

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:	CX11334	Date: 10 February 2023
Code sections:	8.17, 8.4, 9.10 ¹	
Investigation:	A consumer-reported alleged Code breach	

The alleged Code breaches:

The Consumer is a member of a superannuation fund. As part of that membership, the Consumer obtained life insurance with a Total and Permanent Disability (TPD) benefit. The life insurance policy was issued by a subscriber (the Subscriber) and is a Group Policy owned by the superannuation fund trustee (the Trustee).

The Consumer's legal representative (CLR) lodged the Consumer's TPD claim with the Trustee on 20 August 2021. The Subscriber received the claim on 30 September 2021.

The CLR made two referrals to the Life CCC alleging Code breaches by the Subscriber:

1. On 22 March 2022, the CLR wrote to the Life CCC and alleged that the Subscriber was in breach of section 8.17 of the Code. This was because it had not provided its claim decision within the six-month timeframe set out in section 8.17.
2. The CLR raised a complaint with the Subscriber on 2 September 2022, in relation to the claim. On 18 October 2022, the CLR wrote to the Life CCC and alleged that the Subscriber had not responded to the complaint within 45 calendar days as required by section 9.12 of the Code. The CLR further alleged that the Subscriber had not provided reasons for the delay as required by section 9.13 of the Code.

The Life CCC investigated the Subscriber's compliance with section 8.17 of the Code.

In relation to the CLR's second Code breach allegation, the Life CCC noted that sections 9.12 and 9.13 of the Code were not applicable as they do not apply to policies held inside superannuation.

As part of its investigation, the Life CCC also reviewed the information provided by the Subscriber and raised possible breaches of Code sections 8.4 and 9.10 with the Subscriber.

The Subscriber acknowledged that it had not complied with sections 8.17, 8.4 and 9.10 of the Code.

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 8.17 of the Code and that the allegation was proven in whole
- the Subscriber was in breach of section 8.4 of the Code and that the allegation was proven in whole
- the Subscriber was in breach of section 9.10 of the Code and that the allegation was proven in whole.

The Life CCC findings and conclusion:

Section 8.17

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

The Subscriber received the TPD claim from the Trustee on 30 September 2021. The claim was accepted by the Subscriber on 31 August 2022 and notified to the Trustee on the same day.

The Subscriber acknowledged that it was unable to provide a decision on the claim within the six-month timeframe of section 8.17. The Subscriber also confirmed that it failed to communicate to the Consumer as to whether the delay was caused by UC.

The cause of the breach was due to an oversight by the responsible case manager who did not adequately monitor the progress of the claim. There was also no follow up on the necessary information needed to make the claim decision.

Based on the above, 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.

Section 8.4

Section 8.4 of the Code requires a subscriber to keep a consumer informed about the progress of a claim at least every 20 business days and to respond to requests for information about the claim within 10 business days.

In reviewing the claim assessment history provided by the Subscriber, the Life CCC identified two instances where the periods between the claim progress updates provided to the Consumer and CLR were longer than 20 business days:

- (a) the period between 9 November 2021 and 29 December 2021 (36 business days)
- (b) the period between 23 February 2022 and 28 March 2022 (23 business days).

The Subscriber's response to the allegation showed that for the period (a) an update was also provided to the CLR on 30 November 2021. This was omitted from the claim assessment timeline initially presented to the Life CCC.

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.

However, the Subscriber acknowledged that the 23 days lapsed between the claim progress updates in the period (b) meant that it had breached section 8.4. The Subscriber noted that the breach was an isolated incident due to an oversight by the case manager. Therefore, 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.

Section 9.10

Section 9.10 of the Code creates an obligation for a Subscriber to assist the Trustee in responding to a complaint in writing within 90 calendar days of receiving the complaint. Section 9.10 also lists the information that must be part of the Subscriber's response to the complaint:

- a) the final decision in relation to the complaint, and the reasons for that decision
- b) that the Consumer has a right to copies of the documents and information relied on, and if requested, copies will be provided within ten business days
- c) that the Consumer has a right to lodge a complaint with the relevant External Dispute Resolution (EDR) scheme
- d) the contact details for the relevant EDR scheme.

The CLR raised a complaint with the Subscriber on 2 September 2022. On 18 October 2022 the CLR alleged that the Subscriber was in breach of sections 9.12 and 9.13 of the Code in relation to the complaint. The Life CCC noted that these sections were not at play as they are only relevant to non-superannuation policies.

The Life CCC, however, reviewed the Consumer's allegation under the equivalent section 9.10 for superannuation policies, but at the time of consideration of this matter the timeframe set out in section 9.10 had not expired.

During the investigation of this matter, it was discovered that a complaint was also raised earlier by the CLR on 22 March 2022. Although not part of the original allegation, the Life CCC reviewed compliance with section 9.10 in relation to this complaint as well.

The Subscriber responded to the 22 March 2022 complaint on 28 March 2022. Although the response to the complaint was within the 90 calendar days timeframe of section 9.10, the Subscriber acknowledged that its response did not include the information required under sections 9.10(c) and 9.10(d) of the Code.

This was a result of the case manager not using the standard complaint response template which includes the required information elements under section 9.10. Based on this, the Life CCC determined that the Subscriber was in breach of section 9.10 of the Code and that the allegation was proven in whole.

Remediation completed

All Code breaches in this matter were the result of the one case manager who had responsibility for managing the Consumer's TPD claim.

On the evidence provided this was an isolated incident, affecting one policy and one consumer. There was no evidence to suggest that the breaches resulted from inadequate processes or procedures or was more widespread.

The Subscriber remediated the breach as follows:

- Feedback was provided to the case manager on the breaches.

- The case manager underwent formal performance counselling, and a program has been implemented to monitor the ongoing performance of the case manager.
- The case manager was provided with information pertaining to the Subscriber's Complaints Guideline and the requirement to use the approved complaints response templates.
- Further training was provided to the case manager to strengthen their knowledge on the above sections of the Code.

Key learnings

A key aspect of effective compliance monitoring is to efficiently identify when staff are not adhering to the standard compliance program. Continuous close monitoring can provide reassurance that claims assessors are following guidelines and using the right templates.

In this matter, the Subscriber's compliance program included several tools and procedures, standard templates, guidelines and work-queue reporting, designed to assist claims assessors in meeting Code obligations.

Despite this, the Subscriber did not identify these breaches through its compliance monitoring over an extended period. This highlights that the Subscriber's monitoring was not effective and needs to be re-evaluated for its ongoing effectiveness.

Relevant Code Sections

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.

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 9.10

Where possible, **we** will respond to the superannuation fund trustee so that it can provide a final response to **your Complaint** in writing within 90 calendar days of the superannuation fund trustee receiving **your Complaint**.

- a) of **our** final decision in relation to **your Complaint** and the reasons for that decision;
- b) that **you** have the right to copies of the documents and information **we** relied on in assessing **your Complaint**, and if **you** request **we** will provide **you** (or **your** doctor, where appropriate) with copies within ten **business days**, in accordance with the Access to Information section of the **Code**;
- c) that **you** may have the right to take **your Complaint** to the Superannuation Complaints Tribunal (**SCT**) if **you** are not satisfied with **our** decision and the timeframe within which **you** must take **your Complaint** to the **SCT**; and
- d) contact details for the **SCT**.

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.