

Proposed amended Financial Hardship Policy Guidelines - Electricity & Gas Licences

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Economic Regulation Authority



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Economic Regulation Authority
Perth, Western Australia
Phone: (08) 6557 7900

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1 Introduction

Energy is required for heating, cooling, lighting, cooking and refrigeration, and as such is generally considered an essential service for residential customers.

The Western Australian Government provides a range of rebates, subsidies and grants to help residential customers meet their energy costs. In addition to government assisting residential customers financially, energy providers can play a positive role in avoiding the disconnection of supply to customers who are experiencing financial hardship.

In this regard, the *Code of Conduct for the Supply of Electricity to Small Use Customers* (**Electricity Code**) and the *Compendium of Gas Customer Licence Obligations* (**Gas Compendium**) require retailers who supply residential customers to develop a Financial Hardship Policy (**Hardship Policy**)¹ and related Hardship Procedures (**Hardship Procedures**)² to assist their customers in meeting their financial obligations and responsibilities to the retailer. The Electricity Code and Gas Compendium (collectively referred to as the “**Energy Codes**”) set out the minimum requirements for Hardship Policies and Hardship Procedures.

These *Financial Hardship Policy Guidelines – Electricity & Gas Licences* (**Guidelines**) have been developed to provide retailers with additional guidance in meeting the requirements set out in the Energy Codes.

¹ Clause 6.10(1) requires a retailer to develop a Hardship Policy. The requirements for a Hardship Policy are set out in clause 6.10(2).

² Clause 6.10(1) requires a retailer to develop Hardship Procedures. The requirements for Hardship Procedures are set out in clause 6.10(3).

2 Background

2.1 Electricity Code

Under section 79 of the *Electricity Industry Act 2004*, the Economic Regulation Authority (**Authority**) has the ability, in consultation with a committee, to approve a code of conduct with the objective of setting standards in the supply and marketing of electricity and protecting customers from undesirable marketing conduct. This code is known as the Electricity Code, and forms subsidiary legislation. Compliance with the Electricity Code is a condition of every electricity retail, distribution and applicable integrated regional licence.³

2.2 Gas Compendium

On 20 May 2009, the Authority approved the amendment of gas trading and distribution licences, removing a number of existing customer protection provisions, and replacing them with new provisions as contained in the Gas Compendium. The Gas Compendium largely mirrors the Electricity Code, thereby ensuring that requirements across the energy industry are consistent regardless of fuel type.⁴ Compliance with the Gas Compendium is a condition of every gas trading and distribution licence.

2.3 Payment difficulties and financial hardship

Part 6 of the Energy Codes addresses payment difficulties and financial hardship and sets out requirements relating to the following:

- Assessment of a customer's financial situation;
- Alternative payment arrangements;
- Assistance available to customers in payment difficulties or financial hardship; and
- Financial hardship policies and procedures.

These Guidelines explain in detail the requirements for a Hardship Policy and for Hardship Procedures.

2.4 Differentiating between 'payment difficulties' and 'financial hardship'

The Energy Codes define 'payment difficulties' as:

a state of **immediate** financial disadvantage that results in a *residential customer* being unable to pay an outstanding amount as required by a *retailer* by reason of a *change in personal circumstances*.

A customer experiencing payment difficulties has the intention but not the capacity to pay their bills. 'Payment difficulties' can arise from a variety of situations, gradually or suddenly, and can exist over a relatively short period. For example, the theft of a wallet may cause payment difficulties but would not of itself constitute financial hardship.

³ Integrated regional licences authorise any combination of generation, transmission, distribution and retail activities other than through the South West Interconnected System (SWIS).

⁴ Obligations related to gas marketing are contained in the *Gas Marketing Code of Conduct*.

Whereas ‘payment difficulties’ refers to the short-term situation, financial hardship requires a situation of longer duration.

The Energy Codes require that a retailer provide a customer experiencing ‘payment difficulties’ with specified alternative payment arrangements and advise the customer that additional assistance is available if the customer is experiencing ‘financial hardship’.

The Energy Codes define ‘financial hardship’ as:

a state of **more than immediate** financial disadvantage which results in a *residential customer* being unable to pay an outstanding amount as required by a *retailer* without affecting the ability to meet the *basic living needs* of the *residential customer* or a dependant of the *residential customer*.

Financial hardship may be caused by (but is not limited to) sustained experience of one or more of the factors listed below:

- loss of the customer’s or family member’s primary income;
- spousal separation or divorce;
- physical and mental health issues;
- loss of a spouse or a loved one;
- a chronically ill child or other family member;
- domestic violence;
- budget management issues associated with a low income; and
- other unforeseen factors resulting in a customer’s capacity to pay, such as a reduction in income or an increase in non-discretionary expenditure.

3 Hardship Policies & Hardship Procedures

Clause 6.10(1) of the Energy Codes requires a retailer to develop a Hardship Policy and Hardship Procedures to assist customers in meeting their financial obligations and responsibilities to the retailer. Clause 6.10(2) specifies the requirements for a Hardship Policy and clause 6.10(3) specifies the requirements for Hardship Procedures.

Upon recommendation by the Electricity Code Consultative Committee (**ECCC**), the Authority published *Financial Hardship Policy Guidelines* in 2008 to provide retailers with additional guidance in the development of their hardship policies. Development of the Guidelines was driven, in part, by a concern about disconnection rates in Western Australia. Since that time, the Authority has reviewed and updated the Guidelines to reflect changes to the Energy Codes, as well as to improve general useability for licensees.

