

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:	CX6184	Date:	30 June 2021
Code sections:	8.7, 8.15, 8.16 and 8.17		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

The Consumer is a member of a superannuation fund. As part of that membership, the Consumer obtained life insurance along with a Total and Permanent Disability (TPD) and Income Protection (IP) benefit. The life insurance policy 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 a group policy which was owned by the superannuation fund trustee (the Trustee).

The Consumer lodged an IP claim on 17 May 2018 and a TPD claim on 22 May 2018. However, both claims were closed by the Subscriber on 16 July 2018 due to the Subscriber not receiving a response to its request for further information from the Consumer's legal representatives (CLR).

The Consumer subsequently provided the information required to the Subscriber on 8 January 2019, and the Subscriber reopened the IP and TPD claim on the same day. As a result, the Subscriber had to provide its decision on the IP claim by 8 March 2019 (2 month timeframe) and provide its decision on the TPD claim by 8 July 2019 (6 month timeframe), unless Unexpected Circumstances (UC) applied.

The Subscriber received the information that it required to assess the claims on 4 September 2019 and provided its decision on the IP and TPD claims on 25 September 2019. The Subscriber noted that UC¹ applied to both the IP and TPD claims as the claims were notified to it more than 12 months after the date of the Consumer's disability and there were delays in relation to obtaining evidence necessary to assess the claims.

The Consumer lodged a Code breach allegation with the Life CCC and alleged that the Subscriber was in breach of sections 8.7, 8.15, 8.16 and 8.17 of the Code, and the Subscriber has acknowledged breaches of sections 8.15, 8.16 and 8.17 of the Code.

¹ Chapter 15 Definition a): **your** claim has been notified to **us** more than 12 months after the later of the date of disability or the end of **your** waiting period, and there are reasonable delays obtaining evidence necessary for the assessment of **your** claim from the intervening period;

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

The Life CCC determined that the Subscriber:

- was not in breach of section 8.7 of the Code and that the allegation was unfounded, and
- was in breach of sections 8.15, 8.16 and 8.17 of the Code and that the allegations were proven in whole.

The Life CCC findings and conclusion:

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.

The Subscriber's compliance in relation to section 8.7 was evaluated in relation to the following information:

- request for information from the Consumer's employer, which was made on 10 January 2019 and again on 8 February 2019;
- details of the Consumer's ABN – requested on 10 January 2019 and again on 8 February 2019; and
- clinical notes from the Consumer's treating psychiatrist as well as the treating doctor's report – requested on 10 January 2019.

Based on the information available, the Subscriber requested the information that it needed as early as possible and did not make multiple unnecessary information requests. We note that the Subscriber's second request for the information on 8 February 2019 was not a request for information but instead was a follow up reminder for the information that was requested on 10 January 2019.

Accordingly, the Life CCC determined that the Subscriber was not in breach of section 8.7 of the Code and that the allegation was unfounded.

Section 8.15

Section 8.15 requires a subscriber to communicate a claim decision within 10 business days of receiving all the information that the subscriber reasonably needs to assess a claim. The Subscriber has acknowledged that it breached section 8.15 in relation to both the IP and TPD claim.

The Subscriber had received all the information that it needed by 4 September 2019 for both claims. As a result, the Subscriber had to provide the decisions for both claims within 10 business days, on 18 September 2019. As noted above, the Subscriber provided its decision to accept the IP and TPD claims on 25 September 2019, 5 business days outside the section 8.15 timeframe.

Accordingly, the Life CCC determined that the Subscriber was in breach of section 8.15 of the Code and the allegation was proven in whole.

The Life CCC further determined that the breach of section 8.15 amounted to serious and systemic non-compliance with the Code. This was because the Life CCC's other monitoring activities had identified that the Subscriber was also in breach of section 8.15 of the Code across multiple instances in a different matter during the same period.

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 Subscriber confirmed that the breach was due to a backlog of work by a third-party administrator, and a breakdown in its internal processes. As such, decisions were only communicated to the consumers after they were signed by the Claims Decision Committee resulting in breach of section 8.15 of the Code.

Section 8.17

Section 8.17 of the Code requires a subscriber to communicate its decision on a claim within six months, unless Unexpected Circumstances (UC) applied.

The Subscriber was originally notified of the TPD claim on 22 May 2018 but closed the claim on 16 July 2018 due to not receiving a response to its request for information from the CLR, despite a follow up request sent to them on 2 July 2018. The claim form was subsequently received on 8 January 2019 and the claim was reopened on that day.

