

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:	CX6318	Date:	1 March 2022
Code sections:	8.3, 8.4, 8.15, 8.16, 8.17 ¹		
Investigation:	Self-reported non-compliance by a Code subscriber		

The alleged Code breaches:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) self-reported significant breaches of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code.

The Subscriber reported three significant breaches on three separate occasions which resulted from a combination of different root causes.

On 31 July 2019, the Subscriber reported the first Significant Breach of sections 8.3, 8.4, 8.16 and 8.17 of the Code in relation to claims received within the Group channel. The breaches of sections 8.16 and 8.17 were identified through a review that the Subscriber undertook into identified instances of non-compliance with these sections of the Code between 1 July 2018 and 30 July 2019 in relation to the application of Unexpected Circumstances (UC) and to determine whether these were systemic in nature. As part of the review, the Subscriber also identified significant breaches of sections 8.3 and 8.4 of the Code between 1 November 2018 and 30 July 2019.

Following the first Significant Breach, the Subscriber reviewed its level of compliance with sections 8.16 and 8.17 of the Code for claims received within the Direct and Retail channels between 1 July 2018 and 30 June 2019. Based on the review, the Subscriber identified that it had inadequate sections 8.16 and 8.17 processes for the same period within these channels, in addition to those identified in the Group channel. The Subscriber reported the second Significant Breach of sections 8.16 and 8.17 on 25 November 2019.

On 17 August 2020, the Subscriber reported the third Significant Breach of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code. The third Significant Breach related to claims received within the Group channel. The third Significant Breach was identified by the Subscriber after it conducted a retrospective review of the breaches of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of

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

the Code following the implementation of a new Code control report and validation of the breaches recorded in the report.

The Subscriber noted that the third Significant Breach was an extension of the first Significant Breach and covered all Group products between 1 July 2018 and 28 February 2020.

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

The Life CCC assessed the matter and confirmed that the self-reported breaches of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code were significant, as assessed by the Subscriber.

The Life CCC findings and conclusion:

Sections 8.3, 8.4, 8.15, 8.16 and 8.17

Section 8.3 requires a subscriber to explain to consumers, within 10 business days of being notified of their claim, details of their cover, the claim process and provide contact details for them to obtain information about their claim.

Section 8.4 requires a subscriber to provide updates on a claim prior to making a decision at least every 20 business days unless otherwise agreed (in addition to responding to information requests within 10 business days).

Section 8.15 requires a subscriber to communicate a claim decision within 10 business days of making all reasonable enquiries and receiving all the information that the subscriber reasonably needs to assess a claim.

Section 8.16 of the Code requires a subscriber to provide its decision on an income-related claim within two months, unless UC applies. If UC applies, the subscriber has 12 months to provide its decision on the claim.

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

First and Second Significant Breaches

The Subscriber self-reported the first Significant Breach of sections 8.3, 8.4, 8.16 and 8.17 of the Code on 31 July 2019. This was in relation to claims received within the Group channel between 1 July 2018 and 30 July 2019 for sections 8.16 and 8.17 and between 1 November 2018 and 30 July 2019 for sections 8.3 and 8.4 of the Code.

The Subscriber self-reported the second Significant Breach of sections 8.16 and 8.17 of the Code on 25 November 2019 in relation to claims received within the Direct and Retail channels between 1 July 2018 and 30 June 2019.

The Subscriber attributed the following root causes for its non-compliance in relation to both the first and second Significant Breaches:

- A coding error in a Code compliance reporting system resulted in non-compliance with section 8.3 of the Code.

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.

- Resourcing constraints because of staff turnover resulted in a backlog of claims resulted in an increased rate of non-compliance with the timeframe requirements under section 8.3 and 8.4 of the Code.
- Due to the Subscriber's misinterpretation of the requirements under sections 8.16 and 8.17 regarding the communication of UC, ineffective training and awareness, case managers across all three channels (Direct, Retail and Group) had inconsistently applied UC to claims. In some circumstances, while UC was identified, case managers had failed to notify consumers that UC applied to their claim.
- Manual dashboard reporting was not fully and appropriately used by teams across all three channels which resulted in the Subscriber's non-compliance with sections 8.16 and 8.17 of the Code.

Third Significant Breach

On 17 August 2020, the Subscriber self-reported the third Significant Breach of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code. This was for claims received within the Group channel after the Subscriber conducted a retrospective review of the breaches following the implementation of its new Code control report and validation of the breaches recorded in the report.

The Subscriber noted that the third Significant Breach was an extension of the first Significant Breach and covered all claims received within the Group channel between 1 July 2018 and 28 February 2020. The Subscriber noted the following root causes for its non-compliance with sections 8.3, 8.4, 8.15, 8.16 and 8.17:

- The Subscriber did not have a section 8.3 communication template letter. As a result, the section 8.3 requirements were not consistently communicated to consumers and/or the relevant Trustees.
- The Subscriber did not have an effective preventative control, a control report, across sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code which would have assisted case managers with meeting the timeframes under these sections.
- There was a breakdown in internal processes (an internal bottleneck) which resulted in delays in communicating the decision on the claim to the consumer within 10 business days of receiving the last piece of information and completing all reasonable enquiries as required under section 8.15 of the Code.

