

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:	CX6713	Date:	12 April 2022
Code sections:	8.4, 14.3 & Key Code Promise 1 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breaches:

The Consumer is a member of a superannuation fund (the Trustee). As part of that membership, the Consumer obtained life insurance with a Total and Permanent Disability (TPD) benefit. The life insurance policy was issued by the Subscriber and is a Group Policy owned by the Trustee.

The Consumer lodged a TPD claim with the Subscriber on 3 May 2019. Under section 8.17 of the Code, the Subscriber was required to issue a decision on the claim within six months, by 3 November 2019, unless Unexpected Circumstances (UC) applied.

The Subscriber noted that UC applied to the claim due to delays which resulted from the Consumer's dispute regarding the information used by the Subscriber to assess the claim. The Subscriber further noted that, based on the information available within six months, it was not reasonably satisfied that the Consumer had met the requirements under the policy.

As a result, the Subscriber issued a UC letter to the Consumer on 14 October 2019 and provided the Consumer with details of its complaints process on 30 April 2020. On 11 June 2021, the Subscriber issued the decision on the claim to the Consumer.

On 4 February 2020, the Life CCC received a Code breach allegation from the Consumer which alleged that the Subscriber was in breach of Key Code Promise 1 and section 14.3 of the Code as the Subscriber had declined to provide immediate access to four documents that were requested by the Consumer. As part of its review of the matter, the Life CCC further raised a possible breach of section 8.4 of the Code.

The Subscriber acknowledged that it had breached section 8.4 of the Code but maintained that it had complied with section 14.3 of the Code and Key Code Promise 1.

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

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 the allegation was proven in whole, and
- the Subscriber was not in breach of section 14.3 of the Code and Key Code Promise 1 and that the allegations were unfounded.

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 (Element 1), and to respond to requests for information about the claim within 10 business days (Element 2).

The Subscriber acknowledged that due to human error (claims assessor's oversight and internal miscommunication between two internal employees – the claims assessor and Subscriber's customer advocate, who had both received requests for information from the Consumer) and the complexity of the matter, it had breached section 8.4 on the following dates:

- in relation to Element 1, it did not provide an update on the progress of the Consumer's claim at least every 20 business days on two occasions: 10 July 2020 and 21 January 2021, and
- in relation to Element 2, it did not respond to the Consumer's request for information within 10 business days on four occasions: 9 September 2019 (two separate requests), 31 December 2019 and 25 May 2021.

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.

As a part of the investigation, the Subscriber confirmed to the Life CCC that it utilises a combination of the following processes and procedures to consistently comply with section 8.4 of the Code:

- refined and continuous staff training;
- daily dashboard monitoring and reporting viewed by management and senior leaders;
- a Claims Management System that provides automated alerts to claims assessors in regard to Code compliance timeframes;
- regular reviews of procedures and monitoring to determine if any enhancements to ensure compliance with section 8.4 are required; and
- regular engagement with the Subscriber's own consumer advocates around the lines of communication to ensure consistent compliance with section 8.4.

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.

Section 14.3

Section 14.3 of the Code creates a requirement for a subscriber to grant a consumer access to reports from Independent Service Providers (ISP) that the subscriber has relied on in assessing a consumer's application for insurance cover or a claim. The requirement under section 14.3 of the Code is subject to the circumstances listed in section 14.5 of the Code.³ Section 14.3 does not contain a timeframe for a subscriber to provide a consumer with access to the relevant information.

The Consumer alleged that the Subscriber had breached section 14.3 of the Code as it did not immediately provide him with four documents (two medical reports and two referral letters) upon his request during the claims assessment period.

The Subscriber acknowledged that it had declined to provide the Consumer access to the four documents requested (the initial request for two medical reports was made on 10 January 2020 and subsequent request for two referral letters on 3 February 2020) as the Subscriber had not completed its review of the information which was required to assess and finalise the claim. The Subscriber noted that releasing the information prior to its completion of the review could be prejudicial to the dispute about the claim under section 14.5(c) of the Code.

The Subscriber further noted that, while there was a delay, it provided the Consumer with a copy of a medical report and a referral letter on 6 February 2020 and the remaining two documents (a medical report and a referral letter) as part of Procedural Fairness (PF) on 27 August 2020.

As there is no timeframe under section 14.3 of the Code in which a subscriber is required to provide a consumer with access to information requested and given the subscriber's reasons above, the Life CCC determined that the Subscriber was not in breach of section 14.3 of the Code and that the allegation was unfounded.

Key Code Promise 1

Key Code Promise 1 requires subscribers to be honest, fair, respectful, transparent, timely, and where possible use plain language in their communications with consumers.

The Consumer alleged that the Subscriber had breached Key Code Promise 1 on the basis that the Subscriber's refusal to immediately provide the Consumer with the four documents constituted dishonest conduct.

As noted above under section 14.3, the Subscriber had not completed its review of the information at the time of the Consumer's requests on 10 January 2020 and 3 February 2020 and the Subscriber noted that there were inconsistencies in the claim.

The Subscriber further confirmed that in such circumstances, it is standard practice to decline the Consumer's request until the review of the requested information has been completed.

As a result, the Life CCC determined that the Subscriber was not in breach of Key Code Promise 1 of the Code and that the allegation was unfounded.

Key learnings

³ Section 14.5 of the Code: In special circumstances, we may decline to provide access to or disclose information to you, such as: (a) where information is protected from disclosure by law, including the Privacy Act 1988; (b) where we reasonably determine that the information should be provided directly by us to your doctor; (c) where the release of the information may be prejudicial to us in relation to a dispute about your insurance cover or your claim, or in relation to your Complaint; or (d) where we reasonably believe that the information is commercial-inconfidence.

The Life CCC acknowledges that claim assessments can be a stressful period for consumers and it encourages both consumers and subscribers to work together to ensure that the process is as seamless as possible. Setting clear expectations, being transparent and only requesting information when it is essential are some important attributes that help in building trust and managing expectations.

The Code has been in operation for five years now and the Life CCC expects that subscribers have robust processes in place to monitor and minimise the risk of human error from occurring. As noticed in this matter even though the Subscriber had a raft of processes and procedures to ensure compliance with section 8.4 of the Code, it breached section 8.4 on a few occasions due to human errors. This reinforces the need for enhanced monitoring processes to ensure effective implementation of compliance measures, enable early detection of breaches which may have occurred and take prompt action to rectify identified breaches and remediate consumers impacted by the breaches.

Relevant Code Sections

Key Code Promise 1:

We will be honest, fair, respectful, transparent, timely, and where possible we will use plain language in our communications with you.

Section 14.3:

Subject to section 14.5, **you** can access the reports from **Independent Service Providers** that **we** have relied on in assessing **your** application for insurance cover or **your** claim.

Section 14.5:

In special circumstances, **we** may decline to provide access to or disclose information to **you**, such as:

- a) where information is protected from disclosure by law, including the Privacy Act 1988;
- b) where **we** reasonably determine that the information should be provided directly by **us** to **your** doctor;
- c) where the release of the information may be prejudicial to **us** in relation to a dispute about **your** insurance cover or **your** claim, or in relation to **your Complaint**; or
- d) where **we** reasonably believe that the information is commercial-in confidence.

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**.

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.