



Notice of Draft Instrument:

DRAFT AER Customer Hardship Policy Guideline Version 1

February 2019

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Contents

1	About this document	4
1.1	Introduction	4
1.2	Role of the Hardship Guideline	4
1.3	Definitions and interpretation	5
1.4	AER enforcement of the National Energy Retail Rules and National Energy Retail Law	5
1.5	Version history and effective date	5
2	Purpose of this Notice	7
	Issues papers	7
2.1	How to make submissions	8
2.2	Publishing of submissions	9
3	Retailer hardship policy responsibilities: identification, training and information	10
3.1	Issues paper consultation	11
3.1.1	Steps a retailer uses	12
3.1.2	Training	13
3.1.3	Information about a retailer's hardship program	14
3.1.4	Accessibility of information	16
3.1.5	Payment plans and options	18
3.2	AER positions	20
3.2.1	Retailer obligations	20
3.2.2	Steps a retailer uses	21
3.2.3	Training	21
3.2.4	Information about a retailer's hardship program	22
3.2.5	Accessibility of information	23
3.2.6	Payment plans and options	24
4	Communication of customer rights	26
4.1	Issues paper consultation	26

4.1.1	Accessibility of information.....	26
4.2	AER positions	28
4.2.1	Accessibility of information.....	28
4.2.2	Provision of information	28
5	Processes and timeframes.....	30
5.1	Issues paper consultation.....	30
5.2	AER positions	30
6	Standardised statements.....	32
6.1	Issues paper consultation.....	32
6.1.1	Meeting the minimum requirements.....	33
6.1.2	Clarifying hardship rights and entitlements.....	34
6.1.3	User-friendly language.....	35
6.1.4	Drafting changes.....	36
6.2	AER positions	36
6.2.1	Meeting the minimum requirements.....	36
6.2.2	Clarifying hardship rights and entitlements.....	36
6.2.3	User-friendly language.....	37
6.2.4	Drafting changes.....	38
	Appendix A: Summary of additional submissions and AER responses on the standardised statements.....	39
	Appendix B: Summary of additional submissions and AER responses on the Hardship Guideline	42
	Appendix C: Standardised statements – outline of changes to drafting following consultation	46

1 About this document

1.1 Introduction

This Notice of Draft Instrument (**Notice**)¹ accompanies the Australian Energy Regulator's (AER) draft Customer Hardship Policy Guideline (**Hardship Guideline**).²

The purpose of a retailer's customer hardship policy (**hardship policy**) is to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis.³ In November 2018, in response to an AER rule change proposal to strengthen hardship protections,⁴ the National Energy Retail Rules (**Retail Rules**) were amended to require a retailer's hardship policy to contain specific information and comply with an AER Hardship Guideline.⁵ These new rules aim to strengthen protections for customers by helping them to better understand their rights, the assistance they are entitled to, and their retailer's obligations, when customers are experiencing payment difficulties due to hardship.⁶

Ensuring the hardship protections in the National Energy Retail Law (**Retail Law**) and Retail Rules work in customers' best interests, and that retailers comply with the hardship obligations including those in the Hardship Guideline, is a key focus for the AER.⁷ We consider the new Retail Rules and this Hardship Guideline will improve the consistency of assistance given to customers across retailers, provide clarity about customer rights and entitlements, and will enhance our ability to assess retailer compliance with the hardship obligations under the Retail Law.

1.2 Role of the Hardship Guideline

Retail Rule 75A(1) requires us to develop, maintain and publish a Hardship Guideline by 1 April 2019. The purpose of the Hardship Guideline is to create binding, enforceable obligations on retailers to strengthen protections for customers experiencing hardship.

Under the Retail Law, a retailer must have in place an AER-approved hardship policy.⁸ New Retail Rule 75B(1) requires retailers to submit to the AER hardship policies that are

¹ Rule 173(2)(b) of the Retail Rules

² The draft Guideline can be accessed at the AER website: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/customer-hardship-policy-guideline>

³ Section 43(1) of the Retail Law

⁴ AER, *Strengthening protections in the National Energy Retail Rules for customers in financial hardship*, rule change proposal, 21 March 2018, <https://www.aemc.gov.au/sites/default/files/2018-05/RRC0017%20Rule%20change%20proposal.pdf>

⁵ Australian Energy Market Commission, *Rule determination, Strengthening protections for customers in hardship*, 15 November 2018.

⁶ The Retail Law does not contain a definition of 'hardship'. However, a 'hardship customer' is defined in the Retail Law as a 'residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer's customer hardship policy.'

⁷ AER, *Strategic Statement*, August 2017, <https://www.aer.gov.au/system/files/AER%20Strategic%20Statement%20August%202017.PDF>

AER, *Statement of Intent 2017-18*, <https://www.aer.gov.au/publications/corporate-documents/aer-statement-of-intent2017%E2%80%9318>

⁸ Section 43(2) of the Retail Law

compliant with the Hardship Guideline.⁹ To assist retailers to meet their obligations under Retail Rule 75B(1), the Hardship Guideline specifies:

- the processes, timeframes and requirements retailers must comply with in connection with the approval or variation of their hardship policies by the AER.¹⁰ This includes requirements for the content of a hardship policy and for how retailers must communicate their hardship policies. These requirements will assist in addressing important shortfalls identified in the AER's hardship compliance monitoring undertaken in 2017.
- the standardised statements that retailers must include in their hardship policies.¹¹ The standardised statements inform customers of how their retailer will comply with the minimum requirements in section 44 of the Retail Law, and provide guidance to customers on their rights under the hardship protections, and a retailer's hardship obligations under the Retail Law.