3.1 New approach to Hardship Policies & Hardship Procedures

As part of the 2013 review of the Electricity Code, the ECCC recommended and the Authority accepted the recommendation⁵ to split the Electricity Code requirements for financial hardship policies (i.e. the requirements under clause 6.10(2) of the 2012 Electricity Code) into two separate subclauses. Under the current version of the Electricity Code, which came into effect on 1 July 2014, subclause 6.10(2) now specifies what needs to be included in a publically available Hardship Policy. Subclause 6.10(3) now specifies the detail that should be included in internal Hardship Procedures.

The benefit of this approach is that the Hardship Policy can be more user-friendly as it now only needs to contain information of direct interest to customers. For example, details of what training staff have been given in relation to dealing with customers in financial hardship is not of particular interest to a customer who is in hardship, and such information no longer needs to appear in the publically available policy. Details of the training programs for staff is, however, of interest to the Authority, and will be assessed by the Authority through the Hardship Procedures to be submitted by the retailer along with the Hardship Policy.

Equivalent changes were made to clause 6.10(2) of the Gas Compendium. The changes to the Gas Compendium took effect on 1 January 2015.

Full details on what the Authority will consider when assessing Hardship Policies and Hardship Procedures are set out in these Guidelines.

To assist retailers in ensuring their Hardship Policy and Hardship Procedures comply with the Energy Code and these Guidelines, tables of the requirements for a Hardship Policy and Hardship Procedures are contained throughout these Guidelines. Summary tables are contained in Appendix A (requirements for Hardship Policies) and Appendix B (requirements for Hardship Procedures).

3.2 Minimum requirements for Hardship Policies

Clause 6.10(2) of the Energy Codes specify the minimum requirements for a Hardship Policy. Under this clause, a Hardship Policy must:

⁵ Recommendation 41 of the ECCC 2013 Final Review Report, available at: <http://www.erawa.com.au/electricity/electricity-licensing/code-of-conduct-for-the-supply-of-electricity-to-small-use-customers/2013-code-review>

- (a) be developed in consultation with **relevant consumer representative organisations**;
- (b) include a statement encouraging **customers** to contact their **retailer** if a **customer** is having trouble paying the **retailer's** bill;
- (c) include a statement advising that the **retailer** will treat all **customers** sensitively and respectfully;
- (d) include a statement that the **retailer** may reduce/waive debt;
- (e) include an objective set of hardship indicators;
- (f) include an overview of the assistance available to **customers** in **financial hardship** or **payment difficulties** in accordance with Part 6 of the **Code** and a statement that the **retailer** is able to provide further detail upon request.
- (g) include an overview of any concessions and grants that may be available to the **retailer's customers**;
- (h) be available in large print copies and include:
 - (i) the National Interpreter Symbol with the words "Interpreter Services";
 - (ii) information on the availability of independent multi-lingual services; and
 - (iii) information on the availability of **TTY** services; and
- (i) be available on the **retailer's** website.

Section 4 of these Guidelines provides additional guidance as to the matters to be included in a Hardship Policy.

3.3 Minimum requirements for Hardship Procedures

Clause 6.10(3) of the Energy Codes specify the requirements for Hardship Procedures. Under this clause, Hardship Procedures must:

- (a) be developed in consultation with **relevant consumer representative organisations**;
- (b) provide for the training of staff –
 - (i) including **call centre** staff, all subcontractors employed to engage with **customers experiencing financial hardship**, energy efficiency auditors and field officers;
 - (ii) on issues related to **financial hardship** and its impacts, and how to deal with **customers** consistently with the obligation in subclause (3)(c);
- (c) include guidance on how **customers experiencing financial hardship** are to be treated sensitively and respectfully;
- (d) include guidance –
 - (i) that assist the **retailer** in identifying **residential customers** who are experiencing **financial hardship**;
 - (ii) that assist the **retailer** in determining a **residential customer's** usage needs and capacity to pay when determining the conditions of an **instalment plan**;
 - (iii) for suspension of **disconnection** and debt recovery procedures;
 - (iv) on the reduction and/or waiver of fees, charges and debt; and
 - (v) on the recovery of debt.
- (e) require that the **retailer's** credit management staff have a direct **telephone** number and that number be provided to relevant financial counsellors and **relevant consumer representative organisations**;

Section 4 of these Guidelines provides additional guidance as to the matters to be included in Hardship Procedures.

3.4 Initial Hardship Policy & Hardship Procedures

A retailer must have a Hardship Policy and Hardship Procedures in place at the time of grant of the licence. The Authority does not have a formal approval role in relation to Hardship Policies or Hardship Procedures, however both documents must comply with the Energy Codes and these Guidelines. The Authority will assess the Hardship Policy and Hardship Procedures to determine compliance with the Energy Codes and these Guidelines.

3.5 Review and amendment of Hardship Policy & Hardship Procedures

Review

The previous version of the Guidelines required retailers to submit a copy of their Hardship Policy, and details of the review of their Hardship Policy, to the Authority by 31 December each year. Retailers are no longer required to review their Hardship Policies on an annual basis. Instead, retailers are only required to review their Hardship Policies, and now Hardship Procedures, when directed by the Authority to do so.⁶

Clause 6.10(5) – (8) of the Energy Codes provide as follows:

- (5) A **retailer** must keep a record of—
 - (a) the **relevant consumer representative organisations** consulted on the contents of the Hardship Policy and Hardship Procedures;
 - (b) the dates the Hardship Policy and Hardship Procedures were established;
 - (c) the dates the Hardship Policy and Hardship Procedures were reviewed; and
 - (d) the dates the Hardship Policy and Hardship Procedures were amended.
- (6) The **retailer** may, at any time, or must if directed by the **Authority**, review its Hardship Policy and Hardship Procedures and submit to the **Authority** the results of that review within **5 business days** after it is completed.
- (7) The **retailer** must comply with the **Authority's** Financial Hardship Policy Guidelines.
- (8) If the **retailer** amends the **retailer's** Hardship Policy, the **retailer** must submit to the **Authority** a copy of the **retailer's** Hardship Policy within **5 business days** of the amendment.

