

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:	CX7031	Date:	24 January 2022
Code sections:	8.4, 8.5, 8.7, 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 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) and is a Group Policy owned by the trustee of the superannuation fund (the Trustee).

The Consumer made a TPD claim which was received by the Subscriber on 14 January 2019. As a result, the Subscriber had to provide a decision on the claim by 14 July 2019, 6 months after receiving the claim, unless Unexpected Circumstances (UC) applied. Delays caused by the Subscriber in requesting claim information as early as possible meant that UC did not apply to the claim. The Subscriber subsequently issued the decision on the claim to the Trustee on 18 June 2020.

As the claim decision was issued 16 months after claim lodgement, the Consumer lodged a Code breach allegation with the Life CCC and alleged that the Subscriber had breached sections 8.4, 8.5, 8.7 and 8.17 of the Code.

As part of our review of the matter, the Life CCC sought information from the Subscriber in relation to its compliance with these sections of the Code.

The Subscriber acknowledged that it had breached sections 8.4, 8.7 and 8.17 of the Code on the basis that:

- in relation to section 8.4, the Subscriber failed to provide an update of the progress of the claim to the Consumer at least every 20 business days on one occasion.
- in relation to section 8.7, the Subscriber acknowledged that it did not request all information required as early as possible as there were avoidable delays in initiating requests for information.

¹ The Code sections are provided in full in the last section of the Determination.

- in relation to section 8.17, the Subscriber failed to issue its decision on the claim within six months, by 14 July 2019 (as UC did not apply to the claim). The Subscriber issued the decision on the claim to the Trustee on 18 June 2020.

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

The Life CCC determined that the Subscriber:

- was in breach of section 8.4 of the Code and that the allegation was proven in whole;
- was not in breach of section 8.5 of the Code and that the allegation was unfounded;
- was in breach of section 8.7 of the Code and that the allegation was proven in whole; and
- was in breach of section 8.17 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 8.4

Section 8.4 of the Code requires subscribers to provide consumers with updates on their claim at least every 20 business days unless otherwise agreed and to respond to requests for information about the claim within 10 business days.

The Subscriber acknowledged that it had breached section 8.4 because it did not provide an update within 20 business days on 6 March 2020. The breach of section 8.4 was isolated to this matter and was the only instance in the claim cycle where the Subscriber failed to provide an update every 20 business days.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.4 of the Code and that the allegation was proven in whole.

Section 8.5

Section 8.5 requires a subscriber to only ask for and rely on information and assessments that are relevant to the claim and to explain the reasons for requesting information.

The Consumer alleged that the Subscriber was in breach of section 8.5. the Consumer disputed the relevance of the Subscriber requesting medical reports from the Consumer's treating psychiatrist, Dr N, on 20 April 2020. The Consumer alleged that if the reports were relevant, they should have been requested at claim lodgement.

However, the Subscriber confirmed there was no reference to the Consumer's new treating psychiatrist, Dr N, in the initial claim lodgement forms. The forms had instead listed the Consumer's other treating medical practitioners, Dr Z and Dr S. The Subscriber further noted that it had only become aware that Dr N was actively involved in the Consumer's treatment following receipt of an Independent Medical Report on 9 April 2020 which indicated Dr N's opinion was required.

As a result, the Subscriber requested a medical report from Dr N on 23 April 2020. The Subscriber required the report to make its decision on the claim and explained the rationale for the request to the Consumer.

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.

As there was no evidence to indicate that the Subscriber asked for or relied on information and assessments that were not relevant to the claim, the Life CCC determined that the Subscriber was not in breach of section 8.5 of the Code and that the allegation unfounded.

Section 8.7

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

The Subscriber acknowledged that it had breached section 8.7 of the Code as it could have requested the following information earlier in the assessment of the claim:

- A request made to the Consumer's employer for information on 21 February 2019, six weeks after the claim lodgement on 14 January 2019.
- Requests for medical reports from the Consumer's treating doctors made on 29 August 2019 and 24 September 2019 could have been made sooner following the claim lodgement on 14 January 2019, rather than waiting until eligibility was satisfied.
- On 21 November 2019 and 4 December 2019, the Subscriber received medical reports from the Consumer's two listed medical practitioners. They both clarified that they were no longer the Consumer's treating practitioner. The Subscriber acknowledged that at this point it could have directly contacted the Consumer to confirm the Consumer's current treating practitioner. If this had occurred, a report could have been requested from the Consumer's current treating practitioner earlier than the date the request was eventually made on 24 April 2020.

As a result, 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.

Serious non-compliance

The Life CCC reviewed the matter and determined that the breach amounted to serious non-compliance of the Code. This was because there was a material impact to the Consumer caused by the Subscriber failing to request information as early as possible leading to avoidable delays in finalising the claim. The Subscriber acknowledged that if it had requested all required information as early as possible, then the claim would have been accepted at an earlier date.

In addition to accepting the claim, the Subscriber remediated the Consumer by paying 90 days of interest as compensation for the delays.

The Life CCC determined that the Subscriber's breach of section 8.7 amounted to serious non-compliance with the Code.

Section 8.17

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

The Consumer lodged a TPD claim with the Subscriber on 14 January 2019. As a result, the Subscriber had to provide its decision on the claim by 14 July 2019 unless UC applied. The Subscriber noted that UC did not apply to the claim and that it was unable to provide a decision on the claim by 14 July 2019. This was primarily due to the Subscriber failing to request the information that it required as early as possible. The Subscriber acknowledged a breach of section 8.17 of the Code.

As the Subscriber was unable to provide a decision on the claim by 14 July 2019, 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.

Serious non-compliance

The Life CCC reviewed the matter and determined that the breach amounted to serious non-compliance of the Code. This was because there was a material impact to the Consumer caused by the Subscriber failing to request information as early as possible leading to avoidable delays in finalising the claim and subsequently resulted in a breach of sections 8.7 and 8.17 of the Code. The Subscriber acknowledged that if it had requested all required information as early as possible, the claim would have been accepted at an earlier date.

In addition to accepting the claim, the Subscriber remediated the Consumer by paying 90 days of interest as compensation for the delays.

As a result, the Life CCC determined that the Subscriber's breach of section 8.17 amounted to serious non-compliance with the Code.

Key learnings

The Life CCC notes that the cause of non-compliance in this matter was attributed to human error in claims management which led to avoidable delays in the assessment of the claim. Although the Subscriber remediated the Consumer for any unnecessary delays, such delays can lead to distress and financial hardship for consumers who are relying on a claim payout for financial support.

Whilst human error can occur, subscribers must have robust systems and processes in place to ensure compliance with Code requirements as well as monitoring processes and procedures to ensure that any breaches are detected and remediated at an early stage and that the impact on consumers is minimised.

Relevant Code Section/s

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 8.5:

We will only ask for and rely on information and assessments that are relevant to **your** claim and policy, and **we** will explain why **we** are requesting these. This can include, for example, financial, occupational and medical information. If **you** disagree with the relevance of any information, **we** will review the request, and if **you** are not satisfied with **our** review **we** will tell **you** how **you** can make a **Complaint**.

Section 8.7:

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

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.