

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:	CX11214	Date:	18 April 2023
Code sections:	6.7 ¹		
Investigation:	Significant Breach reported by a Code subscriber		

The alleged Code breach:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) reported significant breaches of section 6.7 of the Code.

On 25 January 2022, the Subscriber reported an initial significant breach of section 6.7 of the Code to the Life CCC. The significant breach occurred between November 2021 and November 2022 and related to the Subscriber's Retail Advised and Direct Insurance divisions. The significant breach was attributed to resourcing issues caused by Covid-19-related unplanned leave of the Subscriber's staff, in addition to a higher than forecasted volume of cancellation requests of policies.

On 3 October 2022, the Subscriber reported a second significant breach of section 6.7 of the Code over a delay in processing refunds for a group of consumer credit insurance (CCI) policies dating back to 11 May 2021. The Subscriber noted that the second significant breach occurred due to its migration to a new system and affected up to 2,300 customers.

The Subscriber also reported the second significant breach of section 6.7 of the Code to the Australian Securities & Investments Commission (ASIC). It indicated that the remediation process for the back-dated period had commenced with full remediation to be completed by 23 August 2023. The Subscriber provided various updates to the Life CCC regarding the steps taken to remediate the breaches.

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

The Life CCC assessed the matter and confirmed that the two reported breaches of section 6.7 of the Code were significant, as assessed by the Subscriber.

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

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 findings and conclusion:

Section 6.7 of the Code requires a subscriber to reimburse a consumer within 15 business days when a consumer cancels a life insurance policy and is entitled to a refund.

First Significant Breach

The Subscriber noted an increase in the number of breaches for a twelve-month period between November 2021 and November 2022 related to the Subscriber's Retail Advised and Direct Insurance divisions. It reported that it failed to reimburse consumers within 15 business days during those months. The cause of the breach was attributed to elevated unplanned leave related to Covid-19, combined with higher-than-forecasted cancellation requests and a backlog that needed to be resolved.

The data in the below table below shows the number of breaches fluctuated between November 2021 and November 2022 with a peak of 200 in February 2022. The percentage of breaches compared to the total number of requests also varied, with the highest percentage of breaches occurring in July 2022, accounting for 8.21% of all cancellation requests. While the number of breaches fluctuated throughout the year, the percentage of breaches as compared to the total number of cancellation requests varied, with the lowest percentage of breaches occurring in October 2022, at 1.72%.

Total number of breaches													
Month	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22
Number of breaches	138	194	175	200	142	47	68	62	88	64	47	62	83
Total Number of Cancellation requests	4495	3995	3601	3483	4210	1748	3266	1138	1072	3103	2682	3610	3357
% of breaches	3.00%	4.85%	4.85%	5.74%	3.37%	2.69%	2.08%	5.45%	8.21%	2.06%	1.75%	1.72%	2.47%

The Subscriber provided multiple updates regarding the steps taken to remediate the breaches and has confirmed that the first breach of section 6.7 is now fully resolved.

Second Significant Breach

The Subscriber identified a second significant breach of section 6.7 of the Code involving the cancellation requests of CCI policies. The cancellation requests related to a backdated period from 11 May 2021, that were late processed. The Subscriber confirmed this breach related to CCI policies and other products that it administers. It further advised that the significant breach impacted an estimated 2,300 customers, the root cause being a system migration issue.

Accordingly, the Subscriber reported to ASIC that it breached its Code obligations. The Subscriber commenced a remediation process for the back-dated period and has reimbursed 154 customers to date. The remaining impacted customers will be remediated in two batches:

- Batch 1: the Subscriber will refund impacted customers who paid premiums via bank account.
- Batch 2: the Subscriber will refund impacted customers who paid premiums via credit card.

The Subscriber will contact customers to arrange for a manual refund in instances where the refund, via bank account or credit card, is rejected. The completion date for full rectification is 23 August 2023.

Remediation action

On 13 May 2022, the Subscriber undertook remediation by completing all cancellation requests received prior to March 2022. This resulted in a decrease in the number of section 6.7 breaches of the Code . Since reporting the first section 6.7 significant breach in January 2022, the Subscriber has:

- Refunded all impacted customers in accordance with their policy terms plus interest for the cohort of November 2021 to November 2022.
- Increased the number of staff trained to assist with cancellations by 25% in the event of any future increase in staff unplanned leave.

In addition to the above, the Subscriber has implemented the following controls:

- A daily report process to oversee the age of cancellation requests that are assigned to its Policy Administration team.
- Regular monitoring and reporting of the completed refund timeframes to identify any breaches of section 6.7 of the Code.

The Subscriber will also be redesigning its cancellation and refund (CAR) process, including its preventative and detective measures and controls. The new CAR process will assist the Subscriber's staff to better manage the processing of refunds. This will include:

- Refining the daily preventative reporting control with a view to expanding its scope to capture the exceptional cases and more accurate reporting of older matters.
- Reviewing staff cancellation/refund processing time to ensure the Subscriber meets its obligations under the Code.

Key learnings

This matter emphasises the importance of having rigorous risk management frameworks. Such frameworks should include preventative and detective measures to mitigate potential disruptions from unforeseen events such as unplanned leave during the COVID-19 pandemic. They also include effective risk management and project management frameworks for planning and implementing systems migration projects to ensure ongoing compliance with Code obligations. While it is not possible to predict all unforeseen events, subscribers can and should plan and prepare for them.

The matter also highlights the importance of subscribers regularly monitoring and reporting on their compliance with Code obligations to assess, minimise, and mitigate risks and take timely and effective action to rectify identified breaches. The Life CCC is pleased to note the Subscriber's comprehensive response to the breaches of section 6.7, including customer refunds, staff training, process redesign and enhanced monitoring and reporting on Code compliance. This demonstrates their compliance commitment to the Code.

Relevant Code Section

Section 6.7

You may be entitled to a refund when **you** cancel **your Life Insurance Policy**, in accordance with the terms of **your Life Insurance Policy**. If **you** cancel **your Life Insurance Policy**, any money **we** owe **you** will be reimbursed to **you** within 15 **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.