

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:	CX7846	Date:	14 June 2022
Code sections:	6.3 ¹		
Investigation:	Self-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 significant breaches of section 6.3 of the Code on 21 July 2021.

Under section 6.3 of the Code, subscribers are required to provide policyholders with an annual notice in writing prior to the anniversary of their Life Insurance Policy. The annual notice must also include the information listed in section 6.3(a) to (e) of the Code.

In May 2021, the Subscriber identified two incidents where the annual notices sent to some of its policyholders were not compliant with section 6.3(c) and 6.3(d) of the Code. This resulted in the Subscriber self-reporting two significant breaches of section 6.3 of the Code. Both breaches were identified while the Subscriber was completing its response to the Life CCC's May 2021 Own Motion Inquiry (OMI) into section 6.3 of the Code.

The Subscriber undertook a number of actions to remediate the breaches and notified the Life CCC on 22 February 2022 that it had completed its rectification and remediation actions.

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

The Life CCC assessed the matter and confirmed:

- the first self-reported significant breach of section 6.3 of the Code, as assessed by the Subscriber, and
- the second self-reported significant breach of section 6.3 of the Code, as assessed by the Subscriber.

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

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 Life CCC findings and conclusion:

The Subscriber's process for meeting the obligations under section 6.3 of the Code

The Subscriber's process for meeting the obligations under section 6.3 of the Code was to include the following information in its annual notice to policyholders:

- a renewal letter,
- an updated policy schedule, and
- a 'renewal booklet' which contains promotional marketing material and the information required under section 6.3(c) and 6.3(d) of the Code.

First reported significant breach

With the introduction of the Code in 2017, the Subscriber created a renewal booklet containing marketing material and the information required under section 6.3(c) and 6.3(d). Commencing from July 2017 the renewal booklet was included in the Subscriber's template for the annual notice to policyholders.

The Subscriber included the renewal booklet in annual notices for policyholders with on-sale products, which had annual notices generated automatically by the system. However, the Subscriber failed to include the renewal booklet in the annual notices for the policyholders with off-sale products as these annual notices required manual generation.

As a result, between 2017 and 2021 there were 122,601 instances where policyholders received a non-compliant annual notice that did not include the renewal booklet and the information required under section 6.3(c) and 6.3(d) of the Code.

Given the number of policyholders impacted and the time it took for the breach to be identified, the Life CCC confirmed the Subscriber's first self-reported significant breach of section 6.3 of the Code, as assessed by the Subscriber.

Second reported significant breach

In December 2020, the Subscriber identified that its renewal booklet contained marketing material which was non-compliant with Australian Privacy Principles (Principle 7). This was because the Subscriber did not have a process in place to allow policyholders to opt-out from the marketing material.

As a solution to this issue, in January 2021 the Subscriber opted to remove the renewal booklet from its annual notice. The Subscriber had intended to amend the annual notice template to include the information that was removed but this was never actioned. Consequently, the Subscriber's annual notice did not include the information required under section 6.3(c) and 6.3(d).

As a result, from January 2021 to May 2021 the Subscriber sent annual notices to 117,529 policyholders which did not include the information required under section 6.3(c) and 6.3(d) of the Code.

Given the number of policyholders impacted and the time it took for the breach to be identified, the Life CCC confirmed the Subscriber's second self-reported significant breach of section 6.3 of the Code, as assessed by the Subscriber.

Remediation

The Subscriber confirmed that it completed the following actions to rectify and remediate both breaches.

- To rectify both breaches, the Subscriber incorporated the information required under section 6.3(c) and 6.3(d) in an information sheet to be included in the annual notices sent to policyholders with off-sale products from 30 July 2021 and to policyholders with on-sale products from 1 September 2021.
- In October 2021, a letter was sent to all impacted policyholders, across both incidents, which included:
 - an apology,
 - the information required under section 6.3(c) and 6.3(d), and
 - contact details for any queries.
- For policyholders whose policies were no longer in force, but were previously impacted by the breach across either incident, a letter was sent with:
 - an apology,
 - the information required under section 6.3(c) and 6.3(d),
 - instructions to contact the Subscriber if the information would have affected their decision to cancel the policy or allowed it to lapse, and
 - contact details for any queries.

Key learnings

Since the commencement of the Life CCC's OMI into section 6.3 of the Code several significant breaches have been reported to the Life CCC. In this matter, the Subscriber identified the first breach of section 6.3, four years after the breach first occurred.

This suggests that some subscribers may not have appropriate controls and processes in place to be able to identify non-compliance with section 6.3 of the Code. As the Code is based on self-regulation, it is critical that subscribers have robust and effective processes to monitor compliance with the Code in relation to both on-sale and off-sale products and that they identify and report significant breaches where appropriate.

The Life CCC encourages subscribers to review the Life CCC's [OMI report on compliance with section 6.3 of the Code](#) where the Committee makes a number of observations and recommendations to support subscribers in ensuring compliance with 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.