

# 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>	CX11107	<b>Date:</b>	17 August 2022
<b>Code sections:</b>	Sections 8.15 and 8.4 <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 their membership, the Consumer obtained life insurance including an Income Protection (IP) benefit. The life insurance 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 was owned by a Group Policy-owner (the Trustee)

The Consumer's advisor lodged an IP claim which was received by the Subscriber on 12 June 2020. As a result, the two-month timeframe commenced on 12 June 2020 and the Subscriber was required to issue a decision by 12 August 2020 unless Unexpected Circumstances (UC) applied.

The Subscriber confirmed that it issued the UC letter on 12 August 2020 and the 12-month letter on 11 June 2021 as it was unable to provide a claim decision within the timeframes as required by the Code.

On 9 November 2021, the Consumer's Legal Representative (CLR) lodged a Code breach allegation with the Life CCC which alleged that the Subscriber had failed to respond to the CLR's letter which was sent five months prior. The CLR further alleged that the Subscriber did not issue a claim decision even though the claim was lodged approximately 16 months earlier.

The Subscriber noted that it had received their legal team's opinion on 19 July 2021, however, it had only communicated the claim decision to the CLR on 14 December 2021.

The Life CCC reviewed the Subscriber's compliance with sections 8.15 and 8.4 of the Code. The Subscriber acknowledged that it had breached both sections.

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

## **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 8.15 and 8.4 of the Code and that the allegations were proven in whole.

### **The Life CCC findings and conclusion**

#### **Section 8.15**

Section 8.15 requires a subscriber to communicate a claim decision within ten business days of receiving all the information that the subscriber reasonably needs to assess a claim.

The Subscriber acknowledged that it had breached section 8.15 of the Code. The Subscriber confirmed that it referred the claim to its legal team on 9 June 2021 to review the additional information provided by the CLR as part of their response to Procedural Fairness (PF).

The Subscriber received their legal team's response on 19 July 2021. As a result, the 10 business day timeframe commenced on the next business day (20 July 2021), and the Subscriber was required to issue a decision on the claim by 3 August 2021. However, the Subscriber confirmed that the decision was only issued on 14 December 2021 which was more than four months later.

As a result, the Life CCC determined that the Subscriber was in breach of section 8.15 and the allegation was proven in whole.

#### **Serious non-compliance**

The Subscriber acknowledged that the breach of section 8.15 of the Code amounted to serious non-compliance because of the significant delay of four months before the Subscriber communicated the claim decision to the CLR.

As a result, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)<sup>3</sup> that the Subscriber's breach of section 8.15 of the Code amounted to serious non-compliance with the Code.

#### **Remediation completed**

The Subscriber confirmed that it has implemented mandatory refresher training which was rolled out to all claims staff. This training reinforced that updates along with any outstanding actions be completed once these tasks matured.

#### **Section 8.4**

Section 8.4 of the Code sets out two separate and independent requirements of the Code Subscribers to provide consumers with updates on their claim at least every 20 business days

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<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.

<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.

(element 1) and to respond to requests for information about the claim within 10 business days (element 2).

The Subscriber acknowledged that it had breached section 8.4 of the Code on seven occasions:

- Breach dates of element 1: 12 July 2021, 9 August 2021, 4 October 2021, 1 November 2021 and 29 November 2021.
- Breach dates of element 2: 6 August 2021 and 11 October 2021

The Subscriber confirmed that the breaches of section 8.4 occurred because the claim assessor had incorrectly assumed that, because there had been detailed communication in the months while PF was being considered, no further update was required. As a result, the claims assessor deactivated the auto-generated reminder which would otherwise have prompted them to provide an update every 20 business days and respond to requests for information within 10 business days under elements 1 and 2 of section 8.4.

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 non-compliance**

The Subscriber acknowledged that the breaches of section 8.4 of the Code amounted to serious non-compliance with the Code. It was because there were notable delays in providing updates to the Consumer specially between September 2021 and December 2021. This resulted in the Consumer being unaware about the progress of the claim for three months.

As a result, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)<sup>4</sup> that the Subscriber's breach of section 8.4 of the Code amounted to serious non-compliance with the Code.

### **Remediation completed**

On 17 January 2022, the Subscriber confirmed specific feedback was provided to the individual claims assessor and all claims staff have attended mandatory refresher training in November 2021 regarding section 8.4.

### **Key learnings**

In this matter, an individual claims assessor's oversight and misinterpretation of the requirements under the Code resulted in multiple breaches of sections 8.4 and 8.15.

Furthermore, one of the Subscriber's controls in place to monitor and enable ongoing compliance with the Code was compromised by the individual claims assessor's misinterpretation of the requirements of the Code and their decision to deactivate auto-generated reminders of key dates on which action was required to ensure compliance with the Code.

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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.

The Life CCC reminds all subscribers that it is important to continually conduct refresh training and ensure it is effective and at the front of mind of all staff. All staff should be aware of the Code's obligations and the reasons behind these important standards set out by the Code.

Subscribers should also review the effectiveness of key controls to ensure compliance with the Code. This includes checking to ensure that individual staff are not able to unilaterally deactivate controls inherent in systems and processes, resulting in Code breaches.

## 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 8.15

Once **we** have all the information **we** reasonably need and have completed all reasonable enquiries to assess **your** claim, including **your** response to the evidence **we** are basing **our** decision on if **we** have presented this to **you**, **we** will let **you** know **our** decision on **your** claim within ten **business days**.

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.