

Financial Hardship Policy Guidelines

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Economic Regulation Authority



WESTERN AUSTRALIA

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For further information, contact

Economic Regulation Authority
Perth, Western Australia
Phone: (08) 9213 1900

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Introduction

Energy is required for food preservation, cooking, illumination, heating and cooling and as such is a prerequisite to social participation and a comfortable, adequate standard of living.

In June 2007, the Minister for Energy with the cooperation of the Premier, Treasurer and Ministers for Housing, Water and Child Protection established the Government Utilities Essential Services Hardship Inter-Agency Working Group (GUESHIWG) to identify and report to Government on ways in which government owned enterprises and agencies can improve the delivery and coordination of a range of services.

The Government Utilities Essential Services Hardship Inter-agency Working Group (GUESHIWG) acknowledges that “water and electricity services are generally considered essential”.¹

In May 2008, the State Government announced new initiatives to assist consumers in financial hardship to avoid disconnection or restriction of service including:

- Hardship Utilities Grants Scheme (HUGS) to assist with the payment of overdue accounts for consumers declared in financial hardship;
- Hardship Efficiency Program (HEPS) to provide free energy efficiency audits and resources; and
- an increase in funding to Financial Counsellors across the State.

The response of electricity licensees to customers experiencing financial hardship is of significant concern to consumers, the community and government. In response to this concern, a number of electricity retailers have devoted significant attention to reviewing and improving financial hardship policies over the past twelve months.

Whilst there is an obligation on electricity retailers to develop a hardship policy, there is no requirement on retailers to have such a policy approved by the Economic Regulation Authority (Authority). These guidelines have been developed to provide retailers additional guidance in meeting the requirements set out in the *Code of Conduct for the Supply of Electricity to Small Use Customers* (Code).

Background

Under section 79 of the *Electricity Industry Act 2004*, the Authority has the ability, in consultation with a committee³, 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. The Code is subsidiary legislation. The Code first came into operation on 1 January 2005.

Compliance with the Code is a condition of every electricity retail and distribution licence. The Authority is responsible for monitoring and enforcing the Code.

Part 6 of the Code addresses payment difficulties and financial hardship. The objectives of this Part are to:

- protect disadvantaged residential customers (“customers”) by endeavouring to ensure that retailers assist such customers; and

¹ Government Utilities Essential Services Hardship Inter-agency Working Group, (2007) “Utilities Essential Services Hardship – Public Issues Discussion Paper”
<http://www.energy.wa.gov.au/cproot/1069/8949/Utility%20Hardship%20Issues%20Paper%20-Final.pdf>.pg. 2.

³ This committee appointed by the Authority is known as the Electricity Code of Conduct Committee (ECCC).

- ensure that retailers develop and implement transparent hardship policies.

Clause 6.10(2) of the Code specifies the minimum contents of a financial hardship policy. A financial hardship policy must be developed in consultation with relevant consumer representative organisations where details of the contents of the hardship policy must be provided to a customer, financial counsellor or relevant consumer representative organisation upon request.

The Electricity Code Consultative Committee (ECCC) considered the issue of increasing regulatory requirements regarding financial hardship during its review of the Code in 2006-07, in part given concern about disconnection rates in Western Australia. The ECCC considered the precedent that the Victorian Government has made through the insertion of provisions in its *Electricity Industry Act 2000* relating to financial hardship.

In its final report to the Authority², the ECCC provided clear support for better and more consistent customer protection in this area. However, there remained some concerns regarding increased compliance costs and the need for transitional timeframes for industry to self-assess the effectiveness of their hardship policies.

The ECCC did not reach agreement on mandatory approval of a retailer's hardship policy by the Authority and recommended instead that the Authority develop voluntary guidelines for licensees in this area. The Authority approved this recommendation and has produced these guidelines.

Differentiating between 'Payment Difficulties' and 'Financial Hardship'

The Code defines '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 bills. 'Payment difficulties' can arise from a variety of situations, which may arise both gradually or suddenly, and occur over a relatively short period. For example, the theft of a wallet may cause a payment difficulty but would not of itself constitute financial hardship.

Whereas 'payment difficulties' refers to the short-term, financial hardship is of long duration.

The Code defines '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 not limited to) sustained incidence 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;
- the loss of a spouse or a loved one;

² Electricity Consultative Committee, Final Report.

- chronically ill child;
- 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 expenditure³.

Financial Hardship Guidelines

There are five financial hardship guidelines:

- 1) Staff Training
- 2) Identifying and Engaging with Customers in Financial Hardship
- 3) Flexible Payment Arrangements
- 4) Engaging with Consumer Representative Organisations and Financial Counsellors
- 5) Transparency and Accessibility

1 Staff Training

The Code requires that the retailer provides training to staff about the retailer's obligations to customers in financial hardship. Some of the obligations that staff should be made aware of are included in Part 6 of the Code. Staff should understand the retailer's obligations with respect to the temporary suspension of actions, assistance to be offered, alternative payment arrangements, consideration of a reduction in fees, charges and debt and provision of information.