Requests by the Authority for a retailer to review their Hardship Policy and Hardship Procedures will likely follow any significant changes to these Guidelines or to the financial hardship provisions of the Energy Codes. There may also be other reasons why the Authority decides to request a retailer to review their Hardship Policy and Hardship Procedures from time to time.

A retailer may choose to review its Hardship Policy and/or Hardship Procedures at any time. It may, or must if directed by the Authority, submit the results of that review to the Authority within 5 business days after it is completed.⁷ This applies whether or not the review leads to changes to the Hardship Policy or Hardship Procedures. It also applies regardless of whether the review is initiated on a retailer's own volition or if it has been requested by the Authority.

The previous version of these Guidelines also required a retailer to review their Hardship Policy in consultation with relevant consumer representative organisations. While this is no longer a requirement of the Guidelines or Energy Codes, the Authority recommends that retailers consult with relevant consumer representative organisations prior to making significant changes to either their Hardship Policy or Hardship Procedures. Section 4.1 of these Guidelines addresses consultation with relevant consumer representative organisations for the development of an initial Hardship Policy and Hardship Procedures. This section explains the important role these organisations play and how a retailer may benefit from such consultation.

⁶ Clause 6.10(6).

⁷ Clause 6.10(6).

Amendment

A retailer may amend its Hardship Policy and/or Hardship Procedures at any time.

If a retailer amends their Hardship Policy, a copy of the policy must be provided to the Authority within 5 business days of the amendment.⁸ A copy of amended Hardship Procedures is not required to be provided to the Authority.

⁸ Clause 6.10(8).

4 Financial Hardship Policy Guidelines

As set out above, clause 6.10(2) and 6.10(3) of the Energy Codes specify the minimum requirements for a Hardship Policy and for Hardship Procedures respectively. The Guidelines below provide some background information as to why a particular requirement exists, along with additional guidance regarding the information retailers should include in their Hardship Policies or Hardship Procedures in order to meet the requirements.

These Guidelines do not replace the obligations contained in the Energy Codes. When preparing, reviewing or amending Hardship Policies and Hardship Procedures, retailers should review the obligations contained in the Energy Codes as well as these Guidelines to ensure compliance.

4.1 Development in consultation with relevant consumer representative organisations

The Energy Codes require a Hardship Policy and Hardship Procedures to be developed in consultation with consumer representative organisations. This requirement recognises the expertise and importance of involving consumer representative organisations in developing effective Hardship Policies and Hardship Procedures to assist customers. Consumer representative organisations, such as financial counsellors, have extensive experience in dealing with customers in financial hardship and may provide retailers with valuable insights on current issues related to hardship.

Consultation on the retailer's initial Hardship Policy and Hardship Procedures may occur in a number of ways. A retailer could, for example, seek feedback by organising a meeting with one or more consumer representative organisations. Alternatively, a retailer may opt to conduct a telephone survey or send a copy of the proposed Hardship Policy and Hardship Procedures to consumer representative organisations by (e)mail with a request to provide feedback.

A retailer should engage with consumer representative organisations as to the manner and format of the consultation process to ensure that the process is appropriate for both parties.

The requirements for a Hardship Policy and Hardship Procedures in relation to consulting with relevant consumer representative organisations is set out in the below table:

Consulting with relevant consumer representative organisations		
Document:	Requirement	Energy Code Reference
Hardship Policy	Developed in consultation with relevant consumer representative organisations. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 11 (after this table).]</i>	Clause 6.10(2)(a)
Hardship Procedures	Developed in consultation with relevant consumer representative organisations. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 11 (after this table).]</i>	Clause 6.10(3)(a)

When submitting the initial Hardship Policy and Hardship Procedures to the Authority for review, a retailer should provide the following information in order to demonstrate compliance with the Energy Codes and Guidelines:

- The names of the consumer representative organisations that were consulted;
- The manner in which those organisations were consulted (e.g. workshop, telephone, e-mail, etc); and
- The matters on which those organisations were consulted.

4.2 Identifying customers who are experiencing financial hardship

It is important that customers in financial hardship are identified before significant debts to the retailer are accumulated. Although identification by a retailer is important, it is generally recognised that the *“most effective approach to timely response under a financial hardship policy is to maximise the opportunity for customers to “self-identify” their difficulties in paying bills”*⁹. To enable customers to self-identify difficulties, retailers should encourage customers in financial hardship to make contact by advising customers on bills, reminders notices and other correspondence that assistance is available by contacting their retailer. To this end, a Hardship Policy must include a statement encouraging customers to contact their retailer if a customer is having trouble paying the retailer’s bill.

A retailer is required to include an objective set of criteria in its Hardship Policy to assist its staff in identifying customers in financial hardship, as well as assisting customers to self-identify. Criteria could include one or more of the factors listed in section 2.4 on page 5 of these Guidelines.

Self-identification may further be facilitated by ensuring customer service staff are trained to communicate sensitively with customers in financial hardship. Section 4.3 of these Guidelines provides further detail on treating customers sensitivity and respectfully.

The Energy Codes require Hardship Procedures to include guidance that assists the retailer in identifying residential customers who are experiencing financial hardship. To address this requirement, a retailer could establish processes to proactively identify customers in financial hardship. For example, clause 7.1(1)(b) of the Energy Codes requires a retailer to use its best endeavours to contact a customer before arranging disconnection of the customer’s energy supply. For customers who have a history of late payments, a retailer may establish processes to contact these customers personally to determine whether they are in financial hardship and may be eligible for any of the assistance available under Part 6 of the Energy Codes.

