

Case Study 2022-1

Lost in Translation and Transition

A string of long-running Code breaches by a single subscriber highlights the need to test systems rigorously, keep legacy products front of mind and trace issues to their cause.

The following is a case study based on two matters considered by the Life Code Compliance Committee (Life CCC). These involved separate significant breaches of section 6.3 of the Life Insurance Code of Practice (the Code) between 2018 and 2021 by a single subscriber.

Given that more than 18,000 customers were impacted by the multiple significant breaches, the Life CCC decided to issue a case study instead of a formal Determination in this instance to alert all subscribers to the pitfalls that occurred, including ways to avoid them.

The Code requirement:

Section 6.3 of the Code creates an obligation for a subscriber to issue the policyholder an annual notice in writing each year prior to the anniversary of their Life Insurance Policy. The annual notice should include the information under section 6.3(a) to (e) of the Code.

What occurred:

The Subscriber reported four significant breaches of section 6.3 to the Life CCC on four separate occasions between 2018 and 2021 across multiple products. These breaches resulted from issues with the Subscriber's legacy policy administration system (off-sale products), ineffective issuance of compliant annual notices and weaknesses in how the Subscriber identified and fixed issues.

Incidents that resulted in Code breaches include the following:

- Over five months, the Subscriber issued more than 3,000 non-compliant annual notices for legacy accidental death products which failed to inform the insured that their spouse and/or child also received cover under the policy. The legacy administration system did not have a field for spouse or child details and, when the Subscriber implemented an automated annual notice system, testing did not include verification that spouse or child details were captured. The significant breach was only discovered after the Subscriber investigated a customer's complaint.
- Another customer complaint – ultimately escalated to the Australian Financial Complaints Authority (AFCA) – led to the realisation that, for more than a year, the Subscriber had issued several thousand annual notices which failed to inform the customer about their type of cover or the sums that would be provided. The Subscriber decided it was better to send no annual notices at all for the relevant

products for several months while the issue was being fixed, resulting in thousands of further breaches.

- A transaction updating issue in the legacy system led to dozens of policies being frozen and no annual notices being sent for more than three years. The amount of time this went undetected contributed to delays in fixing it, due to the complex nature of 'unfreezing' in-force policies that had been frozen for a long time (due to transactional activities, potential changes to policies, CPI, policy re-rates, etc).
- Two separate, undetected coding issues in the system arose when the Subscriber altered the system to prepare for transition to the Code in 2017, resulting in it failing to issue annual notices to several hundred customers for four years.

The reported breaches also included instances of products being named incorrectly in annual notices, and almost a thousand cases where annual notices failed to inform customers of the 'special risk' limitation under their policy. Both issues were detected by quality control measures as part of a data migration process.

Inadequate processes and procedures

Given the scale and significance of the section 6.3 breaches, the Life CCC determined that the Subscriber did not have appropriate systems and processes under section 13.3(a) of the Code to enable compliance with the Code. The Life CCC further determined that as the Subscriber did not have appropriate systems and processes between 2017 and 2021, the breach of section 13.3(a) amounted to serious and systemic non-compliance with the Code.

Lessons to be learned:

The Life CCC acknowledges that adopting a Code of Practice requires considerable preparation and risk management. It urges subscribers to view transition periods as the time to test the adequacy of all systems and processes in preparation for the transition.

This case study raises important questions for all subscribers:

- Are your risk strategies sufficient to mitigate the challenges of transition?
- Do you have processes in place to check that all of your products – including legacy policies that might not be in front of mind – meet the obligations in the Code?
- Have you made staff aware of legacy policies?
- Do you test systems sufficiently?
- Do you have measures in place to detect issues as they arise, rather than waiting for complaints?
- If an issue or breach does occur, how pro-active are you in tracing its root cause and solving this, rather than simply logging an issue and making a short-term remediation only?

How the Subscriber addressed the breaches

Insufficient testing of the Subscriber's legacy system led to issues with multiple products that went undetected for many years. Weaknesses in the Subscriber's compliance and

monitoring frameworks led to failures to detect these issues and to identify and fix root causes.

The Subscriber – which was acquired by another business mid-way through this process, further delaying remediation plans – made numerous short-term fixes along the way, culminating in significant efforts to ensure compliance with section 6.3 of the Code.

More than 18,000 customers were affected by the breaches and the full impact of the breaches is still being determined. Although no compensation has been paid at this point, customers may have suffered losses during the periods of non-compliance if they suffered a claimable event but did not have access to important policy information as they did not receive an annual notice.

To address any potential or actual consumer harm, the Subscriber issued apology letters to all impacted customers informing them of the breach of section 6.3, reissued a copy of a compliant annual notice and invited customers to consider lodging a claim retrospectively if they experienced a claimable event in the relevant periods of non-compliance.

Other remediation actions implemented by the Subscriber included: the issuance of a Certificate of Currency where requested by the customer, system fixes, and the manual generation of mail-outs.

The Code empowers the Life CCC to enforce sanctions when it deems necessary. In this case, the Life CCC monitored the Subscriber's compliance with section 6.3 closely after the reports of the significant breaches and is satisfied that the Subscriber now has adequate processes and procedures to ensure compliance with this section of the Code.

The Subscriber has acknowledged the challenges it experienced in adapting the legacy system and its suite of legacy products to the obligations in the Code. It has since conducted end-to-end reviews of legacy products to ensure that future annual notices contain all the required information. It also reported that it has successfully migrated the products from the legacy system to its main system, undertaking significant work to ensure issues won't be replicated.

The Subscriber has developed a training pack to familiarise frontline and administration staff with legacy product features and is in the process of determining whether and how customers were affected by the breaches.

The Subscriber reports that it has strengthened monitoring controls to ensure there are measures to identify, triage and mitigate any incidents related to annual notices, including:

- Automating system logic which ensures notices are generated prior to the policy anniversary;
- Implementing daily reconciliation to confirm the number of policies undergoing renewal is the same as the number of annual notices generated and sent; and,
- conducting reviews (which includes user acceptance testing and business verification testing by key small to medium enterprises) of the content in annual notices to validate accuracy as per the product features and individual policy structures.

In conclusion

This case highlights the importance of having sufficient risk mitigation strategies in place – including forward planning, monitoring, and rigorous testing of systems and processes – to address both everyday issues and much larger challenges such as transitioning to a new Code of Practice.

The Subscriber in this matter had more than six months between October 2016– June 2017 to prepare for the current Code to come into effect and the failures in its systems should have been detected and resolved in that period. The Life CCC hopes that subscribers are not just taking active, ongoing measures to comply with the obligations in the current Code but are well placed to meet future challenges, including, of course, transition into new, updated Codes following regular mandated reviews.

The ability to anticipate and address issues, detect errors as they arise, identify root causes and respond swiftly is a sign of a healthy business with a commitment to good customer service and high standards. Having robust processes in place to meet the important customer protections and obligations set out in the Code helps subscribers to ensure ongoing good practice and fair treatment of all clients – which increases trust and confidence in the industry as a whole.