

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:	CX8901	Date:	5 October 2022
Code sections:	8.4, 8.7, 8.16, & 8.24 ¹		
Investigation:	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 Income Protection (IP). The Income Protection (IP) policy was issued by the Subscriber and is a Group Policy owned by the Trustee.

The Consumer lodged an IP claim with the Subscriber on 15 February 2021. The Subscriber was required to issue a decision on the claim within two months unless Unexpected Circumstances (UC) applied. Therefore, the two-month timeframe commenced on 15 February 2021 and the Subscriber was required to issue a decision on the claim by 15 April 2021 unless UC applied.

The Subscriber confirmed that UC did not apply to the claim. The Subscriber also acknowledged that it did not request information as early as possible which resulted in delays to the claim assessment.

On 17 June 2021, the Subscriber's claims assessor erroneously advised the Consumer they were eligible for default cover payments of \$3,000 a month as the Subscriber continued to assess the increased portion of the claim.

On 30 July 2021, following a referral to the reinsurer, the Subscriber advised the Consumer that they were in fact not eligible to receive default cover benefits. However, the Subscriber honoured its initial claim acceptance advice and on 19 August 2021 issued a payment to the Consumer of \$24,000, which was equivalent to eight months of default benefits.

On 16 August 2021, the Consumer lodged a complaint with the Life CCC alleging that the Subscriber had breached its obligations under sections 8.4, 8.7, 8.16 and 8.24 of the Code.

The Subscriber acknowledged that it had breached sections 8.4, 8.7 and 8.16 of the Code but maintained that it had complied with section 8.24 of the Code. As part of its review of the

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

matter, the Life CCC also reviewed the Subscriber's skills and training compliance frameworks for claim assessors and noted that they were adequate.

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

The Life CCC determined that the Subscriber was in breach of sections 8.4, 8.7, 8.16 and 8.24 of the Code and that the allegations were proven in whole.

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 Subscriber acknowledged that due to the claims assessor's oversight, it had breached section 8.4 on the following occasions:

- In relation to Element 1, the Subscriber did not provide an update on the progress of the Consumer's claim at least every 20 business days on one occasion: 21 July 2021.
- In relation to Element 2, the Subscriber did not respond to the Consumer's request for information within 10 business days on three occasions: 10 May 2021, 17 June 2021 and 2 August 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 non-compliance

The Subscriber disagreed that the breach was serious, noting that there were only minimal delays of approximately between two and five business days on two of the four occasions (10 May 2021 and 21 July 2021).

The Life CCC noted that the Subscriber failed to respond to two of the Consumer's requests for information:

- On 17 June 2021, the Subscriber advised via email that the Consumer's default cover of \$3000 per month sum would be paid while it continued to review the Consumer's increased portion of the cover. The review was ongoing due to conflicting medical information and a pre-existing condition clause on the policy. The Consumer requested the Subscriber provide the pre-existing condition clause against which the claim was being assessed. The Subscriber did not respond to this request for information.
- On 2 August 2021, the Consumer made several information requests via email to the Subscriber after being advised that there was an error in the claim assessment and that

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 claim would be declined. The Subscriber did not respond to these requests for information.

As the Subscriber erred in its original advice to the Consumer on their claim, the failure to respond to these requests for information in a protracted claim assessment further exacerbated the Consumer's vulnerable circumstances and potentially increased Consumer harm.

As a result, the Life CCC determined in accordance with Charter clause 7.4(b)(iv)³ that the Subscriber's breach of section 8.4 of the Code amounted to serious non-compliance with the Code.

Section 8.7

Section 8.7 of the Code 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 Subscriber acknowledged that, due to the claims assessor's oversight, it had breached section 8.7 on the below dates:

- In relation to Element 1, the Subscriber did not request for information earlier than the following seven occasions: 16 April 2021, 7 May 2021, 21 May 2021, 31 May 2021, 2 June 2021, 30 July 2021 and 7 September 2021.
- In relation to Element 2, the Subscriber made multiple requests for information when it was avoidable on 7 May 2021 and 30 July 2021.

The Subscriber acknowledged, and 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.

Serious non-compliance

The Subscriber did not provide a view or a response to the Life CCC's request on whether it considered the breach of section 8.7 amounted to serious non-compliance with the Code.

However, based on the timeline of events and reasons provided by the Subscriber for the breach of section 8.7, the Life CCC noted the following:

- There were nine occasions where the Subscriber failed to comply with the elements in section 8.7 of the Code. This contributed to lengthy delays in the claim assessment duration, to the detriment of the Consumer.
- The nine occasions occurred within a six-month period between April and September 2021, and the remediation only occurred in October 2021.
- There were multiple breaches of section 8.7 which occurred even after a senior assessor has reviewed and provided instructions on the claim.

Given the above, the Life CCC determined in accordance with Charter clause 7.4(b)(iv) that the Subscriber's breach of section 8.7 amounted to serious non-compliance with the Code.