Identification could also be enhanced by having a specialist team, appropriately trained in dealing with customers in financial hardship situations, to whom call centres can refer customers in financial hardship to.

⁹ Essential Services Commission Victoria, (2006) “Framework Paper – Energy Retailers Hardship Policies”, pg. 14.

The requirements for a Hardship Policy and Hardship Procedures in relation to identifying customers in financial hardship are set out in the below table:

Identifying customers in financial hardship		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include a statement encouraging customers to contact their retailer if a customer is having trouble paying the retailer's bill.	Clause 6.10(2)(b)
	Include an objective set of hardship indicators.	Clause 6.10(2)(e)
Hardship Procedures	Include guidance that assists the retailer in identifying residential customers who are experiencing financial hardship.	Clause 6.10(3)(d)(i)

4.3 Treating customers sensitively and respectfully

Customers in financial hardship may find it difficult to discuss their financial problems with their retailer for a variety of reasons. A study commissioned by the Essential Services Commission (Victoria) found that some hardship customers may be:

“reluctant to, or put off, contacting utilities after previous negative experiences. They also tended to be more likely to speak of deferring making initial contact because of the burden (in terms of time and emotion) it involved. They spoke of being weary of waiting on hold for long periods and of having to re-explain their (often depressing) circumstances over again. A further barrier to initially seeking assistance is the sense of embarrassment and even shame people feel about having to ask for assistance – this was expressed uniformly across the sample.”¹⁰

Customers who put off contacting their retailer are more likely to accumulate significant debts than those who contact their retailer early on. It is neither in the customer's or the retailer's best interest for this to occur. A customer is more likely to contact their retailer early on if the customer feels respected and listened to without judgement. It is therefore important that retailers treat their customers sensitively and respectfully.

As discussed in Section 4.9, retailers are required to provide training to staff on how financial hardship impacts on customers and how to communicate with customers in financial hardship. This training could include some of the key cultural and social issues to consider when dealing with disadvantaged customers.

The requirements for a Hardship Policy and Hardship Procedures in relation to treating customers sensitively and respectfully are set out in the below table:

Treating customers sensitively and respectfully		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include a statement advising that the retailer will treat all customers sensitively and respectfully.	Clause 6.10(2)(c)
Hardship Procedures	Include guidance on how customers experiencing financial hardship are to be treated sensitively and respectfully.	Clause 6.10(3)(c)

¹⁰ Hall & Partners – Open Mind, (2011) “Customers of water and energy providers in financial hardship: a consumer perspective”, pg. 20.

4.4 Reduction and/or waiver of fees, charges and debt

Clause 6.6(1) of the Energy Codes requires a retailer to give reasonable consideration to a request by a customer, or a relevant consumer representative organisation, for a reduction of the customer's fees, charges and debt. Further, subclause (2) requires the retailer to refer to "the hardship procedures referred to in clause 6.10(3)" when giving "reasonable consideration" under subclause (1).

It is important that any Hardship Procedures address the reduction or waiver of fees, charges *and* debt; not just one or two of these three components.

Circumstances that may warrant a reduction of waiver

A retailer should consider clarifying within its Hardship Policy when a customer may be eligible for a reduction and/or waiver of fees, charges and debt. For example, a retailer could indicate in its Hardship Policy that it will generally waive a debt in cases of death, spousal separation, and domestic violence.

Types of fees, charges and debt that may be reduced or waived

As a minimum, it is expected that a Hardship Policy specify that a customer will not be charged a late payment fee if the customer has been assessed by the retailer as being in financial hardship (as required under clause 5.6(1)(d) of the Energy Codes).

A retailer should consider specifying within its Hardship Policy which other fees, charges and debt it may consider reducing or waiving. For example, a Hardship Policy could provide for the waiver of reconnection and/or disconnection fees for customers in financial hardship.

Manner in which fees, charges and debt may be reduced or waived

Fees, charges and debt may be waived in full or partially. A retailer may also make the waiver of fees, charges and debt conditional upon the customer meeting certain conditions. Hardship Procedures should set out the manner and conditions under which a retailer may reduce and/or waive fees, charges and debt.

For example, a retailer could offer to match any payments a customer makes towards an outstanding debt, or agree to waive the debt once the customer has repaid a certain percentage of the debt.

The requirements for a Hardship Policy and Hardship Procedures in relation to the reduction/waiver debt are set out in the below table:

Statement that a retailer may reduce/waive debt		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include a statement that a retailer may reduce/waive debt.	Clause 6.10(2)(d)
Hardship Procedures	Include guidance on the reduction and/or waiver of fees, charges and debt. [NOTE: For guidance on the information a retailer should include in its Hardship Procedures to demonstrate compliance with this requirement, see the bullet points on page 14 (after this table).]	Clause 6.10(3)(d)(iv)

When submitting Hardship Procedures to the Authority for review, a retailer should provide the following in order to demonstrate compliance with the Energy Codes and Guidelines:

- The circumstances under which the retailer will consider reducing or waiving fees, charges and debt;
- The types of fees, charged and debt that the retailer will consider reducing or waiving; and
- The manner in which fees, charges and debt may be reduced or waived.

4.5 Recovery of debt

Clauses 7.1 to 7.3 of the Energy Codes set out the requirements a retailer must meet prior to disconnecting a customer for failure to pay a bill. These requirements will generally also apply to the recovery of debt. For example, when recovering an outstanding bill the retailer must give the customer at least a reminder notice and disconnection warning.