1.3 Definitions and interpretation

In this Notice, key words and phrases have the meaning given to them in the glossary of the Hardship Guideline or, if not defined in the glossary, the Retail Law and Retail Rules.

Retailers operating multiple brands should ensure their customer hardship policy is consistent across their brands.

1.4 AER enforcement of the National Energy Retail Rules and National Energy Retail Law

The AER is responsible for monitoring, investigating and enforcing compliance with the obligations under the Retail Law, Retail Rules and National Energy Retail Regulations. For more information please refer to AER guidance on its compliance and enforcement approach including the AER's *Compliance and Enforcement Statement of Approach*.¹²

The AER aims to exercise its functions and powers in a fair, consistent and transparent manner. The AER and the Australian Competition and Consumer Commission (ACCC) work together by applying a coordinated approach to ensure misconduct in the energy market is addressed.

1.5 Version history and effective date

We are now consulting on a draft version 1 of the Hardship Guideline.

We will use feedback from this consultation to develop the final Hardship Guideline, which we will publish by 1 April 2019.

⁹ Rule 75B(1) of the Retail Rules

¹⁰ Rule 75A(2)(a) of the Retail Rules

¹¹ Rule 75A(2)(b) of the Retail Rules

¹² Available on the AER website at: <https://www.aer.gov.au/publications/corporate-documents/aer-compliance-and-enforcement-statement-of-approach>

Retailers must comply with the Hardship Guideline from 2 April 2019.¹³ For retailers with existing approved hardship policies, Schedule 3 Part 11 of the Retail Rules provides transitional arrangements for the submission, approval and implementation of updated hardship policies. In practice, this means that all current retailers will have their updated, Hardship Guideline-compliant hardship policies implemented by no later than 2 October 2019.

From 2 April 2019, newly authorised retailers must submit Hardship Guideline-compliant hardship policies to the AER for approval within three months of being granted a retailer authorisation.¹⁴

¹³ Schedule 3, Part 11 of the Retail Rules

¹⁴ Section 43(2)(a) of the Retail Law

2 Purpose of this Notice

We are required to explain our approach to developing the draft Hardship Guideline in a Notice.

This Notice provides information about the context in which the draft Hardship Guideline has been prepared, the issues we have considered and stakeholder views on these issues, and the rationale for and effects of the proposed requirements.¹⁵ The draft Hardship Guideline and Notice have been prepared in accordance with the retail consultation procedure in rule 173 of the Retail Rules.

In the following sections of the Notice, we explain the development and rationale for the requirements of the draft Hardship Guideline:

- in **section 3**, retailer hardship policy responsibilities relating to identification, training and information,
- in **section 4**, communication requirements to be complied with by retailers in connection with the approval of their hardship policies,
- in **section 5**, processes and timeframes to be complied with by retailers in connection with the approval of their hardship policies, and
- in **section 6**, the standardised statements to be included in a retailer's hardship policy.

Issues papers

To assist in developing the Hardship Guideline, we sought stakeholder views on two issues papers.

(i) Standardised statements for use in customer hardship policies issues paper

Our November 2018 issues paper sought feedback on draft standardised statements to be included in retailers hardship policies.¹⁶ The standardised statements give effect to the minimum requirements in the Retail Law for the purpose of guiding customers on their rights and obligations. We sought views on whether the draft standardised statements:

- clearly describe the minimum requirements in the Retail Law of a retailer's hardship policy,
- contain user-friendly language that would be easily understood by a range of customers, and
- sufficiently address gaps to customers accessing assistance by clarifying customers' rights and entitlements under the hardship protections.

¹⁵ Rule 173(2)(b)(ii) of the Retail Rules

¹⁶ AER, *Standardised statements for use in customer hardship policies issues paper*, November 2018, <https://www.aer.gov.au/system/files/Issues%20paper%20-%20Standardised%20Statements%20for%20use%20in%20customer%20hardship%20policies.pdf>

We received 17 submissions, which provided valuable feedback and raised a number of issues.¹⁷ Key themes and our responses are summarised in **section 6**. Issues in addition to those raised in section 6 are summarised and responded to in **Appendix A**.

(ii) Hardship Guideline issues paper

After the new rules were made, we published a second issues paper in December 2018, which sought views on key issues to assist us to further develop other important aspects of the Hardship Guideline.¹⁸ Specifically, we requested feedback on how the Hardship Guideline should:

- best ensure that consumers are effectively informed about their rights,
- support consistent application of the Retail Law minimum standards,
- support consumers most in need of hardship assistance to receive it, and
- facilitate more customers completing hardship programs successfully.

We received 19 submissions to this consultation. Key themes and our responses are summarised in **sections 3-5**. Issues in addition to those discussed in sections 3-5 are summarised and responded to in **Appendix B**.

2.1 How to make submissions

We invite stakeholders' feedback on the draft Hardship Guideline published on 4 February 2019. Interested parties are invited to make written submissions by **Monday 4 March 2019**.

As we are required to publish the Hardship Guideline by 1 April 2019, we will not be able to accept late submissions.

Submissions should be sent electronically to AERConsumerandPolicy@aer.gov.au with the subject line '*Draft Hardship Guideline submission*'. We ask that all submissions sent in an electronic format are in Microsoft Word, PDF or other text readable document form.

