

# 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>	CX7558	<b>Date:</b>	7 October 2021
<b>Code sections:</b>	9.10 <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 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 the policy is owned by Group policy-owner (the Trustee).

We note that in this matter, the Subscriber communicated its final complaint response to the Trustee, as described under section 8.1 of the Code, and the Trustee then provided its complaint response to the Consumer.

The Consumer's Legal Representative (CLR), on behalf of the Consumer, lodged a TPD claim with the Trustee on 29 May 2020. The Trustee referred the claim to the Subscriber on 3 June 2020. On 19 August 2020, the CLR lodged a complaint with the Subscriber regarding the Subscriber's alleged decision to decline the claim.

On 18 March 2021, the Life CCC received a Code breach referral from the CLR which alleged that the Subscriber had breached section 9.10 of the Code as the complaint response was provided more than 90 calendar days after the complaint was lodged on 19 August 2020.

The Life CCC also received a further eight Code breach referrals on 18 March 2021 from the CLR which alleged that the Subscriber had breached the 90-calendar day complaint response timeframe. As part of its review of this matter, the Life CCC also reviewed the Subscriber's compliance with section 9.10 in the other eight matters.

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<sup>1</sup> The Code sections are provided in full in the last section of the Determination.

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

The Life CCC determined that the Subscriber was not in breach of section 9.10 and that the allegation was unfounded.

### **The Life CCC findings and conclusion:**

#### **Section 9.10**

Section 9.10 contains two separate elements:

- The first element requires a subscriber to respond to a Trustee to enable the Trustee to respond to a consumer within 90 calendar days of the Trustee receiving a complaint.
- The second element requires a subscriber to provide the information under section 9.10(a) to (d) of the Code within its final complaint response letter.

The Subscriber disagreed that it had breached the 90-calendar day timeframe under element 1 in this matter as it had provided a final complaint response to the Trustee on 16 September 2020, which was 28 calendar days after receiving the complaint on 19 August 2020. The Subscriber further clarified that it was the Trustee who provided its complaint response to the CLR on 11 February 2021.

The Life CCC also reviewed the Subscriber's complaint response to the Trustee dated 16 September 2020 and noted that it was compliant with the information requirements (element 2) under section 9.10(a) to (d) of the Code.

As part of its review of this matter, the Life CCC also reviewed the Subscriber's compliance with the complaints timeframe in the other eight alleged matters and noted that the Subscriber had complied with the 90 calendar day complaints timeframe on all eight occasions.

Given that the Subscriber had complied with both elements under section 9.10 in this matter, and that the Trustee had caused the delay in only issuing its complaint response to the CLR on 11 February 2021 after the 90-calendar day timeframe had expired, the Life CCC determined that the Subscriber was not in breach of section 9.10 of the Code.

#### **Key learnings**

The Life CCC is pleased with the Subscriber's level of compliance in this matter – notably the Subscriber's prompt complaint response to the Trustee within just 28 calendar days of receiving the complaint. This indicates that the Subscriber has appropriate complaints processes in place and a customer-focussed approach in endeavouring to resolve complaints in an efficient and timely manner.

As noted in this matter, the Trustee caused the delay in providing its complaint response to the CLR. The Life CCC strongly encourages subscribers to review their existing arrangements and service level agreements with the relevant Trustees, to ensure that prompt communication is provided to consumers, consistent with the key Code promises.

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<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 encourages all subscribers to continue to consistently strive to meet the high standards of service to consumers and to conduct regular process reviews to heighten their awareness of the obligations under the Code.

## Relevant Code Sections

### Section 8.1:

If **your** claim is covered by a **Group Policy**, **we** may be required to provide the communications referred to below to the **Group Policy-owner** (for example, the superannuation fund trustee which owns **your Life Insurance Policy**) in accordance with section 2.13. The **Group Policy-owner** will then communicate with **you** and assist with **your** claim. When **you** make a claim, **we** and/or the **Group Policy-owner** will let **you** know who will be in contact with **you**.

### 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.