

# 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**

<b>Reference:</b>	CX8928	<b>Date:</b>	19 July 2022
<b>Code sections:</b>	8.4, 8.7 and 8.17 <sup>1</sup>		
<b>Investigation:</b>	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 a Total and Permanent Disability (TPD) policy that was issued by the Subscriber and is a Group Policy owned by the Trustee.

The Consumer's Legal Representative (CLR), on behalf of the Consumer, lodged a TPD claim with the Subscriber on 14 May 2020. As a result, the Subscriber was required to issue a decision on the claim within six months unless Unexpected Circumstances (UC) applied. Therefore, the six-month timeframe commenced on 14 May 2020 and the Subscriber was required to issue a decision on the claim by 14 November 2020 unless UC applied.

The Subscriber noted that UC did not apply to the claim due to internal delays caused by the Subscriber. The Subscriber issued Procedural Fairness (PF) to the CLR on 29 November 2021 and issued the decision on the claim to the Trustee on 6 May 2022.

On 29 August 2021, the CLR lodged a complaint with the Life CCC alleging that the Subscriber was in breach of section 8.17 of the Code as it had not made a decision on the Consumer's TPD claim within 12 months.

As part of the review of the file, the Life CCC also raised possible breaches of sections 8.4 and 8.7 of the Code. The Subscriber acknowledged that it had breached sections 8.4, 8.7 and 8.17 of the Code.

## Findings in accordance with Charter clause 7.4(b)(iii)<sup>2</sup>:

The Life CCC determined that the Subscriber was in breach of sections 8.4, 8.7 and 8.17 of the Code and that the allegations were proven in whole.

<sup>1</sup> The Code sections are provided in full in the last section of the Determination.

<sup>2</sup> 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:**

### **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 Life CCC raised and the Subscriber acknowledged that it had breached Element 1 of Section 8.4 as it did not provide an update on the progress of the Consumer's claim at least every 20 business days on five occasions: 15 June 2020, 11 August 2020, 30 September 2020, 5 March 2021 and 21 April 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.

### **Serious and systemic non-compliance**

The Subscriber acknowledged and confirmed that its breach of section 8.4 of the Code in this matter amounted to serious and systemic non-compliance with the Code. This was because the Subscriber had reported a significant breach of section 8.4 of the Code (amongst other sections) in relation to its Group channel in December 2020 in a separate matter which impacted a group of Consumers over a similar timeframe as this matter.

The Subscriber noted that the cause of the breach in this matter shared the same root cause as the significant breach and occurred due to an unexpected increase in the volume of new claims, which resulted in the case load and portfolio sizes of claims assessors growing to unsustainable levels.

Given the above, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)<sup>3</sup> that the Subscriber's breach of section 8.4 amounted to serious and systemic non-compliance with the Code.

As part of the significant breach matter, the Subscriber confirmed that it has improved its resourcing capabilities by hiring more staff and implemented an automated solution to ensure compliance with section 8.4 going forward. The Life CCC continues to monitor the Subscriber's compliance with section 8.4 of the Code.

### **Section 8.7**

Section 8.7 requires a subscriber to request the information that it needs as early as possible (Element 1) and to avoid multiple information requests where possible (Element 2).

The Life CCC raised and the Subscriber acknowledged that, due to human error, it had breached Element 2 of section 8.7 twice on 18 March 2021 as the Subscriber made duplicate requests for the same information which had been received by the Subscriber. These included two employer statements originally requested on 6 October 2020 and 22 November 2020 respectively.

However, the Subscriber confirmed that the duplicate requests did not impact the overall claims assessment timeframe as they were made during the same period as requests for other information. The Subscriber further confirmed that the duplicate requests were identified and cancelled on 24 May 2021 while the other concurrent requests for information were still outstanding.

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<sup>3</sup> The Life CCC is bound by its Charter to state, where applicable, whether it finds that a subscriber is responsible for serious and/or systemic non-compliance with the Code.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.7 of the Code and that the allegation was proven in whole.

### **Section 8.17**

Section 8.17 of the Code requires subscribers to provide their decision on a lump sum claim within six months unless Unexpected Circumstances (UC) apply. If UC applies, subscribers have 12 months to provide their decision on the claim.

As noted above, the CLR lodged a TPD claim with the Subscriber on 14 May 2020. As a result, the Subscriber was required to issue a decision on the claim within six months by 14 November 2020 unless UC applied.

The Subscriber acknowledged that UC did not apply to the claim due to internal delays caused by the Subscriber and that it was unable to provide a decision on the claim by 14 November 2020.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.17 of the Code and that the allegation was proven in whole.

### **Serious and systemic non-compliance**

The Subscriber acknowledged and confirmed that its breach of section 8.17 of the Code in this matter amounted to serious and systemic non-compliance with the Code. This was because the Subscriber had reported a significant breach of section 8.17 of the Code (amongst other sections) in relation to its Group channel in December 2020 in a separate matter which impacted a group of Consumers over a similar timeframe as this matter.

The significant breach matter is the same matter which also resulted in the Subscriber's breach of section 8.4 discussed above, and the Subscriber confirmed that the root cause was identical to the root cause of the breach of section 8.4 above – an unexpected increase in the volume of new claims which resulted in the case load and portfolio sizes of claims assessors growing to unsustainable levels.

Given that, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)<sup>4</sup> that the Subscriber's breach of section 8.17 amounted to serious and systemic non-compliance with the Code.

As part of the significant breach matter, the Subscriber confirmed that it has addressed the root cause of the breach by increasing its resourcing and reduced the section 8.17 breach rate by over 75% between November 2020 and May 2021. The Life CCC continues to monitor the Subscriber's compliance with section 8.17 of the Code.

### **Key learnings**

The Life CCC acknowledges the impact of factors such as COVID and movement and volatility of the open labour market on Subscribers' resourcing strategies. In this context, the Life CCC encourages subscribers to continually review and revisit their current management and resourcing strategies to ensure resourcing levels, skills and capabilities meet their Code compliance obligations. Close monitoring of resourcing levels will assist in identifying emerging issues and resourcing shortfalls and enable early action to be taken to ensure business continuity and the timely and efficient handling of claims.

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<sup>4</sup> The Life CCC is bound by its Charter to state, where applicable, whether it finds that a subscriber is responsible for serious and/or systemic non-compliance with the Code.

This matter also highlights the importance of ongoing training and supervision of claims staff to ensure they have the knowledge and skills to handle claims in accordance with Code obligations.

## Relevant Code Sections

### 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**.

### Section 8.7:

**We** will request the information **we** need as early as possible and will avoid multiple information requests where possible.

### Section 8.17:

For all claims other than income-related claims, **we** will let **you** know **our** decision no later than six months after **we** are notified of **your** claim or six months after the end of any waiting period, unless **Unexpected Circumstances** apply. Depending on **your** policy, **our** decision may be a requirement that **you** undertake a period of rehabilitation or retraining, or it may be a final decision on **your** benefits. 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.