June 2017
Suncorp Life & Superannuation Limited (trading as Asteron Life)	30 June 2017
Swiss Re Life & Health Australia Limited	30 June 2017
TAL Life Limited	30 June 2017
The Colonial Mutual Life Assurance Society Limited (trading as CommInsure)	30 June 2017
Westpac Life Insurance Services Limited	30 June 2017
Zurich Australia Limited	30 June 2017

* EMLife is not a life insurer and adopted the Code, under section 2.1(b).

Appendix C. Committee members and administrator staff

MS ANNE T BROWN,
BA CA GAICD

COMMITTEE CHAIR

Anne has substantial knowledge and practical experience of Australian regulatory environments, risk management, corporate governance and financial markets infrastructure.

Anne is a non-executive director of Air Services Australia and the Clean Energy Regulator, a member of the Australian Securities and Investments Commission's Markets Disciplinary Panel and a member of the Finance, Audit and Risk Committee of Monte Sant' Angelo Mercy College Limited.

Previously Anne was Chief Risk Officer with ASX Limited following its merger with SFE Corporation Limited, where she also chaired a range of broader group executive committees and oversaw integration strategy, risk management and policy for ASX's two clearing houses. Anne also represented ASX as the Chair and executive committee member of CCP12, an influential global industry association of all major international clearing houses. Prior to the ASX/SFE merger, Anne held senior management positions with SFE and KPMG.

Anne holds a double major degree in accountancy and computer science from Heriot-Watt University, Edinburgh. She is a member of the Institute of Chartered Accountants of Scotland and a graduate member of the Australian Institute of Company Directors.

MS ALEXANDRA KELLY, LLM, BPSYCH

CONSUMER REPRESENTATIVE

Alexandra is the Director of casework at the Financial Rights Legal Centre, which operates a legal advice line for credit and debt, 50% of the National Debt Helpline in NSW, the Mob Strong Debt Help line a dedicated national service for Aboriginal and Torres Strait Islanders, and the National Insurance Law Service.

As a solicitor at Financial Rights Legal Centre for the last 13 years she has had the privilege of speaking to consumers about their lived experiences of financial services products, including life insurance; advocating on individual and systemic issues; and lobbying and advocating from an evidence-based position.

Alexandra is a non-executive director of CHOICE and a member of the Australian Consumer Law Subcommittee of the Law Council. She is committed to social justice, consumer advocacy and consumer education as to their financial rights.

Alexandra has a Bachelor of Laws (Hons) and Bachelor of Psychology from Australian National University and Master of Laws from Sydney University and a graduate member of the Australian Institute of Company Directors.

DAVID GOODSALL, BA, FIAA, FAICD, CERA

INDUSTRY REPRESENTATIVE

David Goodsall has spent his career advising institutions in the financial services, general insurance and health insurance industries in Australia and overseas. David has extensive commercial and boardroom experience both as a director, and having advised many major institutions in life insurance, reinsurance, and broader financial services on a range of transactions, product, strategy, risk management, culture, governance, and regulatory issues.

David is a consulting actuary and co-founder of Fiduciary Dynamics, a specialist advisory firm that provides strategic governance and risk management advice to financial services companies. He is an independent director and chair of the Audit and Risk Committee of BrightsideCo Insurance. Previously David was a senior partner in the Financial Services practice of Ernst & Young, leading the Actuarial practice, as well as an independent director of ClearView Wealth, and Medical Insurance Australia. He was President of the Institute of Actuaries of Australia in 2012.

David holds a BA majoring in actuarial studies, is a Fellow of the Institute of Actuaries of Australia, a Fellow of the Australian Institute of Company Directors, and a Chartered Enterprise Risk Analyst.

SALLY DAVIS,
BCOMM, LLB, GRAD DIP (ARTS) GAICD

GENERAL MANAGER – CODE COMPLIANCE AND MONITORING

Sally Davis is General Manager – Codes at the Australian Financial Complaints Authority and CEO of the Banking Code Compliance Committee. Her role includes oversight of the work plans and budgets of five independent Committees which monitor compliance with codes of practice across the financial services industry covering the banking, customer owned banking, general insurance, life insurance and insurance broking industries.

Sally has worked at AFCA and its predecessor schemes since 2000 and was previously Senior Manager of Systemic Issues at the Financial Ombudsman Service (FOS). Sally has extensive experience in the financial services industry, as well as good relationships with regulators, industry and consumer groups. Sally is passionate about providing community assurance and ensuring continuous improvement through her role supporting the Life Code Compliance Committee.

ANKIT DANG,
BCOMM HONS, MPA

COMPLIANCE AND OPERATIONS MANAGER – CODE COMPLIANCE AND MONITORING

Ankit Dang is a Code Compliance and Operations Manager at the Australian Financial Complaints Authority. His role is dedicated to the oversight of all aspects of the operation that supports the Life Code Compliance Committee including delivering on the workplan, managing the Life Code Compliance Committee's budget, helping and guiding the Life Code Compliance Committee in monitoring activities within the Life insurance industry and maintaining a positive relationship with all stakeholders. Ankit is passionate about driving positive change based on the Life Insurance Code of Practice.

Appendix D.
Committee meetings

Date	Attendance			
	ANNE T BROWN	ALEXANDRA KELLY	DAVID GOODSALL	PHILLIPA HEIR*
1 August 2019	✓		✓	✓
1 August 2019	✓	✓	✓	
12 September 2019	✓	✓	✓	
24 October 2019	✓	✓	✓	
12 December 2019	✓		✓	✓
12 December 2019	✓	✓	✓	
20 February 2020	✓	✓	✓	
7 April 2020	✓	✓	✓	
23 June 2020	✓	✓	✓	

* Alternative consumer representative

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To make a Code breach referral visit our website **LifeCCC.org.au**
or email **info@codecompliance.org.au**