

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:	CX7736	Date:	22 July 2022
Code sections:	8.16 ¹		
Investigation:	A consumer-reported alleged Code breach		

The alleged Code breach

The Consumer is a member of a superannuation fund. As part of that membership, the Consumer obtained an Income Protection (IP) policy. The policy was issued by a Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code), and the policy is owned by a Group policyholder (the Trustee).

The Consumer's legal representatives lodged an IP claim with the Subscriber, which it received on 31 March 2021. Under section 8.16 of the Code, the Subscriber was required to provide a decision on the claim on or before 31 May 2021, unless Unexpected Circumstances (UC) applied.

On 31 May 2021, the Subscriber placed the claim into UC and issued a UC letter to the legal representatives the same day. The UC letter did not inform the Consumer of the right to request a review if they disagreed with the reason for UC, which is also a requirement of section 8.16.

Legal representatives for the Consumer referred the matter to the Life CCC on 31 May 2021, alleging that the Subscriber was in breach of section 8.16 of the Code as it did not provide an initial claim decision within the required two months.

The Subscriber acknowledged that it had breached section 8.16 by not including the Consumer's right to request a review if they disagreed with the reason for the UC in the UC notification letter.

The Subscriber subsequently accepted the IP claim and notified the Consumer on 16 July 2021.

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 8.16 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion

Section 8.16

Section 8.16 of the Code requires a subscriber to communicate its initial decision on an income-related claim within two months of the claim being lodged, unless UC apply. If UC applies, the subscriber must notify the consumer of the reasons for the delay and inform the consumer that, if they disagree with these reasons, the subscriber will review them. If UC applies, the subscriber has 12 months to determine the claim.

On 13 April 2021, the Subscriber requested information from a third-party as part of its assessment of the claim. When the information failed to arrive by 31 May 2021 – the final day of the two-month timeframe set out in 8.16, the Subscriber placed the claim into UC and issued a UC letter the same day.

However, as the UC letter did not inform the Consumer of their right to request a review of the reasons for UC, the Subscriber acknowledged that it breached section 8.16 of the Code.

The Subscriber confirmed that the failure to inform the Consumer of their right of review was the result of an individual error by the claims assessor. The Subscriber reported that it had not found any prior similar breaches.

The Subscriber noted that every six months it reviews a 15% sample of each claims assessor's portfolio and had not identified a systemic issue in regard to UC letters.

The Subscriber also shared with the Life CCC a copy of its UC letter template, which included the Consumer's right to request a review. In addition, it reported that it regularly provides refresher training to staff on section 8.16 obligations.

Key learnings

The breach in this matter was attributed to a mistake by an individual staff member. The Life CCC urges all subscribers to have processes in place to prevent this. These might include ensuring staff are not just adequately trained, but also supported in their implementation of processes by supervision and support to ensure that their training remains front of mind. Regular monitoring also helps organisations detect and identify errors when they occur.

The Life CCC was encouraged to learn that the Subscriber in this case regularly reviewed a selection of claims by assessors to identify potential mistakes and that it conducted refresher training to keep staff aware of the obligations set out section 8.16.

In the five years since the Code came into operation on 30 June 2017, the Life CCC has published guidance materials on its website designed to help subscribers align their approach and processes with what it regards as industry best practice. These publications include Guidance Notes and de-identified Determinations on various Code breach sections.

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 urges all subscribers committed to the continuous self-improvement implicit in the Code to read these materials and apply the guidance and suggestions where relevant.

Relevant Code Section

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.

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.