As noted previously, a retailer may not commence proceedings for the recovery of debt from a financial hardship customer who continues to make payments under an alternative payment arrangement (clause 5.8(1) of the Energy Codes). The requirements of clause 5.8 also apply if a retailer outsources the recovery of its debt to a debt collection agency.

Where a retailer outsources the recovery of debt, the Hardship Policy should advise customers that their debt may be collected by a debt collection agency and whether this may result in any additional fees for the customer.

The requirements for a Hardship Policy and Hardship Procedures in relation to debt recovery are set out in the below table:

Statement that a retailer may reduce/waive debt		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include wording to advise customers that additional fees may be incurred if a retailer refers debt to debt collection agencies (if applicable).	Guideline requirement
Hardship Procedures	Include guidance on the recovery of debt.	Clause 6.10(3)(d)(v)

4.6 Suspension of disconnection and debt recovery procedures

Hardship Procedures must include guidelines that provide for the suspension of disconnection and debt recovery procedures (clause 6.10(3)(d)(iii) of the Energy Codes).

The Hardship Policy should specify that the customer may request a temporary suspension of disconnection and debt recovery procedures. Further, a retailer must not unreasonably deny such a request if the customer demonstrates to the retailer that the customer has made an appointment with a financial counsellor or relevant consumer representative organisation to assess the customer's capacity to pay (clause 6.2(2) of the Energy Codes).

In the interests of transparency, a retailer should consider providing further guidance within its Hardship Policy as to how a customer may demonstrate that it has an appointment with a financial counsellor and under what circumstances the retailer could deny a request for a temporary suspension of actions. For example, is verbal confirmation of an appointment by the customer sufficient?

The Hardship Policy should further specify that a retailer will suspend any disconnection procedures if a hardship customer has accepted the retailer's offer for an alternative payment arrangement and has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the retailer in the disconnection warning (as required under clause 7.2(1)(b) of the Energy Codes).

If a retailer requires a customer to "use reasonable endeavours to settle the debt" before disconnection procedures will be suspended, the retailer should provide further guidance within the Hardship Policy as to what is meant by "reasonable endeavours", and how a customer will meet the requirement to use "reasonable endeavours".

It is important to note that a retailer may not commence proceedings for the recovery of debt from a financial hardship customer who continues to make payments under an alternative payment arrangement (clause 5.8(1) of the Energy Codes).

The requirement for Hardship Procedures in relation to the suspension of disconnection and debt recovery procedures is set out in the below table:

Suspension of disconnection and debt recovery procedures		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include a statement that if a customer is experiencing payment problems, they can request a temporary suspension of actions.	Guideline requirement
	Include a statement that any disconnection procedures will be suspended if a hardship customer has accepted the retailer's offer for an alternative payment arrangement and has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the retailer in the disconnection warning.	Clause 7.2(1)(b)
Hardship Procedures	Include guidance on the suspension of disconnection and debt recovery procedures.	Clause 6.10(3)(d)(iii)

4.7 Overview of assistance

Part 6 of the Energy Codes details a variety of forms of assistance that is available to customers who are in financial hardship, such as alternative payment arrangements, instalment plans, the suspension of disconnection and debt recovery procedures, as well as the possibility of the reduction or waiver of fees, charges and debt.

The requirements for a Hardship Policy in relation to providing an overview of assistance are set out in the below table:

Overview of Assistance		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include an overview of the assistance available to customers in financial hardship or payment difficulties in accordance with Part 6 of the Energy Codes.	Clause 6.10(2)(f)
	Include a statement that the retailer is able to provide further detail of assistance available to customers in financial hardship or payment difficulties in accordance with Part 6 upon request.	

4.8 Concessions and grants

A number of energy concessions are available to holders of certain concession cards in both electricity and gas. For administrative reasons, these concessions are only applied to a customer's electricity account by electricity retailers (as opposed to gas retailers) and customers need to register their details with electricity retailers to have the concessions applied.

In addition, the Government has established the Hardship Utility Grant Scheme (**HUGS**) which provides grants to customers in hardship to assist them to pay their outstanding energy debts. When a customer is referred to a financial counsellor by a retailer, the counsellor will assess whether the customer is eligible for a HUGS grant. If the customer is eligible, the financial counsellor will make a HUGS grant application on the customer's behalf. While HUGS grant applications are usually made via financial counsellors, some retailers can recommend an applicant for a HUGS grant in certain circumstances.

Although many holders of a concession card will not be in financial hardship, it is likely that a large percentage of customers in financial hardship will hold or be eligible for a concession card. Concessions and grants can reduce a customer's bill and assist the customer to stay connected to energy supply.

It is therefore important that customers in financial hardship are advised of the availability of concessions and grants. To this end, the Energy Codes require retailers to advise customers in hardship of any concessions and grants available to the customer.

The requirement for a Hardship Policy in relation to providing information about concessions and grants is set out in the below table:

Concessions and grants		
Document:	Requirement	Energy Code Reference
Hardship Policy	Include an overview of any concessions and grants that may be available to the retailer's customers.	Clause 6.10(2)(g)

4.9 Training of staff

The Energy Codes require Hardship Procedures to provide for the training of staff, including call centre staff, all subcontractors employed to engage with customers experiencing financial hardship and field officers.¹¹

Comprehensive training should be provided to the staff listed in clause 6.10(3)(b)(i). However, all levels of a retailer's business will benefit from training in hardship matters and retailers should consider whether some general awareness training should be provided to all staff.

A Hardship Policy and Hardship Procedures are most likely to succeed if senior management's commitment to the training program is clearly communicated to the organisation, reinforcing a "whole of business approach".

