

# Notice of Determination

by the Life Code Compliance Committee (Life CCC) on alleged non-compliance with the Life Insurance Code of Practice by a subscriber

<b>Reference:</b>	CX7127	<b>Date:</b>	19 January 2021
<b>Code sections:</b>	8.4, 8.7, 8.17 <sup>1</sup>		
<b>Investigation:</b>	An AFCA referral of an alleged Code breach		

## The alleged Code breach:

The Consumer purchased a retail life insurance policy in April 2015. The life insurance policy had a Total and Permanent Disability (TPD) and an Income Protection (IP) benefit. The life insurance was issued by a Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code).

In September 2017, the Consumer ceased work following a workplace incident and lodged an IP claim on 24 October 2017. The Subscriber commenced payments of the IP benefits on 16 November 2017.

The Consumer subsequently lodged a TPD claim on 7 January 2019. As the Subscriber had not provided a decision on the TPD claim within 12 months, the Consumer lodged a complaint at the Australian Financial Complaints Authority (AFCA) on 24 February 2020. AFCA subsequently referred the matter to the Life CCC on 24 July 2020 and alleged that the Subscriber was in breach of sections 8.4, 8.7 and 8.17 of the Code.

The Subscriber acknowledged that it was in breach of sections 8.4, 8.7 and 8.17 of the Code on the basis that it:

- failed to respond to the Consumer's information request within the timeframe provided in the Code on 2 occasions,
- was the cause of delays in seeking relevant information which resulted from poor case management performance,
- did not provide the Unexpected Circumstances (UC) notification to the Consumer within 6 months of receiving the claim, and
- did not include all the information required under the Code in its UC letter.

---

<sup>1</sup> The Code sections are provided in full in the last section of the Determination

## Findings in accordance with Charter clause 7.4(b)(iii)<sup>2</sup>:

The Life CCC determined that the Subscriber:

- was in breach of section 8.17 of the Code and that the allegation was proven in whole,
- was in breach of section 8.4 of the Code and that the allegation was proven in whole, and
- was in breach of section 8.7 of the Code and that the allegation was proven in whole.

## The Life CCC findings and conclusion:

### Section 8.17

Section 8.17 of the Code requires a subscriber to provide its decision on a lump sum claim within six months, unless UC applies. If UC applies, the subscriber has 12 months to provide its decision on the claim.

The Consumer lodged a TPD claim on 7 January 2019. As a result, the Subscriber had to provide its decision on the claim by 7 July 2019, unless UC applied. The Subscriber noted that it was unable to provide a decision on the claim by 7 July 2019 as it was not able to reasonably satisfy itself, based on the information that it had, that the Consumer met the requirements of the policy.

In line with section 8.17 of the Code, the Subscriber notified the Consumer that it was unable to provide a decision on the claim. However, the UC notification letter was provided to the Consumer on 8 July 2019, after the initial 6 month timeframe had expired.

In addition, the Subscriber's UC letter was not compliant with the Code as the letter did not inform the Consumer of his right to disagree with the reasons for the delay or that the Subscriber would review the decision if the Consumer disagreed.

The Life CCC notes that the Subscriber had previously amended its section 8.17 process and templates in January 2020 as a result of a separate prior Life CCC investigation of a bulk referral of allegations. This meant that at the time of the breach in July 2019, the non-compliant UC letter would not have been limited to the Consumer in this matter.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.17 of the Code, that the allegation was proven in whole and that the breach amounted to systemic non-compliance with the Code.

### Section 8.4

Section 8.4 of the Code requires a subscriber to provide a consumer with updates on their claim at least every 20 business days unless otherwise agreed and to respond to requests for information about the claim within 10 business days.

The Consumer's representatives made 9 requests for information on various dates throughout the lengthy and complex claim. The Subscriber acknowledged a breach of section 8.4 of the Code as there were 2 information requests where it did not respond within 10 business days (23 July 2020 and 24 July 2020). The Subscriber responded to these 2 requests on 12 August 2020, 5 and 4 business days outside of the Code timeframes respectively.

---

<sup>2</sup> The Life CCC is bound by its Charter to use the terminology 'the reported allegation was proven in whole or in part or was unfounded.' This in essence requires the Life CCC to state if it determined there was a breach or not. The Life CCC will explain its determination in plain language in the body of the Determination.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.4 of the Code and that the allegation was proven in whole.

### Section 8.7

Section 8.7 requires a subscriber to request the information needed in relation to a claim as early as possible and to avoid multiple information requests where possible.

The Subscriber acknowledged that it was in breach of section 8.7 of the Code as it did not request the Consumer's Independent Medical Examination (IME) as early as possible. The Subscriber received the Consumer's Medicare history in March 2019 but failed to undertake a comprehensive review until July 2020, resulting in the need for an IME only being identified in July 2020.

The delay was caused by the claims assessor having multiple unexpected extended absences due to illness, which led to reviews and actions being missed. The Subscriber noted that it has a process to reallocate work when staff are absent for extended periods. However, in this instance the relapsing and remitting nature of the claims assessor's absence meant that the handling and management of the claim was of a poor quality.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.7 of the Code and that the allegation was proven in whole.

The Subscriber has acknowledged that it should have offered additional tailored support to the staff member and increased its monitoring of this matter. To prevent this issue from reoccurring, the Subscriber has since increased the number of resources within its claims team to be able to more effectively manage circumstances where a staff member has to take urgent unexpected leave.

The Life CCC notes that the delay in requesting the IME did not lead to a delay in the Subscriber's assessment of the claim as the Subscriber was still awaiting information relating to the Consumer's pre-disability employment. This meant that even if the IME was requested by the Subscriber in March 2019, the Subscriber would not have been able to provide the Consumer with a decision on the TPD claim as the information regarding the Consumer's pre-disability employment was still outstanding.

### Key learnings

The Life CCC expects that subscribers should conduct periodic reviews and run regular reporting on ongoing claims to ensure that claims do not fall through the cracks when circumstances such as those arising in this matter occur.

## 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 8.17:**

For all claims other than income-related claims, **we** will let **you** know **our** decision no later than six months after **we** are notified of **your** claim or six months after the end of any waiting period, unless **Unexpected Circumstances** apply. Depending on **your** policy, **our** decision may be a requirement that **you** undertake a period of rehabilitation or retraining, or it may be a final decision on **your** benefits. 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.