

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:	CX6572	Date:	20 July 2021
Code sections:	6.3, 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 6.3 of the Code.

Under section 6.3 of the Code, subscribers are required to provide consumers with an annual notice in writing prior to the anniversary of the Life Insurance Policy. Section 6.3 also lists the specific information that the written annual notice should include.

On 28 November 2019, the Subscriber self-reported a breach of section 6.3 of the Code after it identified that it had not complied with the requirements under the section in two scenarios which related to certain legacy products.

In relation to the first scenario, the Subscriber noted that the premium figures were either incorrect or omitted from 557 annual notices. In relation to the second scenario, the Subscriber reported that it failed to issue annual notices on three occasions which impacted 6,145 consumers.

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 6.3 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 6.3

The Subscriber reported that it had breached section 6.3 of the Code in two scenarios between 1 July 2017 and November 2019 as 557 consumers received annual notices with inaccurate or missing premium figures, and 6,145 consumers did not receive annual notices on three occasions.

Scenario 1

The Subscriber noted that the incorrect or missing premium figures within the 557 annual notices was caused by system issues and occurred in two separate situations:

- Situation 1 (Consumer Price Index (CPI) on Policy Fee): The system's software was not updated to enable the Policy Fee to be included as part of the premium amount payable for the upcoming year. As a result, the annual notices reported understated premiums payable for the upcoming year and impacted 554 consumers.
- Situation 2 (Stamp Duty): The system stopped calculating the stamp duties payable for a legacy product in 2018 and 2019. This occurred as the premium calculation was not updated in the notice to allow for covers that had changed insurance tax formula codes. As a result, the premium payable item within the annual notices appeared blank, and the only charge reflected was the Policy Fee which impacted three consumers.

Scenario 2

The Subscriber noted that it did not issue annual notices in three situations due the following causes:

- Situation 1 (Code Interpretation): The Subscriber had misinterpreted the requirements under section 6.3 of the Code. As a result, 6,119 policies were incorrectly deemed to be out of the scope of the Code impacting 6,117 consumers.
- Situation 2 (Mail Suppression): A system control was incorrectly activated which suppressed and therefore did not issue an annual notice to eight consumers.
- Situation 3 (System Errors): Due to system errors, annual notices were not automatically generated which impacted 17 policies and 20 consumers.

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 6.3 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 to ensure its compliance with section 6.3 between 1 July 2017 and November 2019.

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 the breach impacted 6,702 consumers 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.

Remediation

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

Scenario 1

The Subscriber developed an overarching system reconciliation framework, an additional control, to ensure that the system populates the correct data into annual notices templates and prevent system issues of a similar nature in Scenario 1 (Situations 1 and 2) from recurring.

- In relation to Situation 1 – the Subscriber implemented a system fix which was completed on 19 January 2020 and made a one-off community service payment on 9 February 2021 (the difference between the underreported premium figures within the annual notices and the actual premiums charged to the impacted consumers which were correctly calculated). The Subscriber also issued a cover letter to the impacted 554 consumers explaining the matter and clarifying the disclosure error.
- In relation to Situation 2 – the Subscriber implemented a system fix which updated the premium calculation and corrected the disclosure issue related to the calculation of the stamp duty amount. The Subscriber also applied a 10% lifetime discount to all three impacted policies from 30 November 2020 and provided the three consumers with a corrected annual notice which explained the impact of the breach to their annual notice.

Scenario 2

The Subscriber developed an additional control which involves a daily monitoring process where reports are issued and reviewed by staff and the manager. The process identifies potential breaches which are escalated and rectified in a timely manner.

- In relation to Situation 1 – the Subscriber provided all 6,117 impacted consumers with a remediation letter which also informed consumers of the breach of the Code and impact on their annual notice since 1 July 2017. The Subscriber automated the generation of annual notices within the system for these impacted policies on 3 July 2020. Prior to the automation process, the Subscriber manually generated and issued annual notices between 1 March 2020 and 3 July 2020.
- In relation to Situation 2 – the Subscriber deactivated the system control which suppressed the production of annual notices. The Subscriber reissued the annual notices along with

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.

apology letters to all eight impacted consumers by 18 February 2021 which explained the breach and impact to their annual notice.

- In relation to Situation 3 – the Subscriber implemented a system fix to all 17 impacted policies and reissued the annual notices along with apology letters to the 20 impacted consumers in February 2021 which explained the breach and impact to their annual notice.

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 6.3 and has appropriate systems and processes in place to enable ongoing compliance with section 6.3 of the Code.

Key learnings

The matter highlights the importance of subscribers monitoring the implementation of systems and processes which automate the generation of annual notices and communications with consumers to ensure such communications meet Code requirements.

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 6.3 of the Code.

The Life CCC is also encouraged by the Subscriber's compliance culture, including self-reporting a breach of section 6.3, and voluntarily informing the Life CCC of other matters that have arisen in relation to meeting its code compliance obligations.

Further, the Subscriber's willingness to honour the terms upon which the consumers impacted by the event relied on, demonstrated that the Subscriber acted in utmost good faith which is consistent with the Spirit of the Code.

Relevant Code Sections

Section 6.3:

We will provide you with an annual notice in writing each year prior to the anniversary of your Life Insurance Policy. The annual notice will include:

- a) the types of cover **you** are insured for and how much **you** are insured for;
- b) an explanation for any increase in **your premiums** in accordance with the terms of **your Life Insurance Policy**;
- c) information about the risks of cancelling and replacing an existing **Life Insurance Policy**;
- d) information about how to contact **us** to discuss options if **you** want to change the terms of **your Life Insurance Policy** or are having difficulty meeting **your** payments; and
- e) what to do in the event of a claim.

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.