Content of training

The training must focus on issues related to financial hardship and its impacts, and how to deal with customers in a sensitive and respectful manner (see section 4.3 of these Guidelines for further detail).

¹¹ Paragraph (i) of clause 6.10(3)(b).

As a minimum, training should be provided to “front-line staff” (such as staff in call centres and credit departments) on the retailer’s obligations included in Part 6 of the Energy Codes. This includes, for example, temporary suspension of actions, assistance to be offered, alternative payment arrangements, consideration of a reduction in fees, charges and debt, and general provision of information to customers.

Training packages should further address key cultural and social issues for significant customer groups, help staff to develop communication skills for engaging with customers in financial hardship, and enable staff to educate customers by providing basic energy saving tips, information on energy audits, concessions, rebates, Centrelink benefits and budgeting.

Training provided to staff that do not directly deal with customers in financial hardship could be of a more general nature.

Timing of training

Training of “front-line” staff should occur preferably before or at least as soon as possible after an employee is engaged in a position that requires them to interact with customers in financial hardship.

Retailers should also consider what ‘refresher’ training should be provided and how often it is appropriate to provide such training.

Development of training

Retailers should consider consulting consumer representative organisations in the development of some of their training packages. Consultation with consumer representative organisations may be particularly valuable when developing training on how financial hardship impacts on customers, how to communicate with customers in financial hardship, and some of the key cultural and social issues to consider when dealing with disadvantaged customers.

The requirements for Hardship Procedures in relation to the requirement to staff training are set out in the below table:

Staff training		
Document:	Requirement	Energy Code Reference
Hardship Procedures	Provide for the training of staff including call centre staff, all subcontractors employed to engage with customers experiencing financial hardship, energy efficiency auditors and field officers. [NOTE: For guidance on the information a retailer should include in its Hardship Procedures to demonstrate compliance with this requirement, see the bullet points on page 18 (after this table).]	Clause 6.10(3)(b)(i)
	Provide for the training of staff on issues related to financial hardship and its impacts, and how to deal with customers sensitively and respectfully. [NOTE: For guidance on the information a retailer should include in its Hardship Procedures to demonstrate compliance with this requirement, see the bullet points on page 18 (after this table).]	Clause 6.10(3)(b)(ii)

When submitting Hardship Procedures to the Authority for review, a retailer should provide the following in order to demonstrate compliance with the Energy Codes and Guidelines:

- A short description of the training provided by the retailer to its staff;
- A general description of the staff that have received training over the past 12 months (e.g. call centre staff, contractors, senior management, etc) and how often that training has been provided; and
- If any consumer representative organisations were consulted on the development of any of the training packages and, if so, which organisations were consulted.

4.10 Instalment plans: Assessing usage needs and capacity to pay

Clause 6.1(1)(a) of the Energy Codes require a retailer to assess whether a residential customer is experiencing payment difficulties or financial hardship within three business days of being informed by a customer that they are experiencing payment problems. If the retailer determines that the customer is experiencing financial hardship, it must offer the customer additional time to pay the bill or an instalment plan.

Determining the conditions of an instalment plan

A retailer's Hardship Procedures must include guidance that assists the retailer in determining a residential customer's usage needs and capacity to pay when determining the conditions of an instalment plan. A retailer should ask a customer how much they can afford to pay and determine a realistic payment plan based on the individual circumstances of the customer. A retailer should also be aware that some customers may over-commit to more than they can afford because they are anxious to either avoid disconnection or to be reconnected to supply.

It is recognised that retailers have legitimate commercial objectives and that a Hardship Policy should not allow customers to avoid their financial obligation to the retailer. However, where a customer in financial hardship has significant arrears, the customer is unlikely to have the capacity to meet their commitments to a payment plan if a significant payment is required upfront followed by substantial instalments in quick succession. Repaying a large debt within a short timeframe is usually impossible for people in financial hardship. Any payment plan that over-commits a customer is unlikely to succeed and may result in the customer being disconnected. For this reason, it is recommended that retailers involve the customer and, if applicable, their financial counsellor, in setting a payment plan.

Assessment made by a financial counsellor

If the customer has seen a financial counsellor, the retailer should consider the financial counsellor's assessment of the customer's usage needs and capacity to pay. Financial counsellors allocate a significant amount of time to helping each client in financial hardship develop a budget and assessing a customer's capacity to pay. Part 6 of the Energy Codes therefore provide that a retailer must give reasonable consideration to advice given (if any) by an independent financial counsellor or consumer representative organisation when assessing a customer's financial situation (clause 6.1).

A retailer may further adopt an assessment carried out by a financial counsellor for the purposes of clause 6.1(1)(a).¹² Where an assessment is to be provided by a financial counsellor or consumer representative organisation, a retailer should provide the counsellor or

¹² Clause 6.1(2).

organisation with any relevant information regarding the customer's financial situation (subject to privacy and customer consent requirements).

Empowering staff to negotiate payment plans with customers

A retailer's staff should be empowered to negotiate and agree on appropriate solutions for customers. It is further important that staff are aware of the agencies to which customers in financial hardship can be referred for further advice, along with other services that may assist the customer in managing his/her future energy consumption and financial obligations. This may include offering payment options such as Centrepay and providing energy efficiency information.