Alternatively, submissions can be sent to:

General Manager—Consumer and Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

If interested parties prefer to meet with us rather than make a written submission, please contact the AER Consumer Policy team at AERConsumerandPolicy@aer.gov.au by **5pm AEST Tuesday 13 February 2019** to make arrangements.

¹⁷ Stakeholder submissions can be accessed on the AER website: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/customer-policy-hardship-guideline-0/initiation> and <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/customer-policy-hardship-guideline-0/consultation>

¹⁸ AER, *Hardship Guideline issues paper*, December 2018, https://www.aer.gov.au/system/files/AER%20issues%20paper%20-%20Hardship%20Guideline%20-%2010%20December%202018_1.pdf

We encourage interested parties to stay informed about this consultation process by subscribing to notifications via the AER website, at <https://www.aer.gov.au/newsletter/subscribe>.

2.2 Publishing of submissions

To ensure an informed and transparent consultative process we prefer that submissions be publicly available. Unless marked confidential, we will publish all responses on our website, www.aer.gov.au. If you wish to submit confidential information you should:

- **clearly identify** the information that is the subject of the confidentiality claim, and
- **provide a non-confidential version** of the submission in a form suitable for publication.

For further information about our use and disclosure of information provided to us, see the ACCC/AER Information Policy (June 2014), which is available on our website.¹⁹

If you have any questions about this Notice and the draft Hardship Guideline, or about lodging a submission, please send an email to AERConsumerandPolicy@er.gov.au with the subject line '*Draft Hardship Guideline*'.

¹⁹ ACCC and AER information policy: collection and disclosure of information, June 2014, <https://www.aer.gov.au/publications/corporate-documents/accc-and-aer-information-policy-collection-and-disclosure-of-information>

3 Retailer hardship policy responsibilities: identification, training and information

The AER's hardship compliance monitoring undertaken in 2017 highlighted that general and principles-based retailer hardship policies are contributing to poor customer outcomes. Of particular concern is that customers in most need of assistance through retailer hardship programs are not able to access assistance, or are not able to access assistance in a timely manner. Many policies do not appear to sufficiently align with the Retail Law minimum requirements, or provide adequate guidance to customers on their hardship rights and entitlements.

Section 2 of the draft Hardship Guideline specifies content requirements for retailer hardship policies. These requirements are complementary to the measures to improve the communication of hardship policies in section 3 of the draft Hardship Guideline, and the standardised statements in section 5. In combination, these requirements will address the shortfalls in hardship policies we identified via our hardship compliance monitoring. The need for urgent action to improve hardship policies is highlighted by the concerning trends in hardship program indicators in our *Annual Report on Compliance and Performance of the Retail Energy Market 2017-18*.²⁰

The requirements in this section of the draft Hardship Guideline operate within rule 75A(2)(a) of the Retail Rules, which states that the Hardship Guideline must contain "...requirements to be complied with by retailers in connection with the approval (or variation) of their customer hardship policies by the AER."

Purpose of hardship policies

The requirements in section 2 of the draft Hardship Guideline support the purpose of retailers' hardship policies to identify residential customers experiencing payment difficulties due to hardship, and assist these customers to better manage their energy bills on an ongoing basis.²¹

The AER's role in considering and approving retailers' hardship policies has provided direct practical experience of hardship policies submitted by retailers that do not meet this purpose. We have been informed by our experience in setting these requirements to strengthen protections for customers experiencing hardship.

The current hardship customer experience

We are concerned that retailer conduct and performance with regard to the operation of their customer hardship policies is not improving over time, and the experience for many customers is worsening. For example, our 2017-18 performance figures²² show that retailer hardship program indicators have not improved, and in many cases have worsened, compared to the previous year.

²⁰ AER, *Annual report on compliance and performance of the retail energy market 2017–18*, December 2018.

²¹ Section 43(1) of the National Energy Retail Law

²² AER, *Annual report on compliance and performance of the retail energy market 2017–18*, December 2018

In 2017-18, we found that:

- average levels of debt for electricity customers entering hardship programs increased from \$1,092 in 2016-17 to \$1,146 in 2017-18,²³
- the proportion of customers entering hardship programs with a significant electricity debt of over \$2,500 increased from 8 per cent in 2016-17 to 10 per cent in 2017-18,²⁴
- fewer people are successfully exiting hardship programs—27 per cent of electricity customers successfully exited hardship programs in 2016-17, compared to 22 per cent in 2017-18,²⁵
- more people are being excluded from participating in retailers' hardship programs—of the electricity customers who exited hardship programs, 57 per cent were excluded in 2016-17 compared to 64 per cent in 2017-18. Of the gas customers who exited hardship programs, 66 per cent were excluded in 2016-17 compared to 72 per cent in 2017-18.
- the percentage of customers on a payment plan in the previous 12 months who had been disconnected rose by 6.5 per cent for electricity and 6.8 for gas from 2016-17 to 2017-18.²⁶

We are greatly concerned by these findings. Strong action is required to strengthen the protections for customers experiencing hardship, from early identification of customers in need of assistance, throughout the duration of the customer being supported on hardship programs.

3.1 Issues paper consultation

Our December 2018 issues paper sought stakeholder views on a number of proposed measures to strengthen customer protections, including by improving customer knowledge about their hardship rights, ensuring consistent application of the minimum requirements of a hardship policy, supporting consumers most in need of hardship assistance to receive it and facilitating more customers to complete hardship programs successfully.

