

Our Ref: EWOQ/18/0129
Your Ref: 64604

11 January 2019

Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

AERConsumerandPolicy@aer.gov.au

Dear Sir/Madam

Re: Hardship Guideline Issues Paper

Thank you for the opportunity to make a submission on the Australian Energy Regulator's (AER) Hardship Guideline Issues Paper (Issues Paper).

Background to EWOQ

The Energy and Water Ombudsman Queensland (EWOQ) provides a free, fair and independent dispute resolution service for small electricity and gas customers across Queensland and water customers in south east Queensland who are unable to resolve a dispute with their supplier.

Feedback on the Issues Paper

We welcome the development of the Hardship Guideline (the Guideline) in accordance with the new Retail Rule 75A and agree it will strengthen protections for consumers in hardship by creating binding, enforceable obligations on retailers. We strongly support the requirement for the Guideline to include:

- Standardised statements that retailers must include in their hardship policies; and
- Processes, timeframes and requirements in connection with the approval of a retailer's hardship policy by the AER.

We also note the introduction of approval processes and timeframes under section 2.3 of the Issues Paper and recommend that consideration be given to specifying a timeframe for new retailer implementation of approved hardship policies, as the reference to 'as soon as practical' is open to interpretation by retailers.

In our submission to the Issues Paper, we have only provided responses to questions based on our experiences as an external dispute resolution scheme dealing with residential and small business energy customer complaints in Queensland.

Question 1. What is the current consumer and consumer advocate experience of accessing information about retailer hardship policies and programs?

The following are some of the issues raised by consumers and consumer advocates with us during our various interactions with these parties regarding accessing information about retailer hardship policies and programs:

- Difficulty accessing information online as the location and naming of hardship policies and applicable programs can differ on retailer websites.
- Retailers relying on all consumers having internet access for this information. Some advocates and consumers have limited or no access to the internet.
- Inability to contact the dedicated hardship team to obtain further information. This may be due to limited hours of operation or non-referral to the team from other areas within the organisation.
- Varied levels of information about hardship policies and programs are provided, dependent on the individual level of experience and training of the retailer's representative.
- Visually and/or hearing impaired consumers may have difficulty accessing policies and programs, as the format of the information may not be audience appropriate or user friendly.
- Limited understanding of the issues encountered by Culturally and Linguistically Diverse (CALD) consumers and their capacity to adequately communicate their issues or request assistance e.g. difficulty accessing interpreters and/or support services in remote areas.

Question 2. Are there any serious practical impediments or barriers to implementing the changes described? If so, how could these be overcome?

We recognise there may be financial and non-financial implications to retailers in ensuring vulnerable consumers or those requiring assistance receive appropriate hardship support.

Some examples of these barriers include:

- Updating internal and external hardship information to incorporate the increased consumer protections.
- Updating or redesigning websites so consumers and consumer advocates can easily locate hardship policies and programs.
- Providing policies and programs that are audience appropriate and more accessible to consumers with limited or no access to the internet.
- Training hardship teams and customer service representatives to ensure an appropriate level of knowledge/expertise is provided to consumers including CALD and visually and/or hearing impaired consumers.
- Costs to establish, implement and manage the program.

To minimise financial and non-financial implementation barriers, some options that retailers may choose to engage in are:

- Specialised non-government organisations to provide training to their hardship teams in understanding and managing all aspects of hardship programs.
- Obtain input from consumer advocacy organisations on the composition and content of the publicly available information and website information to ensure that changes are appropriate and effective.

- Support industry and regulator education programs for consumers to increase awareness and understanding and to promote early engagement in hardship programs by their customers.
- Financial analysis on the costs of the program compared to the costs to the organisation of customers in hardship and long term implications for both parties particularly in relation to long term accumulated debt.

Question 3. In relation to the problems described in section 3.1, are there other steps that retailers could take to achieve the intentions of the hardship program?