The requirement for Hardship Procedures in relation to determining the conditions of an instalment plan is set out in the below table:

Determining a customer's usage needs and capacity to pay when determining the conditions of an instalment plan		
Document:	Requirement	Energy Code Reference
Hardship Procedures	Provide that, within three business days of being informed by a residential customer that they are experiencing payment problems, the retailer will assess whether the customer is experiencing payment difficulties or financial hardship.	Clause 6.1(1)(a)
	Include guidance on how to determine a residential customer's usage needs and capacity to pay when determining the conditions of an instalment plan.	Clause 6.10(3)(d)(ii)
	Provide that reasonable consideration is given to advice given (if any) by an independent financial counsellor or consumer representative organisation.	Clause 6.1(3)(b)

4.11 Direct telephone number for credit management staff

Clause 6.10(3)(e) of the Energy Codes requires that as part of Hardship Procedures, the retailer's credit management staff have a direct telephone number, and that the number be provided to relevant financial counsellors and relevant consumer representative organisations.

In order to facilitate the communication between a retailer's credit management staff and relevant financial counsellors and consumer representative organisations, particularly in relation to the assessment under clause 6.1, a direct telephone number for the retailer's credit management staff is of crucial importance.

The requirements for Hardship Procedures in relation to a retailer's contact details are set out in the below table:

Director telephone number for a retailer's credit management staff		
Document:	Requirement	Energy Code Reference
Hardship Procedures	Require the retailer's credit management staff to have a direct telephone number. [NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 20 (after this table).]	Clause 6.10(3)(e)
Hardship Procedures	Require the retailer's direct telephone number for credit management staff to be provided to relevant	Clause 6.10(3)(e)

	financial counsellors and relevant consumer representative organisations. [NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 20 (after this table).]	
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When submitting Hardship Procedures to the Authority for review, a retailer should provide the following in order to demonstrate compliance with the Energy Codes and Guidelines:

- Whether the retailer's credit management staff have a direct telephone number and, if so:
 - whether this number has been provided to financial counsellors and consumer representative organisations; and
 - if so, which organisations have been provided with it.

4.12 Accessibility

It is important that customers in financial hardship are aware of their rights and responsibilities. Retailers should therefore actively promote awareness of their Hardship Policy to customers, financial counsellors and other appropriate agencies.

Retailers must ensure that their Hardship Policy is available on their website. In any event, a retailer must provide a copy of the Hardship Policy (including by post at no charge upon request) to any customer, financial counsellor or relevant consumer representative organisation who requests a copy (clause 6.10(4) of the Energy Codes).

A hardship policy should be written in clear, simple and concise language and be in a format that makes it easy to understand (clause 10.9 of the Energy Codes).

Retailers are also required to make the Hardship Policy available in large print.

The availability of interpreter services for non-English speaking persons and communications technology for the hearing and sight impaired is important so that all customers may familiarise themselves with the policy.

The availability requirements for a Hardship Policy are set out in the below table:

Availability of Hardship Policy		
Document:	Requirement	Energy Code Reference
Hardship Policy	Available in large print copies.	Clause 6.10(2)(h)
	Include National Interpreter Symbol with the words "Interpreter Services".	Clause 6.10(2)(h)(i)
	Include information on the availability of independent multi-lingual services.	Clause 6.10(2)(h)(ii)
	Include information on the availability of TTY services.	Clause 6.10(2)(h)(iii)
	Available on the retailer's website. [NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 21 (after this table).]	Clause 6.10(2)(i)
Hardship Policy	Written in clear, simple and concise language and is in a format that makes it easy to understand.	Clause 10.9

When submitting a Hardship Policy to the Authority for review, a retailer should provide the following information in order to demonstrate compliance with the Energy Codes and Guidelines:

- Confirmation that the Hardship Policy is available on the retailer's website; and
- The format in which the Hardship Policy is available to customers (e.g. hard copy, electronic format, large print etc).

When submitting Hardship Procedures to the Authority for review, a retailer may consider providing the following additional information:

- How the retailer promotes awareness of the Hardship Policy to its customers and other appropriate agencies (e.g. by including a statement on the bill or reminder notices, targeted mail distribution, provision of information to seminars and training events, and liaison with consumer representative organisations).

4.13 Complaints handling

Part 12 of the Energy Codes requires retailers to have in place a complaints handling process. It would be useful if information regarding the retailer's complaints handling process and relevant contact information were included in the Hardship Policy. Such information would assist customers who wish to lodge a complaint in relation to any of the retailer's obligations under Part 6 of the Energy Codes, such as a retailer's assessment of the customer's capacity to pay, the payment arrangement offered, etc.

The requirement for a Hardship Policy in relation to complaints handling is set out in the below table:

Complaints handling		
Document:	Requirement	Energy Code Reference
Hardship Policy	Policy to include information regarding the retailer's complaints handling process, including the retailer's contact details and the Energy Ombudsman's contact details.	Guideline requirement

Appendix A – Hardship Policy Checklist

Before submitting a copy of an initial or reviewed Hardship Policy, a retailer should review it against the following requirements. Unless all answers in the checklist column are marked with a 'Yes', it is unlikely the Hardship Policy will be compliant with the Energy Codes and Guidelines.