In general, feedback varied between respondents who were supportive of the measures; those who considered retailer conduct is currently effective and does not need to change; through to those who sought to understand in further detail on the rationale for some of the steps, how they would be enforced by the AER or how they would apply in practice.

In addition, Red and Lumo Energy²⁷ and the NSW Council of Social Service (**NCOSS**)²⁸ suggested that the Hardship Guideline requirements should focus on consumer outcomes and objectives rather than prescribing processes to achieve these outcomes. Origin²⁹, ActewAGL³⁰, EnergyAustralia³¹, AGL³², Simply Energy³³, Red and Lumo Energy³⁴ and the

²³ AER, *Annual report on compliance and performance of the retail energy market 2017–18*, page 63.

²⁴ AER, *Annual report on compliance and performance of the retail energy market 2017–18*, page 62.

²⁵ AER, *Annual report on compliance and performance of the retail energy market 2017–18*, page 63.

²⁶ AER, *Annual report on compliance and performance of the retail energy market 2017–18*, page 68.

²⁷ Red and Lumo Energy Hardship Guideline issues paper submission, page 2.

²⁸ NCOSS Hardship Guideline issues paper submission, page 2.

²⁹ Origin, Hardship Guideline issues paper submission, pages 1-2.

³⁰ ActewAGL Hardship Guideline issues paper submission, page 2.

³¹ EnergyAustralia Hardship Guideline issues paper submission, pages 1-4.

Australian Energy Council (**AEC**)³⁵ submitted their concerns that the proposed measures go beyond the scope of the purpose of the Hardship Guideline and the Retail Rules. They emphasised the need to retain flexibility in how retailers implement their hardship policies, particularly where those retailer respondents consider their current practices are effective and meet their responsibilities.

We received a number of comments supporting the alignment of the Hardship Guideline with the Victorian Essential Services Commission's new Payment Difficulties Framework (**ESC Framework**), which commenced on 1 January 2019.³⁶ For example, Powershop³⁷ submitted that it supports alignment with the ESC Framework as it has already implemented systems and process changes to give effect to the ESC Framework and believes that it provides adequate coverage regarding hardship.

Section 2.2 of the draft Hardship Guideline notes that retailers are encouraged to apply, in their customer hardship policies, measures that will identify customers experiencing payment difficulties due to hardship and assist those customers to better manage their energy bills on an ongoing basis. These measures must be consistent with the Guideline, the Retail Law and the Retail Rules and retailers are free to implement measures and assistance beyond these minimum requirements.

One such measure in the ESC Framework of particular interest is the use of a 'debt trigger' for identifying whether a customer may require assistance. This requires a retailer to provide to a customer who has missed payment of a bill and owes in excess of \$55, timely, clear and unambiguous advice on the assistance the customer is entitled to.

In the 12 months following the publication of the Guideline, the AER will seek to understand the impact that customer hardship measures outside the Retail Law (such as this debt trigger) are having on customers experiencing hardship. If we consider these measures are benefiting customers, we may consult on amending the Guideline to incorporate some of these measures. We consider this approach works well within the current framework, noting adoption of the ESC Framework through the Guideline is not currently possible under the current Retail Law and Rules arrangements. We summarise the specific feedback on the measures proposed in the issues paper in **sections 3.1.1 to 3.1.5**.

3.1.1 Steps a retailer uses

Our issues paper suggested a number of measures to support the consistent application of the Retail Law minimum standards. The purpose of these measures is to ensure retailers include a description of the types of systems in place to assist in the early identification and assistance of hardship customers. These measures aim to address the current problem that customers do not have transparency and certainty about how a hardship program works and

³² AGL Hardship Guideline issues paper submission, pages 1-4.

³³ Simply Energy Hardship Guideline issues paper submission, pages 1-2.

³⁴ Red and Lumo Energy Hardship Guideline issues paper submission, pages 1-2.

³⁵ AEC Hardship Guideline issues paper submission, pages 1-2.

³⁶ Ethnic Communities' Council of NSW Hardship Guideline issues paper submission, page 4, Powershop Hardship Guideline issues paper submission, pages 1-3.

³⁷ Powershop Hardship Guideline issues paper submission, page 1 and page 3.

how they will experience it, noting transparency is likely to increase customers' understanding of, and successful participation in, hardship programs.

We received a number of comments from retailers seeking further information about the purpose of providing this information within their hardship policies. Origin³⁸ and Red and Lumo Energy³⁹ acknowledged that the AER may need to understand the types of systems retailers have in place to determine whether retailers are able to implement their hardship policies, but questioned the suitability of providing this information within a customer-facing document such as a hardship policy. Red and Lumo Energy⁴⁰ considered these requirements unnecessary and that they undermine the effectiveness of a hardship policy to provide information about assistance to customers. Similarly, Powershop⁴¹ and AGL⁴² questioned why information about systems should be included within a customer-facing document.⁴³

South Australian Council of Social Service (**SACOSS**)⁴⁴ supported the proposed measures for inclusion within the Hardship Guideline.

The issues paper proposed that retailers should include in their hardship policies that they will have internal complaints handling and dispute resolution processes specifically for hardship customers.

Energy and Water Ombudsman SA (**EWOSA**)⁴⁵ supported the proposed measures. Powershop⁴⁶ suggested that bespoke complaints and dispute resolution processes for hardship customers unnecessary, given established processes to receive hardship complaints are already in place through current complaints and disputes procedures.