Accordingly, the six-month timeframe for the Subscriber to provide a decision expired on 8 July 2019, unless UC applied.

The Subscriber provided its decision on the TPD claim on 25 September 2019 and noted that UC³ applied to the TPD claim as the claim was notified to the Subscriber more than 12 months after the date of the Consumer's disability (9 March 2014) and there were delays in obtaining evidence necessary to assess the TPD claim.

The Subscriber sent the CLR a letter via email on 5 July 2019 advising that a decision could not be made within the required six-month timeframe. Although the letter included the reasons for the delay in making a decision on the claim, the UC notification letter was non-compliant with section 8.17. The UC letter did not state that the Consumer could disagree with the reasons and that the Trustee would conduct a review if the Consumer disagreed with the reasons, resulting in the Subscriber acknowledging a breach of section 8.17 of the Code.

As such, 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.

The Life CCC further determined that the breach of section 8.17 amounted to serious and systemic non-compliance with the Code. This was because the Life CCC's other monitoring activities had identified that the Subscriber was also in breach of section 8.17 of the Code across multiple instances in a different matter during the same period.

The main cause of the breach of section 8.17 in this instance was ineffective UC training and awareness of staff. As a result, case managers applied UC inconsistently to claims and, in some instances, failed to notify the Consumer of UC.

The Life CCC continues to provide guidance and monitor the progress of the Subscriber's remediation actions in relation to section 8.17 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) applied.

The Subscriber was originally notified of the IP claim on 17 May 2018 but closed the claim on 16 July 2018 due to not receiving a response to its request for information from the CLR.

The required information was subsequently received on 8 January 2019 and the claim was reopened on that day.

³ Chapter 15 Definition a): **your** claim has been notified to **us** more than 12 months after the later of the date of disability or the end of **your** waiting period, and there are reasonable delays obtaining evidence necessary for the assessment of **your** claim from the intervening period;

Accordingly, the two-month timeframe for the Subscriber to provide a decision expired on 8 March 2019, unless UC applied.

The Subscriber provided its decision on the IP claim on 25 September 2019 and noted that UC⁴ applied to the IP claim as the claim was notified to the Subscriber more than 12 months after the date of the Consumer's disability (9 March 2014) and there were delays in obtaining evidence necessary to assess the IP claim.

However, a notification letter advising that UC applied to the claim was not provided to the CLR. As the Subscriber did not notify the Consumer of the reasons for the delay, the Subscriber acknowledged a breach of section 8.16 of the Code.

As such, the Life CCC 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 further determined that the breach of section 8.16 amounted to serious and systemic non-compliance with the Code. This was because the Life CCC's other monitoring activities had identified that the Subscriber was also in breach of section 8.16 of the Code across multiple instances in a different matter during the same period.

The main cause of the breach of section 8.16 in this instance was ineffective UC training and awareness of staff. As a result, case managers applied UC inconsistently to claims and, in some instances, failed to notify the Consumer of UC.

The Life CCC continues to provide guidance and monitor the progress of the Subscriber's remediation actions in relation to section 8.16 the Code.

Key Learnings

Whilst claims processing can often be complex and lengthy, subscribers must strive to consistently meet the high standards of the Code to demonstrate a responsible and committed customer-focussed industry.

Whilst recognising that most of the procedural failures in this matter require sustained remediation, the Life CCC is nonetheless encouraged by the Subscriber's improving compliance culture, demonstrated in this instance by the effective operation of their claims compliance review and breach detection measures, followed by comprehensive self-reporting.

The Life CCC encourages all subscribers to embed effective Code breach identification, assessment and internal and external reporting mechanisms within their organisational compliance cultures.

The Life CCC also reminds subscribers of the importance of maintaining ongoing and effective training and supervision of staff to ensure they are aware of, understand and consistently implement the subscriber's systems and processes to ensure compliance with the Code.

Relevant Code Sections

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**

⁴ Chapter 15 Definition a): **your** claim has been notified to **us** more than 12 months after the later of the date of disability or the end of **your** waiting period, and there are reasonable delays obtaining evidence necessary for the assessment of **your** claim from the intervening period;

have presented this to **you**, **we** will let **you** know **our** decision on **your** claim within ten business days

Section 8.16:

For income-related claims, **we** will let **you** know **our** decision no later than two months after **we** are notified of **your** claim or two 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.

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.