Checklist reference number	Page no. in Guidelines	Energy Codes Clause	Requirements	Checklist
A1*	10	Clause 6.10(2)(a)	Hardship Policy was developed in consultation with relevant consumer representative organisations. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 11.]</i>	Yes / No
A2	12	Clause 6.10(2)(b)	Hardship Policy includes a statement encouraging customers to contact their retailer if a customer is having trouble paying the retailer's bill.	Yes / No
A3	12	Clause 6.10(2)(c)	Hardship Policy includes a statement advising that the retailer will treat all customers sensitively and respectfully.	Yes / No
A4	13	Clause 6.10(2)(d)	Hardship Policy includes a statement that the retailer may reduce/waive debt.	Yes / No
A5	12	Clause 6.10(2)(e)	Hardship Policy includes an objective set of hardship indicators.	Yes / No
A6	15	Clause 6.10(2)(f)	Hardship Policy includes an overview of the assistance available to customers in financial hardship or payment difficulties in accordance with Part 6 of the Energy Codes.	Yes / No
A7	15	Clause 6.10(2)(f)	Hardship Policy includes a statement that the retailer is able to provide further detail of assistance available to customers in financial hardship or payment difficulties in accordance with Part 6 upon request.	Yes / No
A8	16	Clause 6.10(2)(g)	Hardship Policy includes an overview of any concessions and grants that may be available to the retailer's customers.	Yes / No
A9	20	Clause 6.10(2)(h)	Hardship Policy is available in large print copies.	Yes / No
A10	20	Clause 6.10(2)(h)(i)	Hardship Policy includes the National Interpreter Symbol with the words "Interpreter Services".	Yes / No
A11	20	Clause 6.10(2)(h)(ii)	Hardship Policy includes information on the availability of independent multi-lingual services.	Yes / No
A12	20	Clause 6.10(2)(h)(iii)	Hardship Policy includes information on the availability of TTY services.	Yes / No
A13	20	Clause 6.10(2)(i)	Hardship Policy is available on the retailer's website. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 21.]</i>	Yes / No
A14	15	Clause 7.2(1)(b)	Hardship Policy includes a statement that any disconnection procedures will be suspended if a hardship customer has accepted the retailer's offer for an alternative payment arrangement and has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the retailer in the disconnection warning.	Yes / No

A15	20	Clause 10.9	Hardship Policy is written in clear, simple and concise language and is in a format that makes it easy to understand.	Yes / No
A16	14	N/A (Guideline requirement)	Hardship Policy includes wording to advise customers that additional fees may be incurred if a retailer refers debt to debt collection agencies (if applicable).	Yes / No
A17	15	N/A (Guideline requirement)	Hardship Policy includes a statement that if a customer is experiencing payment problems, they can request a temporary suspension of actions.	Yes / No
A18	21	N/A (Guideline requirement)	Hardship Policy to include information regarding the retailer's complaints handling process, including the retailer's contact details and the Energy Ombudsman's contact details	Yes / No

* Items marked with an asterisk indicate that they are only applicable for an initial Hardship Policy.

Appendix B – Hardship Procedures Checklist

Before submitting a copy of initial or reviewed Hardship Procedures, a retailer should review them against the following requirements. Unless all answers in the checklist column are marked with a 'Yes', it is unlikely the Hardship Procedures will be compliant with the Energy Codes and Guidelines.

Checklist reference number	Page no. in Guidelines	Energy Codes Clause	Requirements	Checklist
B1*	10	Clause 6.10(3)(a)	Hardship Procedures were developed in consultation with relevant consumer representative organisations. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 11.]</i>	Yes / no
B2	17	Clause 6.10(3)(b)(i)	Hardship Procedures provide for the training of staff, including call centre staff, all subcontractors employed to engage with customers experiencing financial hardship, energy efficiency auditors and field officers. <i>[NOTE: For guidance on the information a retailer should include in its Hardship Procedures to demonstrate compliance with this requirement, see the bullet points on page 18.]</i>	Yes / No
B3	17	Clause 6.10(3)(b)(ii)	Hardship Procedures provide for the training of staff on issues related to financial hardship and its impacts, and how to deal with customers sensitively and respectfully. <i>[NOTE: For guidance on the information a retailer should include in its Hardship Procedures to demonstrate compliance with this requirement, see the bullet points on page 18.]</i>	Yes / No
B4	12	Clause 6.10(3)(c)	Hardship Procedures include guidance on how customers experiencing financial hardship are to be treated sensitively and respectfully.	Yes / No
B5	12	Clause 6.10(3)(d)(i)	Hardship Procedures include guidance that assists the retailer in identifying residential customers who are experiencing financial hardship.	Yes / No
B6	19	Clause 6.10(3)(d)(ii)	Hardship Procedures include guidance on how to determine a residential customer's usage needs and capacity to pay when determining the conditions of an instalment plan.	Yes / No
B7	15	Clause 6.10(3)(d)(iii)	Hardship Procedures include guidance on the suspension of disconnection and debt recovery procedures.	Yes / No
B8	13	Clause 6.10(3)(d)(iv)	Hardship Procedures include guidance on the reduction and/or waiver of fees, charges and debt. <i>[NOTE: For guidance on the information a retailer should include in its Hardship Procedures to demonstrate compliance with this requirement, see the bullet points on page 14.]</i>	Yes / No
B9	14	Clause 6.10(3)(d)(v)	Hardship Procedures include guidance on the recovery of debt.	Yes / No
B10	19	Clause 6.10(3)(e)	Hardship Procedures require the retailer's credit management staff to have a direct telephone number. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 20.]</i>	Yes / No

B11	19	Clause 6.10(3)(e)	Hardship Procedures require the retailer's direct telephone number for credit management staff to be provided to relevant financial counsellors and relevant consumer representative organisations. <i>[NOTE: For guidance on the information a retailer should submit to the Authority to demonstrate compliance with this requirement, see the bullet points on page 20.]</i>	Yes / No
B12	19	Clause 6.1(1)(a)	The Hardship Procedures provide that, within three business days of being informed by a residential customer that they are experiencing payment problems, the retailer will assess whether the customer is experiencing payment difficulties or financial hardship.	Yes / No
B13	19	Clause 6.1(3)(b)	The Hardship Procedures provide that reasonable consideration is given to advice given (if any) by an independent financial counsellor or consumer representative organisation.	Yes / No

* Items marked with an asterisk indicate that they are only applicable for initial Hardship Procedures.