Ethnic Communities' Council of NSW⁴⁷ submitted that dispute resolution must be available in other languages and in culturally appropriate ways.

3.1.2 Training

Our issues paper proposed that the Hardship Guideline should contain requirements for a retailer's hardship policy to identify that its personnel who contact customers experiencing hardship have undergone training to assist hardship customers, and that the retailer regularly reviews its training. These measures aim to address the problem of customers not being identified early as experiencing payment difficulties due to hardship, or being given varying and inconsistent degrees of assistance by retailer front-line staff.

EnergyAid⁴⁸ and the Energy and Water Ombudsman Queensland (**EWOQ**)⁴⁹ provided descriptions of their experiences with retailer front-line staff, which in particular supported the

³⁸ Origin Hardship Guideline issues paper submission, page 2.

³⁹ Red and Lumo Energy Hardship Guideline issues paper submission, page 3.

⁴⁰ Red and Lumo Energy Hardship Guideline issues paper submission, page 3.

⁴¹ Powershop Hardship Guideline issues paper submission, page 3.

⁴² AGL Hardship Guideline issues paper submission, page 4.

⁴³ AGL Hardship Guideline issues paper submission, page 4.

⁴⁴ SACOSS Hardship Guideline issues paper submission, page 7.

⁴⁵ EWOSA Hardship Guideline issues paper submission, page 3.

⁴⁶ Powershop Hardship Guideline issues paper submission, page 3.

⁴⁷ Ethnic Communities' Council of NSW Hardship Guideline issues paper submission, page 2.

need for requirements on staff training. EnergyAid⁵⁰ submitted that when contacting retailers for information about hardship, the level of assistance and information has varied. EWOQ⁵¹ has experienced customers being transferred to multiple departments when attempting to access hardship information, and being provided conflicting information about entitlements.

EWOSA⁵² was supportive of the proposed requirements. EnergyAustralia⁵³ agreed with the need for training of specialist staff, however, it submitted that the proposed requirements are beyond the minimum requirements in the Retail Law.

We received a number of submissions supporting the urgent need for improvements and attention in this area:

- SACOSS⁵⁴ suggested that ‘hardship personnel’ referenced in the issues paper should deal with all customers experiencing payment difficulties, not just hardship customers, as this will facilitate the identification of hardship customers and early intervention and support.
- Ethnic Communities’ Council of NSW⁵⁵ submitted that the sensitivity and judgement of call centre staff and initial agency contact points are critical to the success of any Hardship Guideline requirements. This is particularly so for retailers’ ability to engage culturally and linguistically diverse (**CALD**) consumers.
- NCOSS⁵⁶ submitted that a significant practical impediment to retailers implementing effective hardship programs is that retailers need to develop skills to become effective communicators. NCOSS suggest monitoring of staff after training to ensure that the training is consistently applied. NCOSS suggested the Hardship Guideline should identify outcomes, or clearly stated deliverables, for retailer-customer communications, such as that customers are heard, respected and informed.

3.1.3 Information about a retailer’s hardship program

3.1.3.1 Eligibility processes

The issues paper proposed that retailers include in their hardship policies a short description of their process for assessing the eligibility of customers for their hardship programs. Some respondents supported this measure to improve transparency of access to hardship programs, while others considered that listing eligibility criteria could limit how customers are determined to be ‘hardship program customers’.

In responding to the standardised statements issues paper, the Energy and Water Ombudsman NSW (**EWON**)⁵⁷ supported a requirement that, to ensure all customers have

⁴⁸ EnergyAid Hardship Guideline issues paper submission, pages 1-2.

⁴⁹ EWOQ Hardship Guideline issues paper submission, page 2.

⁵⁰ EnergyAid Hardship Guideline issues paper submission, pages 1-2.

⁵¹ EWOQ Hardship Guideline issues paper submission, page 3.

⁵² EWOSA Hardship Guideline issues paper submission, page 3.

⁵³ EnergyAustralia Hardship Guideline issues paper submission, page 3 and page 6.

⁵⁴ SACOSS Hardship Guideline issues paper submission, page 5.

⁵⁵ Ethnic Communities’ Council of NSW Hardship Guideline issues paper submission, page 3.

⁵⁶ NCOSS Hardship Guideline issues paper submission, page 10.

⁵⁷ EWON standardised statements issues paper submission, page 3.

equal access to retailer hardship programs, it is crucial that customers have access to clear information about how eligibility for hardship programs is assessed by the retailer, and access to clear reasons that might result in being removed from the program. EWON⁵⁸ further suggested that if access to a hardship program is denied, the Hardship Guideline should require retailers to provide a letter outlining the reasons, with contact details of an external dispute resolution service.

EnergyAid⁵⁹ submitted that in its experience as a consumer advocate, it was difficult to find clear, specific information about eligibility of entry to hardship programs. Similarly, EWOQ⁶⁰ submitted that its customer/customer advocate interactions have demonstrated inconsistencies between retailers in identifying consumers experiencing hardship, and consumers having to provide financial and personal information in excess of what is reasonably required to access hardship programs.

SACOSS⁶¹ considered it unhelpful to list factors which may lead to a customer identified by the retailer as a 'hardship program customer' as the factors are many and varied and to define them is to limit them. Instead, SACOSS submitted that this provision should require the retailer to contact the customer as soon as the retailer becomes aware the customer is experiencing payment difficulties to have a conversation with that customer about their individual circumstances.

