

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:	CX7009	Date:	20 September 2021
Code sections:	8.4 and 8.17 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

The Consumer used the services of an independent financial adviser to obtain a retail 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).

The Consumer lodged a TPD claim with the Subscriber on 31 December 2019.

Whilst it was completing its assessment of the TPD claim the Subscriber identified potential non-compliance with the duty of disclosure by the Consumer at the time of policy application in March 2018. The Subscriber believed that an investigation into disclosure was warranted and as a result determined that it could not provide its claim decision within the six-month timeframe of section 8.17. It then issued an Unexpected Circumstances notification to the Consumer on 22 June 2020, consistent with the obligations of section 8.17. The decision to decline the claim was notified to the Consumer on 13 July 2020.

Prior to being advised that Unexpected Circumstances applied to the claim, and also prior to being advised of the claim decision, the Consumer made a referral to the Life CCC on 3 June 2020. The Consumer alleged that the Subscriber had delayed making its decision on the TPD claim and that it had failed to provide regular updates on the progress of the claim resulting in breaches of sections 8.17 and 8.4 of the Code.

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

The Life CCC determined that the Subscriber:

- was not in breach of section 8.4 of the Code and that the allegation was unfounded, and
- was not in breach of section 8.17 of the Code and that the allegation was unfounded.

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 8.4

Section 8.4 requires subscribers to keep a consumer informed about the progress of their claim at least every 20 business days unless otherwise agreed and to respond to a consumer's request for information about their claim within 10 business days.

In this Matter, the Life CCC only assessed as relevant the Subscriber's compliance with the obligation to provide a claim progress update every 20 business days.

The Subscriber was able to provide a detailed timeline of events which demonstrated that it had provided updates on the progress of the claim at least every 20 business days. This included a single occasion where the Subscriber had formed the view that it had not met the 20 business day timeframe as the update occurred 21 days later. However, the Subscriber had not made an adjustment for a public holiday. After adjusting for the public holiday, the update fell within the required 20 business days.

As a result, the Life CCC determined that the Subscriber was not in breach of section 8.4 of the Code and that the allegation was unfounded.

Section 8.17

Section 8.17 of the Code requires a subscriber to communicate its decision on the claim within six months, unless Unexpected Circumstances (UC) applies. If UC applies, the subscriber has 12 months to provide its decision on the claim.

The Subscriber received the Consumer's TPD claim on 31 December 2019. As a result, the Subscriber had to provide its decision on the claim by 30 June 2020, unless UC applied.

Unexpected Circumstances

The Subscriber noted that it was not able to provide a decision on the claim by 30 June 2020 as it was unable to reasonably satisfy itself, based on the information available, that the Consumer had met their duty of disclosure at the insurance application stage.

In line with section 8.17 of the Code, the Subscriber notified the Consumer, via a letter issued on 22 June 2020, that it was unable to provide a decision on the claim within the required six months. The Life CCC reviewed the UC notification to the Consumer and noted that the letter included the information required under section 8.17 of the Code. As UC applied, the Subscriber had until 31 December 2020 to provide its decision on the claim. The decision to decline the claim was provided on 13 July 2020.

As a result, the Life CCC determined that the Subscriber was not in breach of section 8.17 of the Code and that the allegation was unfounded.

Key learnings

The Life CCC acknowledges that effective business processes and internal systems have been put in place by many Subscribers to support compliance with the Code. The Subscriber in this case has in place section 8.4 compliance frameworks which include a system that issues reminders to claims assessors when a 20 business day timeframe is approaching. This enables the Subscriber to identify instances where Code timeframes may be about to expire and allows for pre-emptive action.

Relevant Code Sections

Section 8.4:

Prior to making a decision on **your** claim, **we** will keep **you** informed about the progress of **your** claim at least every 20 **business days** unless otherwise agreed with **you** or the **Group Policy-owner**. **We** will respond to **your** requests for information about **your** claim within **ten business days**.

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.

Chapter 15, Definitions: Unexpected Circumstances means:

- 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;
- b) for a claim for total and permanent disability, **we** cannot reasonably satisfy ourselves on the basis of the information provided in the six months after the end of **your** waiting period that **your** condition meets the requirements of **your Life Insurance Policy**;
- c) **we** have not received reports, records or information reasonably requested from an **Independent Service Provider**, **your** doctor, a government agency or other person or entity (including a **Reinsurer**);
- d) the **Policy-owner** or **Group Policy-owner** has disputed or taken a protracted period to consider **our** decision;
- e) **you** or **your Representative** have not responded to **our** reasonable enquiries or requests for documents or information concerning **your** claim;
- f) there are difficulties in communicating with **you** in relation to the claim due to circumstances beyond **our** control;
- g) there is a delay in the claims process that you have requested; or
- h) the claim is fraudulent or we reasonably suspect fraud or non-disclosure that requires further investigation.

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.