Both retailers and consumers would benefit in retailers adopting a proactive approach when dealing with vulnerable customers. Options for consideration by retailers, may include:

- Attendance at community events such as ‘Bring your Bills’ days, where information can be communicated to consumers about retailer hardship programs and policies.
- Increase provision of hardship program and policy information via electronic media such as video/webinars and social media platforms, documents for the visually impaired, fact sheets and newsletters.
- Inclusion of consumer friendly hardship brochures with overdue and disconnection warning notices, bills and price increase notices.
- Collaborative partnerships with stakeholders dealing with vulnerable consumers (such as financial counsellors) and sharing up-to-date information about changes to retailer hardship programs and policies.
- Implementation of a holistic approach when dealing with customers in hardship such as the provision of a dedicated case manager that may assist and consider the overall hardship of the consumer.
- Opportunity to proactively identify issues consumers and their advocates experience in accessing hardship policies through surveying financial counsellors and/or consumer advocacy groups such as the Queensland Council of Social Service and Queensland Consumers Association. This could provide timely information on accessibility issues for implementation of remedial action.
- Increase training and awareness of CALD specific issues in order for staff to be more culturally aware.

Question 5. What is the current consumer and consumer advocate experience of application of retailer hardship policies and Retail Law minimum standards?

Our contact with customers and retailers suggests the following challenges are experienced in regard to the application of retailer hardship policies and Retail Law minimum standards:

- Consumers often comment they have been transferred to multiple departments when attempting to access hardship assistance and have been provided with conflicting information about their entitlements under the law and the retailer’s policy.
- Retailers have differing systems in place to assist in early identification and assistance for consumers experiencing hardship.
- Consumers transferring between retailers’ experience varying degrees of expectation and application of policies. This may result in consumers being reluctant to self-identify financial hardship issues.
- Consumers lack of awareness or not understanding their rights and responsibilities under retailer hardship policies, resulting in some consumers’ unintentional non-compliance with payment plans and hardship programs.
- Retailers’ hardship policies complying with the minimum standards, however, with limited or no flexibility to address individual consumer needs.

Question 8. What is the current consumer and consumer advocate experience of accessing retailer's hardship programs on behalf of customers?

We recognise there is an increasing number of consumers requiring hardship assistance; not all consumers receive assistance or defer assistance until high debts have accumulated or supply is disconnected.

Some of the feedback we have received in relation to accessing hardship programs is as follows:

- Inconsistencies in retailer identification of consumers experiencing hardship, with some consumers disconnected after one late bill payment, whilst others may be permitted to accrue many thousands of dollars of debt before disconnection.
- Consumers being excluded from hardship programs due to previous payment plan defaults resulting from payment plans being established without an assessment of the individual consumer's circumstances.
- Conditions to attend financial counselling prior to entry to the hardship program, when there are lengthy delays to access financial counselling services.
- Consumers being transferred to, and having to disclose their financial situation to multiple staff and in numerous cases not having a dedicated case manager.
- Financial and personal information required by the retailer in excess to what may be reasonably necessary to access hardship programs.
- Inconsistent information and advice provided to the consumer about their eligibility to access state based assistance schemes and other schemes external to the retailer.
- Adherence to timeframes to undertake initial and follow up contact with consumers may be inconsistent. This contact may include an assessment of the consumer's situation for inclusion in hardship programs or provision of information on access to assistance schemes, leading to continued accumulation of debt and missed payments.
- Inactive accounts with outstanding debts limiting or restricting the consumers access to retailer hardship programs, resulting in the debts being referred to external collection agencies.

Question 11. What is the consumer and consumer advocate experience of customers' completion of hardship programs?

Consumers and consumer advocates have identified with us that successful completion of hardship programs may be improved by:

- Providing information that clearly identifies the consumer's obligations prior to entry into the hardship program.
- The ability for consumers to negotiate a flexible payment plan based on their capacity to pay.

Whilst unsuccessful completion of hardship programs may be compounded by consumer non-compliance with obligations as well as retailers' inflexibility in the application of their policies. For example:

- A payment plan may require regular weekly or fortnightly payments on a specified day. However, the consumer may be unaware that failure to pay the required amount on that day will be deemed as non-compliance with the hardship program.

- Consumers agree to participate in payment plans when they do not have the financial capacity to pay the specified amount.

Thank you for the opportunity to contribute to this consultation paper. If you require any further information regarding this matter, please contact Ms Ilona Cenefels, General Manager Policy and Research on (07) 3087 9455.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane Pires', followed by a horizontal line.

Jane Pires
Energy and Water Ombudsman