

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:	CX4727	Date:	29 June 2021
Code sections:	5.14, 13.3(a) 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 a breach of section 5.14 of the Code.

Under section 5.14 of the Code, subscribers are required to provide consumers with the information in section 5.14(a) to (c) if they do not offer any insurance cover or offer the cover on alternative terms.

On 16 October 2018, the Subscriber self-reported a breach of section 5.14 of the Code after it identified that it did not provide consumers with the required information through an online facility (Scenario 1) and three paper-based processes (Scenario 2). As a result of the breach,

- 8,654 retail insurance consumers were impacted between 1 July 2017 and 28 August 2019.
- 1,023 group insurance consumers were impacted between 1 July 2017 and 23 January 2020.

As part of the Life CCC's review of the file, the Life CCC also raised a possible breach of section 13.3(a) of the Code which was acknowledged by the Subscriber.

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

The Life CCC assessed the matter and confirmed that the self-reported breach of section 5.14 of the Code was significant, as assessed by the Subscriber.

The Life CCC also determined that the Subscriber was in breach of section 13.3(a) of the Code and that the allegation was proven in whole.

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 findings and conclusion:

Section 5.14

The Subscriber reported that it had breached section 5.14 of the Code in two scenarios as it did not provide a total of 9,677 retail and group consumers with all the information required under the section between 1 July 2017 and 23 January 2020.

Scenario 1: The Subscriber reported that the online application facility did not provide 1,719 consumers with the information required under section 5.14(a) to (c). Due to an oversight, the Subscriber's Life Code Implementation Project did not include the online application facility in the Code implementation process. Consequently, the online application system was not updated to provide consumers with the information required under section 5.14(a) to (c) from 1 July 2017, the date on which subscribers became bound by the Code as provided in sections 2.8 and 2.9 of the Code.

Scenario 2: The Subscriber reported that it did not provide the information required under section 5.14(b) and (c) to 7,958 consumers in three paper-based processes. This was because the Subscriber had misinterpreted the requirements under section 5.14 prior to 1 July 2017. The Subscriber had assumed that the information provided within the Product Disclosure Statement (PDS) and Privacy Policy (both of which were provided to consumers prior to their application) satisfied the requirements under section 5.14 as they contained the information under section 5.14(b) and (c). As a result, the Subscriber had only amended its decline and acceptance (with alternative terms) template letters to include the information under section 5.14(a).

As a result, given that the breach impacted a significant number of consumers over an extended period, the Life CCC confirmed the self-reported breach of section 5.14 as a significant breach of the Code.

Section 13.3(a)

Under section 13.3(a) of the Code, subscribers are required to have appropriate systems and processes in place to enable compliance with the Code. The Life CCC raised and the Subscriber acknowledged that it had breached section 13.3(a) of the Code as it did not have compliant systems and processes in place in relation to section 5.14 of the Code between 1 July 2017 and 23 January 2020.

Serious and systemic non-compliance

The Subscriber further acknowledged that its breach of section 13.3(a) of the Code amounted to both serious and systemic non-compliance with the Code given that the Subscriber did not have compliant processes for more than two years and 9,677 impacted consumers did not receive the information as required under section 5.14(a) to (c) of the Code during that period.

As a result, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)³ that the Subscriber's breach of section 13.3(a) of the Code amounted to both serious and systemic non-compliance with the Code.

³ The Life CCC is bound by its Charter to state, where applicable, whether it finds that a subscriber is responsible for serious and/or systemic non-compliance with the Code.

Remediation

The Subscriber confirmed that it implemented the following remediation actions in relation to each scenario:

Scenario 1

- The Subscriber updated the decline and acceptance (with alternative terms) letter templates to include the information as required under section 5.14(a) to (c) within the online application facility. Since 28 August 2019, the facility issues compliant letters for new applications received.
- As an interim remediation action between 23 September 2018 and 28 August 2019, the Subscriber manually emailed the acceptance (with alternative terms) and decline responses to consumers which included the information as required under section 5.14 of the Code.
- The Subscriber manually re-issued remediated letters to all impacted 1,719 retail insurance consumers and their respective advisers by 12 September 2019.

Scenario 2

- As an interim remediation action since 23 September 2018, the Subscriber manually emailed the acceptance (with alternative terms) and decline responses to consumers which included the information as required under section 5.14 of the Code.
- The Subscriber automated the production of compliant letter templates to all three paper-based processes which were in use for all new applications received between 26 July 2019 and 23 January 2020.
- The Subscriber manually re-issued remediated letters to all 6,935 impacted retail insurance consumers by 15 August 2019.
- The Subscriber manually re-issued remediated letters to all 1,023 impacted group insurance consumers through the Trustees by 30 June 2020.
- The Subscriber slightly altered the Subscriber's arrangement with the relevant Trustees. The Subscriber now generates and issues the compliant letters to the Trustees. The Trustees will then undertake their separate review of the application prior to providing their final decision to consumers.

As a result, given the various remediation actions implemented by the Subscriber as outlined above, the Life CCC was satisfied that the Subscriber has remediated the breach of section 5.14 and has appropriate systems and processes in place to enable compliance with section 5.14 of the Code.

Key learnings

The Life CCC recognises the significant effort and sustained remediation implemented by the Subscriber to its systems and processes to ensure that it has adequate processes to prevent the recurrence of the breach of section 5.14 of the Code.

The Life CCC encourages all subscribers to always proactively seek the Life CCC's guidance if and when there is any doubt with regards to the Code obligations that are expected of subscribers. In that way, subscribers also demonstrate their commitment to providing high standards of service to consumers.

Relevant Code Sections

Section 5.14:

If **we** do not offer any insurance cover, or if **we** offer on alternative terms, **we** will let **you** know (or **your** doctor, where appropriate):

- a) the reasons for **our** decision;
- b) that **you** have the right to the information about **you** that **we** have relied on to make **our** decision, and if **you** request **we** will provide this to **you** (or **your** doctor, where appropriate) within ten **business days**, in accordance with the Access to Information section of the **Code**, and
- c) if **you** disagree with **our** decision, or if **you** think that the information **we** have relied on to make **our** decision is incorrect or out of date, **you** can discuss this with **us** and **we** will review **our** decision, and if **you** are not satisfied with **our** review **we** will tell **you** how to make a **Complaint**.

Section 13.3(a):

We will:

- a) have appropriate systems and processes in place to enable compliance with the **Code**;

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.