

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:	CX7410	Date:	17 June 2022
Code sections:	6.3 ¹		
Investigation:	Reported non-compliance by a Code subscriber		

The alleged Code breach:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) reported two breaches of section 6.3 of the Code. The Subscriber did not assess either breach to amount to a significant breach of the Code.

Under section 6.3 of the Code, a subscriber is required to issue to its policyholders an annual notice in writing prior to the anniversary of their Life Insurance Policy. Section 6.3 further lists the information that the written annual notice will include.

On 2 December 2020, the Subscriber reported the first breach of section 6.3 as it did not provide an annual notice in writing to 395 policyholders prior to the policy's anniversary. The Subscriber noted the cause for the breach was related to a network firewall issue which prevented files from being sent to its external mail service provider to be printed and dispatched to policyholders.

On 31 March 2021, the Subscriber reported a second breach of section 6.3 as it did not provide an annual notice in writing to 434 policyholders prior to their policy anniversary. The Subscriber noted that the second breach was caused by a system issue where the print files failed to generate the required documentation for dispatch to policyholders and was separate to the cause of the first breach.

As the Subscriber in this matter did not assess the breaches to be significant, the Life CCC is unable to assess these breaches as significant breaches of the Code. The Life CCC notes that under the current version of the Code, it is not able to determine that a breach amounted to a significant breach as defined by the Code.

However, in accordance with clause 7.4(iv) of the Life CCC Charter, the Life CCC has assessed the breaches in relation to whether the breaches amounted to systemic non-compliance with the Code.

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 assessed the matter and confirmed the two self-reported non-significant breaches of section 6.3 of the Code, as assessed by the Subscriber.

The Life CCC findings and conclusion:

First reported breach

The Subscriber reported the first non-significant breach of section 6.3 of the Code to the Life CCC on 2 December 2020. Between 14 August 2020 and 7 October 2020, the Subscriber experienced a system issue where changes to its network firewall prevented policyholder correspondence from being sent to its external printer/mail service provider. As a result, 395 policyholders did not receive their annual notices prior to the anniversary of their policy.

The Subscriber noted that the breach of section 6.3 did not amount to a significant breach of the Code as the breach impacted 2.6% of the 14,920 policyholders insured with the Subscriber during that period. The Subscriber also confirmed that the firewall issue did not cause any other prior breaches of section 6.3.

Given the above, the Life CCC confirmed the Subscriber's first self-reported non-significant breach of section 6.3 of the Code.

Systemic non-compliance

As the breach of section 6.3 of the Code was system-related and impacted 395 policyholders between 14 August 2020 and 7 October 2020, the Life CCC determined that the Subscriber's first breach of section 6.3 amounted to systemic non-compliance with the Code.

Remediation of first reported breach

The Subscriber confirmed that it contacted all impacted policyholders and issued a letter of apology together with a copy of the annual notice on 7 October 2020, immediately after identification of the breach.

The Subscriber also confirmed that it extended and honoured any requests to opt out of the automatic annual cover increase for those policyholders who were unable to do so due to them receiving a late annual notice. In addition, the Subscriber compensated impacted policyholders by providing a credit to their chosen premium payment method for the period that they were not informed of the increase in premium.

To prevent a recurrence of this issue, the Subscriber implemented a process where changes to its system firewall are regularly tested to ensure there are no blockages to data transmission resulting from the change.

Second reported breach

The Subscriber reported a second non-significant breach of section 6.3 of the Code to the Life CCC on 31 March 2021 after it identified that a separate system issue had impacted the timing of annual notices being sent to policyholders.

The Subscriber noted that the root cause of the second breach of section 6.3 was a system failure where the print files failed to generate the annual notices correspondence between 18 December 2020 and 18 February 2021. As a result, 434 policyholders did not receive their annual notices prior to the anniversary of their policy.

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.

The Subscriber noted that the breach of section 6.3 did not amount to a significant breach of the Code as the breach impacted 2.9% of the 14,959 policyholders insured with the Subscriber during that period.

Given the above, the Life CCC confirmed the Subscriber's second self-reported non-significant breach of section 6.3 of the Code.

Systemic non-compliance

As the breach of section 6.3 of the Code was system-related and impacted 434 policyholders between 18 December 2020 and 18 February 2021, the Life CCC determined that the Subscriber's second breach of section 6.3 amounted to systemic non-compliance with the Code.

Remediation of second reported breach

The Subscriber confirmed that it contacted all 434 impacted policyholders and issued a letter of apology together with a copy of the annual notice on 9 April 2021.

The Subscriber also confirmed that it extended and honoured any requests to opt out of the automatic annual cover increase for those policyholders who were unable to do so due to them receiving their annual notice late. In addition, the Subscriber compensated impacted policy holders by providing a credit to their chosen premium payment method for the period that they were not informed of the increase in premium.

To prevent a recurrence of this issue, the Subscriber implemented a process where it completes a daily reconciliation of its mailout data with the actual correspondence sent to policyholders to identify, investigate and resolve any discrepancies.

Key learnings

Since the commencement of the Life CCC's Own Motion Inquiry (OMI) into section 6.3 of the Code, the Life CCC has received a number of self-reported breaches of section 6.3 of the Code, including self-reported significant breaches and self-reported non-significant breaches. This indicates that subscribers may not have appropriate controls and process in place to identify non-compliance with section 6.3 of the Code.

While the Subscriber in this matter assessed these self-reported breaches to be non-significant as they impacted a relatively small proportion of the Subscriber's policyholders, the Life CCC has determined that these breaches amounted to systemic non-compliance with the Code as the breaches were caused by systems related issues and impacted over 800 policyholders.

As noted in the introduction to this Determination, under the current version of the Code, the Life CCC is not able to determine that a breach amounted to a significant breach as defined by the Code. Nonetheless, the Life CCC considers that the circumstances of the matter meet the definition of a significant breach within the Code.

The Life CCC encourages subscribers to refer to the Life CCC's section 6.3 [own motion inquiry report](#) released on 1 February 2022. In this report, the Life CCC has made a number of observations and recommendations to support subscribers in ensuring compliance with section 6.3 and implementing continuous improvement to their systems, processes and practices.

Any proposed system changes and upgrades should encompass checks, tests and assurances that the issuing of annual notices complies with the timeframe and information elements of section 6.3 of the Code.

Relevant Code Section

Section 6.3:

We will provide **you** with an annual notice in **writing** each year prior to the anniversary of **your Life Insurance Policy**. The annual notice will include:

- a) the types of cover **you** are insured for and how much **you** are insured for;
- b) an explanation for any increase in **your premiums** in accordance with the terms of **your Life Insurance Policy**;
- c) information about the risks of cancelling and replacing an existing **Life Insurance Policy**;
- d) information about how to contact **us** to discuss options if **you** want to change the terms of **your Life Insurance Policy** or are having difficulty meeting **your** payments; and
- e) what to do in the event of a claim.

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.