³ 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.

Section 8.16

Section 8.16 of the Code requires subscribers to provide their decision on income-related claims within two months unless Unexpected Circumstances (UC) apply. If UC applies, the subscriber has 12 months to provide its decision on the claim.

As noted above, the Consumer lodged the IP claim on 15 February 2021 and the Subscriber was required to issue the decision on the claim by 15 April 2021 unless UC applied.

The Subscriber acknowledged that it had breached section 8.16 as it confirmed that UC did not apply due to the claims assessor's oversight which resulted in the delay in requesting medical information. The Subscriber also confirmed that it communicated the decision on the claim to the Trustee on 4 October 2021, after the two-month timeframe had expired.

As a result, 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.

Serious non-compliance

The Subscriber disagreed that the breach of section 8.16 amounted to serious non-compliance with the Code. This was because it noted that the claim was complex and there were internal and external factors that contributed to the duration of the claim assessment before it was able to issue a decision on the claim.

However, based on the information available, the Life CCC noted that there were significant delays in this matter. These occurred as a result of the Subscriber's breach of section 8.7 of the Code discussed above. The delays resulted in a claim decision being issued almost an additional six months after the two-month timeframe under section 8.16 had expired, in April 2021.

The Life CCC determined in accordance with Charter clause 7.4(b)(iv) that the Subscriber's breach of section 8.16 amounted to serious non-compliance with the Code.

Section 8.24

Section 8.24 of the Code requires subscribers to treat consumers with compassion, respect, and empathy.

The Subscriber's view was that it did not breach section 8.24 of the Code on the basis that the Subscriber:

- was courteous, calm, and provided relevant responses to the Consumer's enquiries
- actively listened to the Consumer
- acknowledged and apologised when certain expectations or actions did not occur as quickly as anticipated.

However, the Life CCC disagreed with the Subscriber's view that it had treated the Consumer with compassion, respect, and empathy as discussed under sections 8.4 and 8.7 above because:

- The Subscriber failed to respond to the Consumer entirely on two occasions under section 8.4, despite receiving follow-up requests from the Consumer.

- On seven of the nine occasions where the Subscriber had breached section 8.7 it failed to request information as early as possible. This resulted in the protracted claim assessment duration.
- Multiple breaches (due to poor adherence by the claims assessor) continued to occur even after a senior assessor had reviewed the file and provided instructions on the next steps.
- There was a lack of or failure to demonstrate any form of urgency or prioritisation of the claim through an escalated claims assessment process.

Taking into consideration the Subscriber's overall conduct and management of the claim as noted above, the Life CCC determined that the Subscriber was in breach of section 8.24 of the Code and that the allegation was proven in whole.

Serious non-compliance

There were multiple occasions on which the Subscriber had not complied with sections 8.4, 8.7 and 8.16 during the pivotal periods of the claim. This unnecessarily prolonged the duration of the assessment. The Life CCC formed the view the Subscriber had not demonstrated that it treated the Consumer with compassion, respect and empathy in the management of the claim.

As a result, the Life CCC determined in accordance with Charter clause 7.4(b)(iv) that the Subscriber's breach of section 8.24 amounted to serious non-compliance with the Code.

Remediation

The Subscriber confirmed that to address the cause of the breaches of sections 8.4, 8.7 and 8.16, it:

- provided refresher training to the claims assessor
- reduced the claims assessor's claims assessment delegated authority
- increased the portfolio oversight by senior assessors.

The Subscriber further confirmed that, as a gesture of goodwill, it honoured the initial claim acceptance advice communicated in error. It issued a payment of \$24,000 (equivalent to eight months of default benefits) to the Consumer on 19 August 2021.

Key learnings

Claim assessments are often a stressful and vulnerable time for consumers. In this matter, a single claims assessor caused multiple breaches of various sections of the Code over a sustained period. This matter highlights the importance of strong supervision and oversight of the claims assessment function. It also reinforces the need for and importance of regular refresher training for claim assessment staff to ensure that Code obligations, including processes and timeframes, are at the front of mind of all staff. It also highlights the need for subscribers to have prompt escalation strategies should breaches continue to occur after they have been identified through quality assurance.

In this case, the claim assessor continued to breach section 8.7 even after the file was reviewed on multiple occasions by a senior claims assessor. While the Subscriber addressed the breaches through various remediation actions that were specific to the individual claim

assessor, the Consumer had already been adversely impacted by a protracted claim assessment and poor claims handling experience.

Subscribers need to look to continuously improve, and where necessary, enhance their risk mitigation processes and procedures to prevent occurrence of Code breaches, facilitate early identification of any breaches that might occur, support remediation of identified breaches and prevent the occurrence of further 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 8.7:

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

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.

Section 8.24:

We acknowledge that claims time is difficult for **our** customers, and that empathy is required in **our** claims management. **We** will treat **you** with compassion and respect.

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.