

# 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>	CX7341	<b>Date:</b>	25 June 2021
<b>Code sections:</b>	8.2 and 13.3(a) <sup>1</sup>		
<b>Investigation:</b>	Self-reported non-compliance by a Code subscriber		

## The alleged Code breach:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) self-reported a breach of sections 8.2 and 13.3(a) of the Code.

The Subscriber noted that these breaches did not amount to significant breaches of the Code but reported them to the Life CCC due to the length of time it took to discover the incident, the nature of the incident and the potential financial impact to the affected policyholders.

The breaches related to the Subscriber's failure to consider all the features of the policies for some consumers, specifically the payment of a return to work benefit after a consumer completed a health support program.

The Subscriber did not consider the return to work benefit available to 316 consumers as part of their claims, with 71 of those consumers owed the payment of a return to work benefit totalling approximately \$1.4 million.

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

The Life CCC assessed the matter and confirmed the self-reported breaches of sections 8.2 and 13.3(a) of the Code, which were proven in whole.

## The Life CCC findings and conclusion:

### Section 8.2

Section 8.2 of the Code requires a subscriber to consider all the features of the policy to which a consumer's claim relates to ensure that the consumer is claiming for all available benefits.

The Subscriber self-reported a breach of section 8.2 of the Code in relation to its failure to consider the return to work benefit in the assessment of claims relating to 316 consumers.

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

<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.

The Subscriber's income protection policies contain a return to work benefit, and the payment of this benefit requires the consumer to return to work on a full-time basis for 3 consecutive months. A second instalment of the benefit is payable if the consumer is at work for a further 3 consecutive months.

Of the 316 consumers impacted by this breach, the Subscriber noted that 71 consumers qualified for the benefit and required financial compensation. The Subscriber contacted these 71 consumers and received 57 responses, with 14 consumers failing to respond to any of the Subscriber's attempts to contact them (letter, SMS, email and phone).

As a result, the Subscriber paid out \$1,002,326 to the 57 consumers and confirmed that if any of the 14 remaining consumers subsequently respond they will be fully assessed against the terms of the policy and payments will be made to them accordingly.

The Subscriber acknowledged that the breach occurred as it did not have appropriate processes and procedures in place for enabling compliance with section 8.2 of the Code. As a result, the Subscriber conducted staff training and changed its processes and systems, including:

- providing communications to the claims assessment teams;
- updating its processes and capturing this requirement within its workflow;
- implementing a new claims system which includes a documented step creating a workflow task option upon closure of a claim; and
- monitoring the effectiveness of the controls.

The Subscriber confirmed that its remediation was effective as at 30 June 2020 and that it did not identify any breaches of section 8.2 from January to March 2021. After reviewing all the information available, the Life CCC confirmed the Subscriber's breach of section 8.2 of the Code.

Given the number of consumers impacted, the amount of compensation and the fact that the Subscriber has acknowledged that its processes were previously non-compliant with the Code, the Life CCC further determined that the Subscriber's breach of section 8.2 amounted to serious and systemic non-compliance with the Code.

### **Section 13.3(a)**

Section 13.3(a) requires subscribers to have appropriate systems and processes in place to enable compliance with the Code. As noted above, the Subscriber acknowledged that prior to its remediation in June 2020, the Subscriber did not have appropriate systems and processes in place to enable compliance with section 8.2 of the Code. This resulted in the breach of section 8.2.

The Life CCC confirmed the Subscriber's breach of section 13.3(a) of the Code. As the Subscriber acknowledged that its processes were previously non-compliant with the Code, the Life CCC further determined that the Subscriber's breach of section 13.3(a) amounted to serious and systemic non-compliance with the Code.

### **Key learnings**

Given the number of consumers impacted and the amount of financial remediation involved, the Life CCC considers that this matter should have been self-reported as a significant breach of the Code.

While the Subscriber in this instance has adequately remediated the breach, the Life CCC encourages subscribers to adopt a broad view of a significant breach based on the definition

of a significant breach in Chapter 15 of the Code and to report similar breaches to the Life CCC as significant breaches of the Code.

## Relevant Code Sections

### Section 8.2:

When **you** make a claim **we** will consider all of the features of the **Life Insurance Policy** to which **your** claim relates in order to ensure **you** are claiming for all available benefits under **your Life Insurance Policy**. **We** will not discourage **you** from making a claim.

### Section 13.3:

**We** will:

- a) have appropriate systems and processes in place to enable compliance with the **Code**;
- b) prepare an annual return to the **Life CCC** on **our** compliance with the **Code**; and
- c) have a governance process in place to report on **our** compliance with the **Code** to **our** Board of Directors or executive management.

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.