

# 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

|                       |   |              |                   |
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| <b>Reference:</b>     | CX6706                                  | <b>Date:</b> | 28 September 2021 |
| <b>Code sections:</b> | 8.17                                    |              |                   |
| <b>Investigation:</b> | A consumer-reported alleged Code breach |              |                   |

## The alleged Code breach:

The Consumer was a member of a Superannuation Fund. As part of that membership, the Consumer obtained life insurance 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 the policy was a Group Policy that was owned by the trustee of the Superannuation Fund (the Trustee).

The Consumer's legal representative lodged a TPD claim with the Trustee and the Subscriber on 1 February 2019. The claim was placed into Unexpected Circumstances (UC) on 7 August 2019 and the Subscriber declined the claim on 17 May 2020.

On 31 January 2020, the Consumer's legal representative made a referral to the Life CCC and alleged that the Subscriber had not provided a decision on the claim within the timeframes provided by the Code. As a result, the Life CCC reviewed the Subscriber's compliance with section 8.17 of the Code.

## Findings in accordance with Charter clause 7.4(b)(iii)<sup>1</sup>:

The Life CCC determined that the Subscriber was in breach of section 8.17 of the Code, that the allegation was proven in whole, and that the breach of section 8.17 amounted to serious and systemic non-compliance of the Code, as per clause 7.4(b)(iv) of the Life CCC Charter.

## The Life CCC findings and conclusion:

### Section 8.17

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

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<sup>1</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.

As the Subscriber was notified of the claim on 1 February 2019, the six-month timeframe for the Subscriber to provide a claims decision commenced on 1 February 2019 and expired on 1 August 2019.

The Subscriber confirmed that it informed the Consumer of UC on 7 August 2019, after the initial six-month timeframe had expired. In addition, the Subscriber also acknowledged that its UC letter did not include all the information required under section 8.17 of the Code. The Life CCC's review of the Subscriber's UC letter identified that the UC letter did not adequately describe the reasons for the delay that applied in the Consumer's claim.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.17 and that the allegation was proven in whole.

### **Serious and Systemic non-compliance**

The Life CCC previously reviewed the Subscriber's section 8.17 processes and procedures as part of its investigation of a bulk referral from a plaintiff law firm received by the Life CCC in February 2018.<sup>2</sup> As part of that review, the Life CCC identified that the Subscriber did not have adequate processes to enable compliance with section 8.17 of the Code.

In particular, the Life CCC identified inconsistencies in the Subscriber's UC template letter, how UC was communicated and the inadequate training that the Subscriber provided to its staff in relation to the Subscriber's section 8.17 processes.

As part of the Life CCC's bulk referral investigation, in September 2019 the Subscriber amended its section 8.17 processes, revised and updated its UC template letter and provided additional UC training to its claims staff, which was completed in December 2019.

The breach of section 8.17 in this Matter occurred in August 2019 prior to the implementation of the above measures. At the time of the breach the Subscriber's processes and procedures to enable compliance with section 8.17 of the Code were inadequate, resulting in multiple breaches of section 8.17 that were not limited to this Matter.

As a result, the Life CCC determined that the Subscriber's breach of section 8.17 in this instance amounted to serious and systemic non-compliance with the Code as per clause 7.4(b)(iv) of the Life CCC Charter.

### **Key learnings**

The Life CCC notes that the Code does not contain any exceptions to its obligations in relation to new or inexperienced staff. The Life CCC expects subscribers to provide robust training for new or inexperienced staff so that they know and understand Code obligations. The Life CCC also expects subscribers to supervise and monitor such staff closely and to support them in the implementation of systems, processes and practices that ensure compliance with the Code.

While the breach in this instance occurred prior to the Subscriber's remediation, the Life CCC continues to work closely with the Subscriber to ensure that the Subscriber's section 8.17 processes and procedures are sufficiently robust to enable compliance with the Code.

## **Relevant Code Sections**

**Section 8.17:**

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<sup>2</sup> Life CCC Report on Claims and Complaints Handling Obligations issued in March 2020: <https://lifeccc.org.au/app/uploads/2020/03/Life-CCC-Claims-and-Complaints-Handling-Obligations-1.pdf>.

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. ¶