

# 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>	CX6990	<b>Date:</b>	16 November 2021
<b>Code sections:</b>	8.17 <sup>1</sup>		
<b>Investigation:</b>	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 Total and Permanent Disability (TPD) policy that was issued by a Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code). The policy was owned by the trustee of the superannuation fund (the Trustee).

The CLR lodged a TPD claim with the Subscriber on 4 November 2019. As a result, the Subscriber was required to issue a decision on the claim within six months unless Unexpected Circumstances (UC) applied. Therefore, the six-month timeframe commenced on 4 November 2019 and the Subscriber was required to issue a decision on the claim by 04 May 2020, unless UC applied.

The Subscriber sent a Procedural Fairness (PF) letter to the Consumer's Legal Representative (CLR) on 21 February 2020. The CLR subsequently requested additional time to provide its response to the PF letter and provided its response on 29 April 2020.

On 28 May 2020, the CLR lodged a section 8.17 Code breach allegation with the Life CCC as the Subscriber had not provided a decision on the claim. The Subscriber issued a UC letter to the CLR on 18 June 2020 and subsequently declined the claim on 3 July 2020.

After receiving new information on the claim on 1 September 2020, the Subscriber reversed its decision and accepted the TPD claim on 10 September 2020.

The Subscriber acknowledged that it was in breach of section 8.17 as it did not notify the CLR that UC applied to the claim prior to the expiry of the initial six-month timeframe.

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

The Life CCC determined that the Subscriber was in breach of section 8.17 of the Code and that the allegation was proven in whole.

<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 Life CCC findings and conclusion:**

### **Section 8.17**

Section 8.17 of the Code requires a subscriber to provide its decision on a lump sum claim within six months unless UC applies. If UC applies, the subscriber has 12 months to provide its decision on the claim.

The CLR lodged a TPD claim with the Subscriber on 4 November 2019. As a result, the Subscriber was required to provide its decision on the claim by 4 May 2020, unless UC applied.

The Subscriber issued a PF letter on 21 February 2020, with the CLR's response due on 20 March 2020. However, the CLR requested two extensions for its response and was only able to provide its response to the PF letter on 29 April 2020.

This meant that the Subscriber received the CLR's response to its PF letter 5 days prior to the expiry of the initial six month timeframe on 4 May 2020. In these circumstances, UC would apply as the delay in the claims process was outside of the Subscriber's control and was requested by the Consumer's CLR.

When UC applies, the subscriber has to inform the consumer of the delay, the reasons for the delay, that the consumer has the right to disagree with the reasons provided, and that the subscriber will review this if the consumer disagrees.

While the Subscriber was entitled to apply UC to the claim on 4 May 2020, it failed to inform the CLR of the information listed above and only did so on 18 June 2020, after the six month timeframe had expired.

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

The Life CCC noted that the Subscriber's UC letter of 18 June 2020 was compliant with section 8.17 of the Code and included the information required, and there was no information to suggest that the Subscriber's overall processes and procedures were non-compliant with section 8.17 of the Code.

### **Key Learnings**

The Subscriber's breach of section 8.17 in this instance was caused by the claim assessor's human error in failing to send the UC letter to the CLR prior to the expiry of the initial six-month timeframe.

While the Subscriber had adequate processes and procedures in place to enable compliance with section 8.17 of the Code, it appears that the Subscriber did not have robust monitoring systems in place to alert claims assessors to the required timeframes in the Code for processing claims, particularly where there were Unexpected Circumstances. Such an alert would have enabled to take action to issue the UC letter within the required timeframe and prevent the breach of section 8.17 occurring.

The Life CCC encourages subscribers to conduct regular monitoring of their compliance with the Code in order to identify and remediate breaches as soon as possible. The Life CCC also reminds Subscribers of the need to provide ongoing training of claims assessors in the requirements of the Code.

## Relevant Code Section

### 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.

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.