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:	CX6328	**Date:**	22 April 2021
Code sections:	8.4, 8.7, 8.15 and 8.17[1]		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

The Consumer is a member of a superannuation fund. As part of their membership, the Consumer obtained life insurance including a Total and Permanent Disability (TPD) 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), and the policy was owned by a Group Policy-owner (the Trustee).

The Consumer lodged a TPD claim on 7 December 2017. As a result, the Subscriber had to provide its decision on the claim within six months from that date, on 7 June 2018. The Subscriber did not meet this timeframe and issued Procedural Fairness (PF) to the Consumer on 7 December 2018.

On 17 December 2018, the Consumer's legal representatives (CLR) requested an extension to respond to the PF, and the Subscriber provided an extension until 31 January 2019. A further extension was sought by the CLR, which was refused. The Subscriber subsequently issued the decline letter on the TPD claim to the Trustee on 13 March 2019.

On 22 March 2019, the CLR requested a review of the decline decision and submitted further evidence in support of the claim. This correspondence was received by the Subscriber on 25 March 2019.

The CLR subsequently lodged a complaint with the Subscriber on 9 August 2019 regarding the delay in the Subscriber's reassessment and review of the claim. In addition to the complaint with the Subscriber, the CLR also lodged a Code breach allegation with the Life CCC regarding the Subscriber's delay in providing the Consumer with a decision on the claim.

The Subscriber responded to the CLR's complaint on 6 September 2019 and noted that it was waiting for the Consumer's specialist to provide an updated opinion on her symptoms. The Subscriber subsequently accepted the Consumer's TPD claim on 15 January 2020.

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

The Life CCC contacted the Subscriber regarding its compliance with sections 8.4 and 8.17 of the Code. In addition to acknowledging that it had breached sections 8.4 and 8.17, the Subscriber further self-reported that it was also in breach of sections 8.7 and 8.15 of the Code.

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

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,
- confirmed the Subscriber's self-reported breach of section 8.7 of the Code,
- confirmed the Subscriber's self-reported breach of section 8.15 of the Code, and
- determined that the Subscriber was in breach of section 8.17 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 8.4

Section 8.4 requires a subscriber to keep a consumer informed about the progress of a claim at least every 20 business days and to respond to requests for information about the claim within 10 business days.

The Subscriber acknowledged that it failed to provide an update to the Consumer on her claim on 5 occasions; 28 March 2018, 20 July 2018, 14 October 2018, 24 February 2019 and 2 July 2019. Four of these occasions related to a failure to provide an update every 20 business days, and one related to a failure to respond to an information request within 10 business days (14 October 2018).

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.

The Subscriber's monitoring for the 2018-19 financial year identified 5 other breaches of section 8.4 that related to the particular claims assessor's other matters. The Subscriber noted that it had identified a performance issue with the specific claims assessor and initiated a support plan in late 2018, with the claims assessor ceasing employment with the Subscriber's group insurance team in 2019.

The Life CCC noted that the breaches were caused by the poor performance of the claims assessor who handled this Matter. While the breach was limited to matters handled by this specific claims assessor, the breach of section 8.4 was not limited solely to this Matter and as a result the Life CCC determined that the breach amounted to systemic non-compliance of the Code.

Section 8.7

Section 8.7 requires a subscriber to request the information that it needs as early as possible and to avoid multiple information requests where possible.

As part of the Subscriber's response, it self-reported a breach of section 8.7 of the Code in relation to this Matter. The Subscriber noted that there were 3 instances where it did not

[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.

request the information that it needed as early as possible or made multiple information requests:

- Multiple information request: On 9 November 2018, the Subscriber requested the CLR to provide a signed authority from the Consumer when the Subscriber had already received an authority form on 2 October 2018.
- Request information as early as possible: The Subscriber noted that the requirement to send a PF to the Consumer was identified on 12 September 2018 but was not issued to the Consumer until 7 December 2018.
- Request information as early as possible: The Subscriber reviewed the 22 March 2019 correspondence from the CLR on 3 May 2019, leading to a delay in requesting the Consumer's medical information.

The Subscriber noted that the breach was caused by the claims assessor's poor handling of the file. As a result, the Life CCC confirmed the Subscriber's self-reported breach of section 8.7 of the Code.

The Life CCC further determined that the section 8.7 breach amounted to serious non-compliance of the Code due to the length of the delay caused by the claims assessor's errors of approximately 8 months.

Section 8.15

Section 8.15 requires a subscriber to provide a decision on a claim within 10 business days once a subscriber has received all the information that it reasonably needs and has completed all reasonable enquiries.

As the Consumer's response to the Subscriber's PF letter was due on 31 January 2019, the Subscriber had to provide a decision on the claim by 14 February 2019. The Subscriber issued the decision to decline the claim on 13 March 2019, 19 business days past the 10 business day timeframe in section 8.15 of the Code.

The Subscriber noted that the breach was caused by the claims assessor's failure to follow the Subscriber's section 8.15 process and was related to the claims assessor's poor performance. As a result, the Life CCC confirmed the Subscriber's self-reported breach of section 8.15 of the Code.

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 Unexpected Circumstances (UC) applies. If UC applies, the subscriber has 12 months to provide its decision on the claim.

The Subscriber received the Consumer's claim on 7 December 2017. This meant that it had to provide its decision on the claim by 7 June 2018, unless UC applied. As this was a Group policy, the Subscriber would have to communicate the decision to the Trustee, who would then communicate the decision to the Consumer.

The Subscriber noted that it was not able to provide a decision on the claim by 7 June 2018 and issued the decline letter on the claim on 13 March 2019, amounting to a delay of approximately 8 months. The Subscriber confirmed that UC did not apply in this claim as the delays in the assessment of the claim were avoidable, with the claims assessor receiving medical records in late January 2018 but only reviewing them in May 2018.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.17 of the Code and the allegation was proven in whole.

The Life CCC further determined that the Subscriber's breach of section 8.17 amounted to serious and systemic non-compliance with the Code. This was due to the length of the delay in the claim of approximately 8 months, as well as the fact that the Subscriber had identified 15 other breaches of section 8.17 in relation to the claims assessor's other matters. This meant that the breach of section 8.17 was not limited to this Matter but occurred across multiple files that were handled by the claims assessor.

Key learnings

The Life CCC notes that the Subscriber's remediation in this Matter is limited as the claims assessor is no longer working for the Subscriber. However, subscribers should have processes in place to be able to identify and remediate poor claims conduct at an earlier stage to ensure that consumers receive a level of service that is compliant with the Code.

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 8.15:

Once **we** have all the information **we** reasonably need and have completed all reasonable enquiries to assess **your** claim, including **your** response to the evidence **we** are basing **our** decision on if **we** have presented this to **you**, **we** will let **you** know **our** decision on **your** claim within ten **business days**.

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.