Additionally, to effectively implement a financial hardship policy staff must understand the retailer's wider hardship policy, processes and procedures. Staff who interact with customers should be provided training on how to sensitively engage with customers experiencing financial hardship.

All levels of the retailer's business will benefit from training. A financial hardship policy is 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". Training should be most detailed and targeted for "front-line staff" such as call centres and credit departments.

It is recommended that retailers work with relevant community groups to develop training packages. Training packages could address key cultural and social issues for significant customer groups, help staff develop communication skills for engaging with customers in financial hardship, and provide information on energy audits, Centrelink benefits and budgeting.

³ Australian Communications Industry Forum, "Guide for a Financial Hardship Policy"
http://www.acif.org.au/__data/page/13230/Financial_Hardship_Guide.pdf

It is considered good practice to:

- 1.1** *Have commitment from senior management to the training program and clearly communicate the importance of the organisation's hardship policy.*
- 1.2** *Work with key community representative organisations and agencies to develop training packages.*
- 1.3** *Address key cultural and social issues for significant customer groups, and provide training in communications skills for engaging with customers in financial hardship.*
- 1.4** *Provide information to frontline staff to enable them to educate customers by providing basic energy saving tips and other relevant information and ensure that customers are referred elsewhere for further energy efficiency advice if necessary.*
- 1.5** *Provide training to all new staff who deal with customers or customer issues and schedule refresher courses.*
- 1.6** *Provide more comprehensive training to customer service areas of the business with more general awareness training and/or other information dissemination to other areas as appropriate.*

2 Identifying and Engaging with Customers in Financial Hardship

The Code requires a retailer to produce a hardship policy that includes guidelines on identifying residential customers who are experiencing financial hardship (clause 6.10 (2)(d)(ii)). It is important that customers in financial hardship are identified before significant debts to the retailer are accumulated.

The Victorian Essential Services Commission points out 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”⁴. Therefore, it is important that customer service staff are appropriately trained to sensitively engage with customers when placing them into a financial hardship program.

In judging a customer's eligibility for a financial hardship program, a retailer should also have an objective, publicly available set of criteria by which to assess a customer and should also consider the assessment of that customer's Financial Counsellor, if applicable.

In its *Utilities Essential Services Hardship - Public Issues Discussion Paper*, GUESHIWG proposed that “to avoid perceptions of bias or conflict of interest, the decision of whether a person is in utility hardship should ultimately rest with an independent financial counsellor”⁵.

⁴ Essential Services Commission Victoria, (2006) “Framework Paper – Energy Retailers Hardship Policies”, pg. 14.

⁵ Government Utilities Essential Services Hardship Inter-Agency Working Group, (2007) “Utilities Essential Services Hardship – Public Issues Discussion Paper”, pg. 23.

It is considered good practice to:

- 2.1** *Design processes to identify a customer in hardship as early as possible including processes to assist customers to self identify and request hardship assistance.*
- 2.2** *Have a specialist team that call centres can refer customers in financial hardship to.*
- 2.3** *Empower the specialist team to negotiate and agree on solutions for customers.*
- 2.4** *Encourage customers in financial hardship to make contact about bills, reminder notices and other correspondence.*
- 2.5** *Facilitate self-identification by customers by ensuring customer service staff are trained to communicate sensitively with customers in hardship.*
- 2.6** *Determine a customer's eligibility using objective and publicly available criteria as indicators of hardship.*
- 2.7** *Accept a financial counsellor's assessment of a customer's eligibility for a hardship program.*
- 2.8** *Know where customers in financial hardship can be referred to for further advice.*

3 Flexible Payment Arrangements

Under the Code, customers in financial hardship must be offered alternative payment options. Where a customer has identified themselves to a retailer as being in financial hardship, retailers are obliged to offer flexible payment arrangements which take into account information about the usage needs and capacity to pay when determining the period of the plan and calculating the amount of the instalments.

It is recognised that energy retailers have legitimate commercial objectives, and that a hardship policy should not facilitate customers in avoiding 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 commitments under a payment plan if a significant payment is required upfront followed by significant instalments in quick succession. Repaying a large debt in a short timeframe is often impossible for people in financial hardship. Any payment plan that over-commits a customer is less likely to succeed and may result in the customer being disconnected. For this reason, it is recommended that retailers involve customers in financial hardship and their financial counsellors in the process to address accumulated debt.

Customers in hardship may be eligible for a grant under the Government's Hardship Utility Grant Scheme (HUGS) to assist them to pay their outstanding energy debts. When a customer is referred to a financial counsellor by an energy retailer the counsellor will assess whether they are eligible for a HUGS grant. If the customer is eligible then the financial counsellor will make a HUGS grant application on the customer's behalf. HUGS grant applications can only be made via financial counsellors - energy retailers are not able to apply for grants on behalf of customers.

