

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:	CX7481	Date:	20 July 2021
Code sections:	9.10 ¹		
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 a life insurance policy with a Total and Permanent Disability (TPD) 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 was owned by a Group policy-owner (the Trustee).

The Consumer lodged a TPD claim in January 2019. The Subscriber declined the claim and provided a decline letter to the Consumer on 17 February 2020.

The Consumer's legal representative (CLR) sent a letter of complaint to the Subscriber on 28 October 2020 which expressed dissatisfaction with the claim outcome and requested a review of the decision. The Subscriber acknowledged receipt of the complaint via return letter to CLR on 29 October 2020 and a final complaint response letter was issued by the Subscriber to the CLR on 5 February 2021.

The Consumer rereferred this matter to the Life CCC on 30 January 2021 alleging a possible breach of section 9.10 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 9.10 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 9.10

Section 9.10 requires a subscriber to respond to a Trustee so that the Trustee can respond to the consumer within 90 calendar days of the Trustee receiving a complaint. In addition,

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.

section 9.10 lists the information that must be provided as part of the Subscriber's response to the complaint:

- a) the final decision in relation to the complaint, and the reasons for that decision;
- b) that the consumer has a right to copies of the documents and information relied on, and if requested, copies will be provided within ten business days;
- c) that the consumer has a right to lodge a complaint with the relevant External Dispute Resolution (EDR) scheme; and
- d) the contact details for the relevant EDR scheme.

Section 9.10 thus has two separate elements:

- a) a time element, where a subscriber is required to respond to the trustee so as to enable the Trustee to respond to a consumer complaint within 90 calendar days; **[Element 1]**
- b) an information element, where a subscriber needs to provide the information under sections 9.10 (a) to (d). **[Element 2]**

The Life CCC assessed the Subscriber's compliance with Element 1 as the Subscriber was compliant with Element 2, having provided all the information required in sections 9.10(a) to (d) in its final complaint response letter of 5 February 2021.

The CLR lodged the complaint directly with the Subscriber on 28 October 2020 and the Subscriber acknowledged the complaint on 29 October 2020. As a result, the Subscriber had to provide its response to the complaint within 90 calendar days, on 26 January 2021. However, the Subscriber only provided its complaint response letter on 5 February 2021.

In its own review of the Code breach allegation the Subscriber conceded that it had breached section 9.10 of the Code as it had not provided the Trustee with a final response to the complaint within 90 calendar days of receiving the complaint.

The Subscriber noted that it experienced delays during the retrieval of the Consumer's physical claim file from secure storage, resulting in the assessor not being able to provide the final complaint response within 90 calendar days. The Subscriber did not identify any other instances of similar delays in retrieving claim files and confirmed that it had existing governance processes around the archiving and recalling of claim files, with archiving being performed by a professional third-party provider.

As a result, the Life CCC determined that the Subscriber was in breach of section 9.10 of the Code and that the allegation was proven in whole.

Key learnings

The process around retrieval of historical archived paper documents, required to respond to a consumer complaint, must incorporate controls to ensure that such documents are obtained within timeframes that facilitate compliance with Chapter 9 Code requirements.

Subscribers may refer to Guidance Note 2³ for additional clarification regarding the Life CCC's interpretations of section 9.10 obligations.

³<https://lifeccc.org.au/app/uploads/2019/10/GN-No.2-Interpreting-and-applying-Life-Insurance-Code-of-Practice-9.10- - Final.pdf>

Relevant Code Section

Section 9.10:

Where possible, **we** will respond to the superannuation fund trustee so that it can provide a final response to **your Complaint** in writing within 90 calendar days of the superannuation fund trustee receiving **your Complaint**. **You** will be informed of:

- a) **our** final decision in relation to **your Complaint** and the reasons for that decision;
- b) that **you** have the right to copies of the documents and information **we** relied on in assessing **your Complaint**, and if **you** request **we** will provide **you** (or **your** doctor, where appropriate) with copies within ten **business days**, in accordance with the Access to Information section of the **Code**;
- c) that **you** may have the right to take **your Complaint** to the Superannuation Complaints Tribunal (**SCT**) if **you** are not satisfied with **our** decision and the timeframe within which **you** must take **your Complaint** to the **SCT**; and
- d) contact details for the **SCT**.

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.