3.1.3.2 Conditions on entry or re-entry to a hardship program

The issues paper proposed measures aimed at addressing unreasonable conditions on entry or re-entry to a retailer's hardship program being included in hardship policies to address the problem of submitted hardship policies containing conditions on customers that could prevent a customer from receiving the assistance they are entitled to. We proposed that retailers should not include in their policies:

- blanket exclusions from entry or re-entry to a hardship program, and
- conditions to entry or re-entry that are reliant on customer meeting a certain obligation.

Feedback on these proposed measures varied. SACOSS⁶², EWON⁶³, EWOSA⁶⁴ and St Vincent de Paul Society NSW⁶⁵ agreed with the measures. St Vincent de Paul Society NSW⁶⁶ submitted that retailers should not be allowed to deny customers entry into hardship programs, irrespective of whether the customer has had a history of irregular payments. EWON⁶⁷ caveated that, where a customer has a history of unsuccessful completion of multiple hardship programs, a condition requiring the customer to pay some instalments on debt before re-entering a hardship program could aid engagement.

⁵⁸ EWON Hardship Guideline issues paper submission, page 7.

⁵⁹ EnergyAid Hardship Guideline issues paper submission, page 1.

⁶⁰ EWOQ Hardship Guideline issues paper submission, page 4.

⁶¹ SACOSS Hardship Guideline issues paper submission, page 6.

⁶² SACOSS Hardship Guideline issues paper submission, pages 6-7.

⁶³ EWON Hardship Guideline issues paper submission, page 7.

⁶⁴ EWOSA Hardship Guideline issues paper submission, page 3.

⁶⁵ St Vincent de Paul Society NSW Hardship Guideline issues paper submission, page 2.

⁶⁶ St Vincent de Paul Society NSW Hardship Guideline issues paper submission, page 2.

⁶⁷ EWON Hardship Guideline issues paper submission, page 7.

Ergon Energy Queensland⁶⁸ appreciated that the intent of this requirement is to avoid discrimination for customers' past account performance, however, they considered that not being able to assess a customer's willingness to pay could expose retailers to further credit risk, especially where customers do not engage with their retailer.

EnergyAustralia⁶⁹ did not support placing limitations on conditions to entry or re-entry to a hardship program. EnergyAustralia also considered that conditions on entry or re-entry to a hardship program that are reliant on a customer meeting a certain obligation should be available to improve the likelihood of customer participation, improve understanding of circumstances, and achieve a high chance of customers' successfully completing the hardship program.

ActewAGL⁷⁰ considered that retailers should continue being able to make its own decisions and determinations regarding conditional entry to a hardship program.

AGL⁷¹ supported unconditional entry to hardship programs for new hardship customers. For customers who have not engaged with a hardship program, AGL submitted that re-entry should be based on the customer demonstrating a willingness to participate, and did not agree that the Hardship Guideline should contain measures to limit retailers' ability to place conditions on re-entry to hardship programs. AGL considered the AER's suggestion that policies clearly explain that retailers will not deny access to hardship programs in certain circumstances is reasonable as it will ensure customers better understand the nature of their entitlements.

Origin⁷² submitted that imposing conditions on re-entry is not intended to act as a barrier to entry but rather as a catalyst to ensure the customer is referred to the best possible support to assist in their financial situation. Origin does not support restrictions on conditions to re-entry to a hardship program.

3.1.4 Accessibility of information

The issues paper proposed that retailers should include in their hardship policies various improvements to accessibility of customer information including;

- contact details to so customers can more easily reach appropriately trained hardship personnel,
- effective, best practice methods for communicating with CALD communities, including the use of translation services, and
- that where the customer has elected for a representative to act on their behalf, the retailer communicates with the representative as they would the customer.

These measures are aimed at improving consumers being effectively informed about their hardship rights and entitlements.

⁶⁸ Ergon Energy Queensland Hardship Guideline issues paper submission, page 3.

⁶⁹ EnergyAustralia Hardship Guideline issues paper submission, page 1-2.

⁷⁰ ActewAGL Hardship Guideline issues paper submission, page 3.

⁷¹ AGL Hardship Guideline issues paper submission, page 4.

⁷² Origin Hardship Guideline issues paper submission, page 2.

Supporting these measures, NCOSS⁷³ submitted that finding support is difficult for people experiencing stress or crisis—these people have the least time and capacity to search for help, and not knowing where to go is a significant barrier to getting assistance. NCOSS considered the proposed approach a helpful first start.

EWOQ⁷⁴ noted that its experience with customers and customer advocates regularly shows it is difficult for customers to contact a retailer’s dedicated hardship team to obtain information due to limited hours of operation, or non-referral from other areas.

3.1.4.1 *Communicating effectively with CALD consumers*

We received many views from stakeholders on how the Hardship Guideline can strengthen protections for CALD customers experiencing hardship.

The Ethnic Communities’ Council of NSW recognised that it is difficult to communicate with CALD consumers as “traditional approaches often do not work with some communities and language groups.”⁷⁵ It considered that sensitivity and judgement skills among call centre staff are critical.⁷⁶ Ethnic Communities’ Council of NSW⁷⁷ also submitted that providing access to translation services in other languages is often not enough, as literacy in first language can also be an issue. Tailored, specific assistance that meets the needs of CALD consumers is needed, however, is often costly to implement.