In summary, in setting flexible payment options it is considered good practice for retailers to:

- 3.1** *Involve customers and their financial counsellors in setting a payment plan based on the individual circumstances of the customer.*
- 3.2** *Ask the customer how much they can afford to pay and set realistic payment plans that assist a customer to meet financial obligations and remain connected.*
- 3.3** *Be aware that customers may commit to more than they can afford because they are anxious to be reconnected or to avoid disconnection.*
- 3.4** *Consider a financial counsellor's assessment of a customer's capacity to pay. Financial counsellors allocate a significant amount of time to helping each client in hardship to develop a budget and assessing a customer's capacity to pay.*
- 3.5** *Identify appropriate services that may assist the customer in managing his/her future energy consumption and financial obligations. This may include offering payment options such as centre-pay and bill smoothing and providing energy efficiency information.*
- 3.6** *Consider reducing and/or waiving fees, charges, debt (including statute-barred debt) and consider payment incentives such as matched payments and full or partial debt waivers.*

4 Engaging with Consumer Representative Organisations and Financial Counsellors

The Code of Conduct requires that the retailer's financial hardship policy ensures ongoing consultation with relevant consumer representative organisations and that such organisations partake in an annual review of the hardship policy. This requirement recognises the expertise and importance of consumer representative organisations in developing effective financial hardship policies.

With respect to service delivery, GUESHIWG has foreshadowed an increasing decentralisation in the delivery of welfare and assistance from non-government welfare organisations. GUESHIWG is of the view that financial counselling is most effective if it is delivered independently to the customer in financial hardship by an organisation that the customer trusts⁶. GUESHIWG is also of the view that better coordination between government, non-government organisations and utilities would greatly assist in putting in place early intervention programs which would help customers avoid debt and disconnection.

With the interface between retailers, consumer representative organisations and non-government organisations growing in importance, a range of measures are required to ensure that financial hardship policies and processes, such as those for the identification, engagement and referral of customers in financial hardship, are informed by the non-government sector.

⁶ *ibid.* pg. 21.

The following proposed guidelines on engaging with consumer representative and financial counselling organisations aim to promote informed policy development and improved referral and service delivery to customers in financial hardship.

It is considered good practice to:

- 4.1** *Encourage greater involvement of consumer representative organisations in the development of financial hardship guidelines through reference groups and holding appropriately designed forums.*
- 4.2** *Define processes for the early identification and appropriate referral of customers in financial hardship in consultation with relevant financial counselling and emergency relief organisations.*
- 4.3** *Understand and be responsive to the information needs of financial counsellors subject to privacy and customer consent requirements.*
- 4.4** *Consult with relevant consumer representative organisations on a process for the periodic review of financial hardship policies.*
- 4.5** *Use memorandums of understanding or inter-agency protocols between retailers and relevant consumer representative organisations and financial counselling providers to ensure a common understanding of agreed processes and protocols.*

5 Transparency and Accessibility

Greater transparency and the integration of financial hardship and debt processes across the retail business, involvement of senior leadership with regular reporting to executive or senior management and a greater understanding of debt prevention represent good practice. Transparency will build customers' confidence in and understanding of a retailer's financial hardship policy.

It is considered good practice to:

- 5.1** *Include detailed information about how a customer's eligibility and payment options will be assessed in the financial hardship policy.*
- 5.2** *Pro-actively promote awareness of the hardship policy to customers, financial counsellors and other appropriate agencies.*
- 5.3** *Ensure information about the policy is readily available to customers at no cost in a range of forms such as brochures, the retailer's web site, and on customers' bills. Interpreter services for non-English speakers and communications technology for the hearing and sight impaired should be made available in this regard so that all customers may familiarise themselves with the policy.*

References

In preparing these guidelines the Authority has referred to the following documents in particular:

- Essential Services Commission Victoria, (2006) “Framework Paper – Energy Retailers Hardship Policies <http://www.esc.vic.gov.au/NR/rdonlyres/8738A599-460F-42F4-A7B2-2A9EFCFB73C1/0/DDPEnergyRetailersFinancialHardshipPolicies20070221.pdf>;
- Essential Services Commission Victoria, (2006) “Framework Paper – Energy Retailers Hardship Policies (no link available as it is the predecessor to the above source);
- *Supporting Utility Customers Experiencing Financial Hardship* by the Committee for Melbourne Debt Spiral Prevention Project <http://www.cuac.org.au/docs/Guiding%20Principles%20to%20support%20customers%20in%20hardship%20Mar2007.pdf>;
- *Preventing Debt and Disconnection* by Energywatch and Ofgem, United Kingdom http://www.energywatch.org.uk/uploads/Preventing_Debt_and_Disconnection1.pdf;
- *Utilities Essential Services Hardship Public Issues Discussion Paper* by the Government Utilities Essential Services Hardship Inter-agency Working Group <http://www.energy.wa.gov.au/cproot/1069/8949/Utility%20Hardship%20Issues%20Paper%20-Final.pdf>; and
- *Guide for a Financial Hardship Policy*, by the Australian Communications Industry Forum http://www.acif.org.au/___data/page/13230/Financial_Hardship_Guide.pdf