Following the retrospective review, the Subscriber confirmed the following projected breaches across all three channels between 1 July 2018 and 28 February 2020:

- 876 breaches of section 8.3 (a breach rate of 4.6%)
- 3,374 breaches of section 8.4 (a breach rate of 4.8%)
- 2,772 breaches of section 8.15 (a breach rate of 14.9%)
- 408 breaches of section 8.16 (a breach rate of 6.4%)
- 482 breaches of section 8.17 (a breach rate of 3.9%)

Given the above, the Life CCC confirmed the self-reported breaches of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code by the Subscriber as significant.

Remediation

To enhance its overall Code compliance claims assessment related processes across all channels, the Subscriber has established a dedicated Claims Code Compliance project team which undertakes process mapping, reviews of key activities, enhancement of documentation, training and the quality assurance framework to ensure that the requirements under the Code are consistently achieved. The Subscriber has also implemented a Code control report on 28 February 2020 which produces a real time data to assist the Subscriber to accurately monitor compliance with sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code.

In addition, the Subscriber has:

- Rectified the coding error in the Code compliance reporting system on 1 March 2020.
- Implemented a process guide in May 2020.
- Updated the section 8.3 letter templates on 17 August 2020 and UC letter templates in February 2020. The updated letter templates are used across all channels of the business.
- Addressed resourcing constraints in July 2019 and the backlog of work by the end of September 2019.
- Implemented various staff training actions including mandatory online training to reinforce the obligations under sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code between 2019 and end of 2021.
- Enhanced its claims systems to automatically generate reminder tasks for case managers on a regular or specified basis to ensure compliance with the 10- business day requirement under section 8.15 of the Code.
- Implemented various controls including audits by the Quality Assurance (QA) team, Code breach reports, and fund-specific dashboard reporting. These reports are monitored daily at both the case manager and team manager levels and provide greater visibility of workflow and compliance timeframes, and completed monthly and sent to Claims Leadership Team.

By 5 October 2021, the Subscriber had compensated 17 out of 21 impacted consumers who were identified as individuals entitled to an additional payment where the breach of sections 8.16 or 8.17 was associated with the delays in the assessment of the claim. Three of these payments were processed as a community service payment to a nominated not-for-profit organisation where interest payments payable were less than twenty dollars. In relation to the 4 remaining impacted consumers, who remain uncontactable, the Subscriber has set aside the interest amounts payable and will account for the amounts payable as unclaimed monies.

Given the various remediation actions implemented by the Subscriber as outlined above, the Life CCC was satisfied that the Subscriber has addressed the root causes of the breaches of sections 8.3, 8.4, 8.15, 8.16 and 8.17 of the Code, has adequate systems and processes to support its compliance with the Code and has taken action to compensate customers impacted by the breaches.

Key learnings

The Life CCC is encouraged by the Subscriber's openness demonstrated through comprehensive self-reporting of three significant breach events. In particular, the Life CCC notes that the Subscriber was proactive in conducting a full-scale initial and retrospective review of claims received through all channels after it identified that it had inadequate processes within a particular channel which resulted in the Subscriber's second and third Significant Breach reports.

While the duration of the significant breaches spanned two years, the Life CCC recognises the added level of complexity in the initial stages of breach identification, given that there were various root causes under each of the 5 sections.

The matter highlights the need for vigilance by subscribers in relation to a range of factors that can contribute to breaches of the Code. In this case, they included a combination of issues relating to systems, processes, resourcing, supervision, training, communications and monitoring and reporting.

The Life CCC appreciates and acknowledges the significant effort and various remediation actions implemented by the Subscriber to address the root causes of the significant breaches. This has included putting in place appropriate systems and processes, strategies to ensure adequate resourcing of claims processing, training programs, improved supervision, monitoring and reporting frameworks and standardisation of customer communications to underpin the Subscriber's compliance with the Code going forward.

Identifying and reporting significant breaches to the Life CCC and taking corrective actions to remediate consumers minimises the occurrence of future breaches and results in improved consumer outcomes. This aligns with the spirit and purpose of the Code and meets the community's needs and evolving expectations.

Relevant Code Sections

Section 8.3

Within ten **business days** of being notified about **your** claim, **we** will explain to **you** **your** cover and the claim process, including why **we** request certain information from **you** and any waiting period before payments will be made. **We** will give **you** contact details that **you** can use to get information about **your** claim.

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 8.15:

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 8.16:

For income-related claims, **we** will let **you** know **our** initial decision no later than two months after **we** are notified of **your** claim or two months after the end of **your** waiting period (whichever is later),

unless **Unexpected Circumstances** apply. 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.

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.