

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:	CX6109	Date:	21 October 2020
Code sections:	8.4, 8.7, 8.16 ¹		
Investigation:	Self-reported non-compliance by a Code subscriber		

The alleged Code breaches:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) self-reported two non-significant breaches of sections 8.4 and 8.7 of the Code.

On 30 April 2019, the Subscriber self-reported two non-significant breaches of sections 8.4 and 8.7 of the Code. This was after it identified the internal miscommunication between two employees who had each assumed that the other had contacted the Consumer to provide an update and request additional information as directed by the Subscriber's Reinsurer on 25 March 2019.

The miscommunication was only identified on 22 April 2019 after the Consumer's adviser contacted the Subscriber for an update on the claim. This meant that the Subscriber did not provide an update to the Consumer within 20 business days from 21 March 2019 (claim lodgement date) and did not request additional information as early as possible. As a result, on 22 April, the Subscriber conveyed its apologies to the adviser, provided an update on the claim and requested additional information.

As the Subscriber noted that the decision on the claim was issued on 16 July 2019 after the two-month timeframe expired on 21 May 2019 and confirmed that Unexpected Circumstances (UC) did not apply, the Life CCC also investigated a potential breach of section 8.16 of the Code.

Findings in accordance with Charter clause 7.4(b)(iii)²:

The Life CCC assessed the matter and confirmed the self-reported breaches of sections 8.4 and 8.7 of the Code and that they were non-significant.

¹ The Code sections are provided in full in the last section of the Determination.

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.

The Life CCC further determined that the Subscriber was in breach of section 8.16 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 8.4

Under section 8.4 of the Code, subscribers are required to provide updates on the claim prior to making a decision at least every 20 business days unless otherwise agreed, and to respond to requests for information within 10 business days.

The claim was lodged on 21 March 2019 and the Subscriber completed its initial assessment of the claim on the same day (21 March 2019) and referred it to the Reinsurer.

On 25 March 2019, the Subscriber's Reinsurer requested that the Subscriber contact the Consumer to request additional information and provide an update on the claim, and also requested some additional information directly from the Subscriber. On 1 April 2019, the Claims Administrator actioned all the other requests and inquiries from the Reinsurer but did not contact the Consumer.

On 22 April 2019, the Consumer's adviser requested an update on the claim. The Subscriber's Claims Manager reviewed the file and identified that due to an internal miscommunication, both the Claims Manager and Claims Administrator had each assumed that the other had contacted the Consumer for the additional information and provided an update.

As a result, the Life CCC confirmed that the Subscriber was in breach of section 8.4 of the Code as it did not provide the Consumer with an update on the progress of the claim within 20 business days since claim lodgement on 21 March 2019.

Section 8.7

Under section 8.7 of the Code, subscribers are required to request information needed as early as possible and to avoid multiple information requests where possible.

As noted above, the Subscriber acknowledged that due to human error, it did not request additional information required from the Consumer (as directed by the Reinsurer on 25 March 2019) until 22 April 2019. As a result, it acknowledged and self-reported that it had breached section 8.7 of the Code.

Based on the above, the Life CCC confirmed that the Subscriber was in breach of section 8.7 of the Code as it did not request information that it needed as early as possible.

Isolated Breaches of sections 8.4 and 8.7

The Subscriber confirmed and the Life CCC agreed that the Subscriber's breaches of sections 8.4 and 8.7 were isolated as:

- The Chief Risk Officer (CRO) and the new Claims Manager reviewed all 21 existing claims at the time this incident was uncovered and did not identify any further instances of non-compliance with these two sections.
- This incident was reported in the Subscriber's 2018-19 ADCP submission and impacted only one Consumer.

Remediation

To prevent recurrence, the Subscriber implemented improvements to its processes which included:

- The requirement that the Claims Manager and Claims Administrator now continually update the Claims Assessment Worksheet for each claimant and its systemised workflow system which generates an automated follow up at the 14th day.
- The Claims Assessment Worksheet records the name of the person who updated or actioned the matter and is reviewed every 14 days to ensure that an update is provided at least every 20 business days.
- Both the Claims Manager and Claims Administrator have calendar reminders inbuilt within the workflow system which appear as a task action on the system each day.
- Introduction of the new Claims Workflow Suspense system which tracks all correspondence, claims timeframes, regularity of contact and updates on claims, and mail responses through Claims notification, daily reports, and the Claims Register.
- For effective monitoring, claims movements are reconciled against its system, the Claims Register and the Policy Register by the Claims Manager at the end of each month. In addition, weekly claims review is also undertaken from the master register to ensure compliance with the timeframes under the Code.
- Recruitment of an additional Claims Administrator.

As a result, the Life CCC is satisfied that the Subscriber's improved processes are adequate to support its compliance with sections 8.4 and 8.7 of the Code.

Section 8.16

Section 8.16 of the Code requires a subscriber to communicate its decision on a claim within two months, unless Unexpected Circumstances (UC) apply.

As the claim was lodged on 21 March 2019, the Subscriber was required to issue its decision on the claim by 21 May 2019 unless Unexpected Circumstances (UC) applied.

The Subscriber confirmed that UC did not apply, and as it issued the final decision on the claim only on 16 July 2019, it acknowledged that it had breached section 8.16 of the Code.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.16 of the Code.

Management review of all other open claims confirmed no other instances of section 8.16 non-compliance. The Subscriber noted and the Life CCC agreed that the breach was an isolated incident as it occurred because of a delay in processing due to human error.

Remediation

To ensure future compliance with section 8.16, the Subscriber implemented the following procedural improvements:

- Manual recording of UC on the Claims Assessment Worksheet and notification to a Consumer of UC upon identification using a UC letter template.
- The UC timeframes and reasons are updated on both the Claims Assessment Worksheet and the workflow system.

- The UC letter template also includes both the Subscriber's and the Australian Financial Complaints Authority (AFCA)'s complaint details.
- A separate Complaints process guide is provided to the Consumer if the Subscriber is unable to issue its decision within 12 months.

As a result, the Life CCC is satisfied that the Subscriber's improved processes are adequate to support its compliance with section 8.16 of the Code.

Key Learnings

The Life CCC is encouraged by the Subscriber's pro-activeness in self-reporting isolated instances of non-compliance with the Code as soon as it became aware of their occurrence.

This incident reflected the Subscriber's positive attitude towards compliance and its willingness and commitment to live up to the key Code promises of honesty, fairness, respect, transparency, and timeliness through its interactions with Consumers.

Relevant Code Sections

Section 8.4:

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

Section 8.7:

We will request the information **we** need as early as possible and will avoid multiple information requests where possible.

Section 8.16:

For income-related claims, **we** will let **you** know **our** initial decision no later than two months after **we** are notified of **your** claim or two months after the end of **your** waiting period (whichever is later), unless **Unexpected Circumstances** apply. Where **Unexpected Circumstances** apply, **our** decision will be made no later than 12 months after **we** are notified of **your** claim. **We** will let **you** know the reasons for the delay, and if **you** disagree **we** will review this. If **we** cannot make a decision within 12 months, **we** will give you details of **our Complaints** process.

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.