

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:	CX6308	Date:	2 December 2021
Code sections:	8.7, 8.15, 8.17 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach:

The Consumer is a member of a superannuation fund. As part of their membership, the Consumer obtained life insurance including a Total and Permanent Disability (TPD) benefit. The life insurance 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 owned by a Group Policy-owner (the Trustee).

The Consumer's legal representatives lodged a TPD claim with the Trustee, on behalf of the Consumer, on 2 January 2019. The Trustee forwarded the claim to the Subscriber on 24 January 2019. The Consumer's legal representatives made a referral to the Life CCC on 26 July 2019 and alleged that the Subscriber was in breach of section 8.17 of the Code on the basis that the Subscriber had not provided its claim decision within the six-month timeframe set out in section 8.17. The Subscriber accepted the TPD claim on 15 October 2019.

As part of its review of this matter, the Life CCC also raised possible breaches of sections 8.7 and 8.15 of the Code and sought information from the Subscriber in relation to its compliance with these sections 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 8.7 of the Code and that the allegation was proven in whole;
- in breach of section 8.15 of the Code and that the allegation was proven in whole; and
- in breach of section 8.17 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 8.7

Section 8.7 requires a subscriber to request the information that it needs to assess a claim as early as possible and to avoid multiple information requests where possible.

The Subscriber stated that it identified two separate occasions where it did not request information it needed to assess the claim as early as possible.

On the first occasion, there was a 40-day delay between when the initial claim assessment was completed and when the Subscriber notified the Consumer of the medical evidence it needed to assess and determine the claim.

The delay was due to the initial assessment requiring a peer review. At that time there was a high volume of claims that were waiting for a peer review relative to the number of staff who were available and authorised to provide a peer review.

On the second occasion, there was an additional one-month delay in referring the claim file to the Subscriber's internal medical officer for a medical opinion. The delay was due to an oversight by the claims assessor. The Subscriber stated that if the referral to its medical officer was initiated at the earliest opportunity, the Subscriber would have been able to provide its decision approximately six weeks prior to when the actual decision was notified.

As a result, the Life CCC determined that the peer review and the medical officer opinion were not initiated as early as possible and amounted to a breach of section 8.7 of the Code.

The Life CCC further determined that the breach of section 8.7 of the Code amounted to serious non-compliance with the Code as the delay resulted in the Consumer suffering actual or potential financial loss. The Subscriber remediated this breach by paying interest to the Consumer.

The Subscriber also rectified the issue of delays caused by the peer review process by mid-2019 and its internal compliance monitoring and reporting did not identify any similar delays that were the direct result of peer review delays or capacity.

Section 8.15

Section 8.15 requires a subscriber to communicate a claim decision within ten business days of receiving all the information that it reasonably needs to assess the claim.

The Subscriber received all the information it needed and completed all reasonable enquiries on 17 September 2019. Under section 8.15, the Subscriber had to advise its claim decision within 10 business days, so prior to 1 October 2019. The claim decision was advised on 15 October 2019. As a result, the Life CCC determined that the Subscriber was in breach of section 8.15.

The Life CCC determined that the breach of section 8.15 of the Code amounted to serious non-compliance with the Code as the delay by the Subscriber resulted in the Consumer suffering actual or potential financial loss. The Subscriber remediated this breach by paying interest to the Consumer.

The Subscriber noted that its internal monitoring and reporting did not indicate that this was a widespread issue.

Section 8.17

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

In this matter, the claim was lodged with the Subscriber on 24 January 2019. Under the obligations created by section 8.17 the Subscriber had to provide its decision on the claim prior to 24 July 2019, unless UC applied. Through internal compliance monitoring and reporting, the Subscriber identified a possible breach of section 8.17 in its handling of this claim.

As a result, the Subscriber reviewed the claim file on 25 July 2019 and determined that UC did not apply to the claim. The Subscriber then confirmed the breach of section 8.17 and formally reported it internally. The decision to accept the claim was made on 15 October 2019, nine months from the date the claim was lodged.

As the claim decision was notified outside the required six-month timeframe of section 8.17 (UC did not apply), the Life CCC determined that the Subscriber did not meet its obligations under section 8.17 of the Code and was therefore in breach of section 8.17.

The Subscriber acknowledged this breach in its response to this matter and remediated the breach by paying interest to the Consumer.

The breach of section 8.17 in this matter was primarily caused by the Subscriber's breach of section 8.7, specifically in relation to the delay in completing a peer review and the delay in referring the file to the Subscriber's internal medical officer for a medical opinion. These delays meant that the Subscriber was unable to provide a decision on the claim within the six month timeframe in section 8.17 of the Code.

The Life CCC determined that the breach of section 8.17 of the Code amounted to serious and systemic non-compliance with the Code as the Subscriber had previously self-reported two significant breaches of section 8.17 that occurred in the same time period as the breach of section 8.17 in this matter.

In addition, the two significant breaches related to the resourcing issues experienced by the Subscriber, similar to the inadequate staff resourcing for timely peer reviews on claims which caused the breach of section 8.17 in this matter.

Key learnings

Delays with claims can occur for many reasons and often involve Unexpected Circumstances. As noted in this matter, multiple delays in the management of the claim can have a significant flow on effect to the timeframe required to assess a claim.

Delays with claims processing can also be the direct result of ineffective or poor resource allocation, as noted in this matter with inadequate resources available to perform peer reviews. Determining and allocating proper staffing levels at the various stages of the claim assessment cycle can ensure that work is processed effectively, that it meets the obligations set out in Chapter 8 of the Code and ultimately minimises delays for the claimant.

Unnecessary delays can create financial distress as the claimant is waiting for the claim payout to meet their financial commitments.

Subscribers should take steps to minimise the period it takes to assess a claim by implementing internal controls and processes which ensure that any requests for information and any reviews of the claim by internal stakeholders are initiated as early as possible and managed effectively.

Relevant Code Section/s

Section 8.7:

We will request the information **we** need as early as possible and will avoid multiple information requests where possible.

Section 8.15:

Once **we** have all the information **we** reasonably need and have completed all reasonable enquiries to assess **your** claim, including **your** response to the evidence **we** are basing **our** decision on if **we** have presented this to **you**, **we** will let **you** know **our** decision on **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.

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.