PIAC⁷⁸ agreed that the Guideline must also account for specific access needs of CALD communities.

NCOSS⁷⁹ submitted that their research found 20.2 per cent of respondents were not aware that retail hardship programs existed, with awareness even lower among households that spoke a language other than English.

Several stakeholders made comments on translation services. EWON⁸⁰ considered that the Hardship Guideline should require retailers to use translation services. EnergyAid⁸¹ noted their experience advocating for a customer where the retailer did not accept the assistance of interpreters to engage with CALD customers on the basis that it was company policy to organise an interpreter. This led to a lost opportunity to help the customer. EWOQ⁸² also raised experiences of retailers demonstrating limited understanding of issues faced by CALD consumers such as a reduced capacity to adequately communicate or request assistance through an interpreter.

Both EWON⁸³ and EWOQ⁸⁴ raised the need to engage consumers in remote areas.

⁷³ NCOSS Hardship Guideline issues paper submission, page 10.

⁷⁴ EWOQ Hardship Guideline issues paper submission, page 2.

⁷⁵ Ethnic Communities’ Council of NSW Hardship Guideline issues paper submission, page 3.

⁷⁶ Ethnic Communities’ Council of NSW Hardship Guideline issues paper submission, page 3.

⁷⁷ Ethnic Communities’ Council of NSW Hardship Guideline issues paper submission, page 3.

⁷⁸ PIAC Hardship Guideline issues paper submission, page 1.

⁷⁹ NCOSS Hardship Guideline issues paper submission, page 5.

⁸⁰ EWON Hardship Guideline issues paper submission, page 4.

⁸¹ EnergyAid Hardship Guideline issues paper submission, page 5.

⁸² EWOQ Hardship Guideline issues paper submission, page 2.

⁸³ EWON Hardship Guideline issues paper submission, page 4.

⁸⁴ EWOQ Hardship Guideline issues paper submission, page 2.

Regarding specific comments on the proposed requirements, Powershop⁸⁵ and AGL⁸⁶ sought further clarification on what are 'best practice methods' for communicating with CALD communities. AGL⁸⁷ considered that this should not be a mandatory requirement but rather guidance.

3.1.4.2 Customer representatives

The issues paper proposed a measure to ensure that where customers have elected to be represented by a third party or advocate, retailers will communicate with the third party as they would the customer.

AGL⁸⁸ sought clarification, submitting that a retailer is only able to deal with the customer representative in a way that the customer has authorised them to.

Red and Lumo Energy⁸⁹ submitted that it is very mindful of privacy obligations and of the specific requirements of vulnerable customers such as those experiencing family violence. Red and Lumo Energy submit that the AER should therefore be aware that any requirement for retailers to 'communicate with the customer's representative as they would the customer' is subject to some limitations.

3.1.5 Payment plans and options

The issues paper discussed proposals for the Hardship Guideline to facilitate more customers completing hardship programs successfully. We suggested that the Hardship Guideline could include:

- a requirement that retailers specify in their hardship policies the steps they actively take to support customers to complete hardship programs,
- a recommendation that retailers include in their hardship policies the adoption of the AER's Sustainable Payments Plan (**SPPF**) as a framework for assessing customers' capacity to pay, and
- a recommendation that retailers include in their hardship policies a note that in offering flexible payment options to customers, the retailer will consider whether debt waivers or payment matching are appropriate.

In general, EnergyAustralia⁹⁰ and ActewAGL⁹¹ were uncertain that the Hardship Guideline itself will be able to effect an improvement in customers successfully completing hardship programs. EnergyAustralia⁹² submitted that the reality is that many customers are not in a position where they are able to participate (based on their financial situation or occasionally by choice). ActewAGL⁹³ submitted that successful completion of a hardship program is only one factor in determining the effectiveness of hardship arrangements. If successful

⁸⁵ Powershop Hardship Guideline issues paper submission, page 2.

⁸⁶ AGL Hardship Guideline issues paper submission, page 4.

⁸⁷ AGL Hardship Guideline issues paper submission, page 4.

⁸⁸ AGL Hardship Guideline issues paper submission, page 3.

⁸⁹ Red and Lumo Energy Hardship Guideline issues paper submission, page 3.

⁹⁰ EnergyAustralia Hardship Guideline issues paper submission, page 8.

⁹¹ ActewAGL Hardship Guideline issues paper submission, page 3.

⁹² EnergyAustralia Hardship Guideline issues paper submission, page 8.

⁹³ ActewAGL Hardship Guideline issues paper submission, page 3.

completion was the only metric, there would be no incentive for retailers to allow flexibility in managing accounts where capacity is limited.

EWOQ⁹⁴ submitted that successful completion may be improved by retailers providing information that clearly identifies the consumers' obligations prior to entry into the hardship program and giving consumers the ability to negotiate a flexible payment plan based on their capacity to pay. Ergon Energy Queensland⁹⁵ considered that an obligation on customers to actively participate in a hardship program may encourage successful hardship program completion.

3.1.5.1 Sustainable Payments Plan Framework

SACOSS⁹⁶, EWOSA⁹⁷ and EWON⁹⁸ support the reference to the SPPF as a good practice framework for generating a conversation about capacity to pay. EWOSA⁹⁹ considered the Hardship Guideline could contain a mandatory requirement to adopt the SPPF.

