

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:	CX4733	Date:	8 December 2020
Code sections:	Section 9.12 ¹		
Investigation:	Self-reported non-compliance by a Code subscriber		

The Code breach:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) self-reported a significant breach of Code obligation section 9.12(b) on 23 October 2018.

Upon adoption of the Code, the Subscriber had a complaints team responsible for the management of non-claims related complaints. The complaints team used a standard complaint response template letter when responding to complaints from consumers.

On 23 August 2018, the Subscriber identified that the template letter did not include wording that was compliant with section 9.12(b) of the Code. It further noted that in some instances the section 9.12(b) wording was completely omitted.

The Subscriber identified that it had issued 228 complaint responses that were non-compliant with section 9.12(b) of the Code between 1 July 2017 and 31 August 2018.

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

The Life CCC confirmed the matter as a self-reported significant breach of section 9.12(b) of the Code.

The Life CCC findings and conclusion:

Section 9.12 of the Code sets out two separate elements for subscribers. The first element requires a subscriber to provide its final response to a complaint in writing within 45 calendar days of receiving the complaint. The second element requires a subscriber to provide the information required under section 9.12(a) to (d) within the subscriber's complaint response letter to a consumer.

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.

Section 9.12(b) requires a complaint response to:

- advise the consumer that they have the right to copies of documents and information relied on in assessing the complaint, and
- if requested, that the subscriber will provide these within ten business days.

Section 9.12(b) - content of complaint response template letter

The Subscriber reported that it used a template complaint response letter which, whilst containing the information required by section 9.12(a), (c) and (d), did not contain wording that was compliant with section 9.12(b) of the Code.

The Subscriber reported that in the period 1 July 2017 to 31 August 2018, it issued 228 complaint response letters to which the requirements of section 9.12(b) applied, of which:

- 84 responses contained no wording as required by section 9.12(b), and
- The remaining 144 responses contained varied wording that was not fully compliant with the requirements of section 9.12(b).

On 1 October 2017, the Subscriber's complaints handling team took over the responsibility for managing claims related complaints and following a review of the template letters, entirely omitted the wording required by section 9.12(b) of the Code.

Section 9.12(b) – documents to be provided within 10 business days

The Subscriber also reported that at the time of the breach, it did not have adequate processes in place to track compliance with the ten business days timeframe. The Subscriber stated that as requests for such information are relatively rare, it did not need to track compliance with the timeframe.

Although such requests may be infrequent, it does not negate the fact that the Code requires the requested information to be provided to the consumer within ten business days. It is therefore incumbent on a subscriber to ensure it has processes in place to both meet and track its compliance with this obligation, as it would with any other section of the Code.

Section 9.12 – complaint response to be issued within 45 calendar days

In the period 1 July 2017 to 6 August 2019, the Subscriber received a total of 739 complaints to which the provisions of section 9.12 applied. Of the 739 complaints received, 66 (9%) were issued outside of the 45 calendar days timeframe.

The shortest delay over and above the timeframe requirement was one day and the longest, 126 days. For the latter, the Subscriber reported that the complaint related to a dispute about the length of a product term and the delays in providing a response were the result of issues in allocating the matter to a staff member in a timely manner. The Subscriber provided a three-month premium waver for the inconvenience caused by the delay.

Except for the significantly delayed response detailed above, it was noted that the Subscriber had a compliance rate of 94% over a period of 25 months.

Remedial action

The ultimate cause of the breach was the failure of the Subscriber's change management to fully map its processes, systems and templates to the requirements of section 9.12 of the Code.

To address this, the Subscriber confirmed that as of 13 September 2018, it:

- introduced a revised template complaint response letter which contained all the information as required by section 9.12(b) of the Code,
- updated its processes to include a peer review of letters drafted, increased oversight by senior consultants and introduced a monthly audit of 20% of complaints closed.

As of 19 September 2019, it:

- completed enhancements to its complaints management system to ensure it was able to track requests for information and ensure those requests are dealt with within the 10-day timeframe.

The Life CCC determined that the remedial actions taken by the Subscriber are sufficient to address the breach and to enable compliance with section 9.12 of the Code.

The Subscriber did not consider that any consumer had suffered any financial detriment as a result of this breach as:

- the complaint responses referred to the information that was relied on in reaching a decision on the complaint,
- for some complaints, the complainant would have already received the relevant documents prior to the complaint being lodged, and
- approximately 85% of cases had not been re-opened or progressed to a secondary body.

The Life CCC agreed that the omission of the information required by section 9.12(b) was unlikely to result in a quantifiable financial detriment to the impacted customers.

Key learnings

This matter highlights the importance of subscribers having effective processes in place to manage system and process changes in response to regulatory or compliance developments. Effective change management can lessen the risk of negative impacts to consumers occurring in any transitional period and help subscribers to respond in a timely manner.

Relevant Code Sections

Section 9.12:

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

- a) our final decision in relation to your Complaint and the reasons for that decision;
- b) that you have the right to copies of the documents and information we relied on in assessing your Complaint, and if you request we will provide you (or your doctor, where appropriate) with copies within ten business days, in accordance with the Access to Information section of the Code;
- c) your right to take your Complaint to the Australian Financial Complaints Authority (AFCA) if you are not satisfied with our decision, and the timeframe within which you must take your Complaint to FOS; and
- d) contact details for AFCA.

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.