

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:	CX12340	Date:	3 May 2023
Code sections:	5.14 ¹		
Investigation:	Significant Breach reported by a Code subscriber		

The Code breach:

A Life Insurance Company that is a subscriber (the Subscriber) to the Life Insurance Code of Practice (the Code) reported a significant breach of section 5.14 of the Code on 24 March 2022.

The Subscriber noted that it misinterpreted the information requirements it needed to provide consumers under section 5.14 of the Code. As a result, it used non-compliant section 5.14 materials (email template, call scripts and digital marketing online presentation) to communicate the decision to decline or offer insurance cover on alternative terms to consumers.

The Subscriber confirmed that the significant breach impacted approximately 77,030 decisions across the Subscriber's Group and Direct (Direct Sales and Online) distribution channels between 1 July 2017 to 10 March 2022.

On 23 June 2022, the Subscriber confirmed that it implemented various remediation actions across its Group and Direct channels to address the significant breach of section 5.14 of the Code.

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

The Life CCC assessed the matter and confirmed the reported breach of section 5.14 of the Code was 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 5.14

Section 5.14 of the Code requires a subscriber to provide the information under section 5.14 (a) to (c) to a consumer if the subscriber does not offer any insurance cover or offers the cover on alternative terms:

- a) the reasons for the decision;
- b) the Consumer's right to the information about them that the Subscriber had relied on to make its decision. The Subscriber will also provide the information to the consumer within ten business days; and
- c) the Subscriber will review the decision if the Consumer disagrees with the decision. The Subscriber will also provide the Consumer with its complaint details if the Consumer remains dissatisfied with the outcome of the review.

Group

The Subscriber used a non-compliant email template to communicate the decision to decline or offer insurance cover on alternative terms to Trustees or their Administrators. The template did not include the information required under section 5.14(c). There was a misinterpretation regarding when the Subscriber was required to provide the Trustee with the information in section 5.14(c).

While the Subscriber acknowledged that it had breached section 5.14, it advised that its process for recording and monitoring complaints minimised the impact of the breach. The Subscriber claimed that because it records a complaint if a consumer remains dissatisfied with the decision and reviews the complaint through its internal dispute resolution process, the overall risk was reduced.

Direct sales

The Subscriber used call scripts to communicate its decision to decline or offer insurance cover on alternative terms to consumers. However, the call scripts did not include the requirement to communicate the information under section 5.14(b) or (c).

While the Subscriber acknowledged that it had breached section 5.14, it advised that its call script process minimised the impact of the breach. This is because the call scripts included references on how consumers can make a complaint both to the Subscriber and to the Australian Financial Complaints Authority (AFCA) if consumers expressed their dissatisfaction during the call.

The Subscriber further confirmed that it has also included this information about its complaints process in the Product Disclosure Statement (PDS) and Privacy Policy.

Direct (Digital Marketing / Online)

The Subscriber used a non-compliant online screen presentation to communicate the decision (i.e. the decline) to consumers. The presentation did not communicate the information requirements under section 5.14(a) to (c).

While the Subscriber acknowledged it breached section 5.14, it noted that its process minimised the impact of the breach. The Subscriber directed the consumers that received a declined insurance application to its product disclosure statement and privacy policy. This helped in addressing the complaint aspect of section 5.14(c).

Distribution channel	Decisions impacted
Group	71,437
Direct sales	3,265
Direct (Digital marketing/online)	2,328
Total	77,030

Remediation

The Subscriber confirmed that it had implemented the following remediation actions to fully address the significant breach of section 5.14 of the Code:

Distribution Channel	Remediation Action	Completion Date
Group	The Subscriber updated the email template sent to the Trustees to include the requirements under section 5.14(c).	8-03-2022
Direct	The Subscriber updated the call scripts used by the Direct Sales, Upgrades and Retention teams.	7-07-2022
Direct	The Subscriber implemented staff training in relation to the changes made to the updated call scripts.	29-07-2022
Direct	The Subscriber implemented the updated call scripts.	1-08-2022
Direct (Digital Marketing/Online)	The Subscriber updated the online screen presentation which included the requirements under section 5.14(a) to (c).	11-05-2022

Key learnings

The Subscriber failed to ensure that its section 5.14 materials were compliant across multiple distribution channels. This occurred over a period of almost five years, from July 2017 until March 2022, and impacted 77,030 consumers.

The Code obligations under section 5.14 (a) to (c) provide consumers with important information and protections where a decision is made to decline an insurance application or offer it under alternative terms.

The standard ensures that consumers know the reasons for the application decision. It also ensures that consumers know that they have the right to the information about them that was relied on in making the decision, the right to request that information and the right to be provided with the information in a timely manner. The standard also ensures that consumers are informed about the options which are available to them if they are dissatisfied with the application decision.

This matter highlights the need for subscribers to undertake periodic internal and external audits of their processes to ensure alignment with Code standards and minimise the impact of non-compliant processes on consumers. Periodic audits of processes not only provide ongoing assurance to subscribers of their compliance with the Code obligations but they also assist in identifying and rectifying non-compliant processes, enabling timely action to be taken to minimise the impact on affected consumers.

Relevant Code Section

Section 5.14

5.14 If **we** do not offer any insurance cover, or if **we** offer on alternative terms, **we** will let **you** know (or **your** doctor, where appropriate):

- a) the reasons for **our** decision;
- b) that **you** have the right to the information about **you** that **we** have relied on to make **our** decision, and if **you** request **we** will provide this to **you** (or **your** doctor, where appropriate) within ten **business days**, in accordance with the Access to Information section of the **Code**; and
- c) if **you** disagree with **our** decision, or if **you** think that the information **we** have relied on to make **our** decision is incorrect or out of date, **you** can discuss this with **us** and **we** will review **our** decision, and if **you** are not satisfied with **our** review **we** will tell **you** how to make a **Complaint**.

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.