EWOSA¹⁰⁰ submitted that the Hardship Guideline should require retailers to alert hardship customers, as part of their hardship policies, to the fact that any previous debts owing will become subject to debt-collection by an agency with the prospect of the customer being default listed. This could increase engagement and act as an incentive for completing hardship programs. It also submitted that the Hardship Guideline should include a commitment that the retailer will not encourage customer to switch retailers if they are having difficulty paying off their debts or are difficult to deal with.

Origin¹⁰¹ agreed that retailers need to proactively take steps to support customers to complete hardship programs and is supportive of the SPPF.

AGL¹⁰² considered that adoption of the SPPF should be guidance only and not a mandatory requirement as the AER is yet to evaluate the SPPF to ensure it remains relevant.

3.1.5.2 Flexible payment options

AGL¹⁰³ submitted that the recommendation to consider flexible payment options should not be a mandatory requirement, as there is no obligation for retailers to use these measures. While supportive of debt-waiving for customers that need it most, EnergyAustralia¹⁰⁴ was concerned that a mandatory requirement for a statement around debt waivers or payment matching will create an expectation that customers will receive these supports.

⁹⁴ EWOQ Hardship Guideline issues paper submission, page 4.

⁹⁵ Ergon Energy Queensland Hardship Guideline issues paper submission, page 3.

⁹⁶ SACOSS Hardship Guideline issues paper submission, page 8.

⁹⁷ EWOSA Hardship Guideline issues paper submission, page 3.

⁹⁸ EWON Hardship Guideline issues paper submission, page 7.

⁹⁹ EWOSA Hardship Guideline issues paper submission, page 3.

¹⁰⁰ EWOSA Hardship Guideline issues paper submission, page 3.

¹⁰¹ Origin Hardship Guideline issues paper submission, page 3.

¹⁰² AGL Hardship Guideline issues paper submission, page 4.

¹⁰³ AGL Hardship Guideline issues paper submission, page 4.

¹⁰⁴ EnergyAustralia Hardship Guideline issues paper submission, page 4.

St Vincent de Paul Society NSW¹⁰⁵ was supportive of this provision, but noted that not all retailers provide this assistance. It also noted that the Hardship Guideline should ensure that customers do not experience pressure to increase payments beyond their capacity to pay.

In addition to the recommendation to consider flexible payment options, SACOSS¹⁰⁶ submitted the need for the Hardship Guideline to consider retailers' processes in cancelling payment plans. SACOSS is concerned that retailers are cancelling payment plans after one missed payment, without engaging with the customer and allowing for customers to renegotiate affordable amounts.

Public Interest Advocacy Centre (**PIAC**) also consider the Hardship Guideline should ensure that customers on payment plans or hardship programs continue to receive support if they are making any reasonable attempt at payment. It considers the objective of hardship support is to assist with ongoing affordability and avoid disconnection and this should be explicitly reflected in the Hardship Guideline and standardised statements.

3.2 AER positions

3.2.1 Retailer obligations

Noting the outcomes of our hardship compliance monitoring in 2017 and the concerning findings from our latest report on the performance of the retail energy market, there is a need to strengthen requirements in the Hardship Guideline to improve retailers' hardship policies.

Section 2.1 of the draft Hardship Guideline contains outcomes-focussed requirements relating to retailer-customer communications and actions with regard to hardship. We propose retailer responsibilities to:

- take account of a customer's circumstances in dealing with that customer, and act fairly and reasonably,
- give clear and unambiguous information about the assistance available under the retailer's hardship policy, and
- provide hardship assistance in a timely manner.

As illustrated in our report on the performance of the retail energy market in 2017-18,¹⁰⁷ outcomes for customers experiencing hardship have not improved compared to the previous year. Given this, we do consider there is merit in the Hardship Guideline containing prescriptive requirements to improve outcomes for customers. However we also acknowledge the stakeholder feedback suggesting the Hardship Guideline's requirements should focus on customer outcomes and objectives rather than prescribing processes.¹⁰⁸

As noted above, the requirements set out in section 2.1 of the draft Hardship Guideline are in line with those in the ESC Framework. We consider they are important overarching

¹⁰⁵ St Vincent de Paul Society NSW Hardship Guideline issues paper submission, page 2.

¹⁰⁶ SACOSS Hardship Guideline issues paper submission, page 9.

¹⁰⁷ AER, *Annual report on compliance and performance*, page 50.

¹⁰⁸ Red and Lumo Energy Hardship Guideline issues paper submission, page 2; NCOSS Hardship Guideline issues paper submission, page 10.

requirements that govern retailer behaviour, provision of information, and provision of information to a hardship customer.

3.2.2 Steps a retailer uses

Section 2.2 of the draft Hardship Guideline provides requirements for the retailer to communicate how it will support customers experiencing payment difficulty due to hardship throughout the 'life cycle' of their hardship experience. The proposed retailer responsibilities state that a retailer's customer hardship policy must:

- describe the steps a retailer uses to facilitate the early identification of customers experiencing payment difficulties due to hardship, and to assist a customer for the duration of the time the customer is experiencing hardship,
- state that the retailer has systems in place to so that the retailer meets its obligations with respect to customer hardship in the Retail Law, Retail Rules, the Guideline and its customer hardship policy, and
- include the retailers procedures for handling hardship customer complaints and disputes.

Retailer feedback on the issues paper suggested that including information on a retailer's systems for identifying and assisting customers is unnecessary in a customer-facing document such as a hardship policy. The intention of this requirement is for retailers' hardship policies to be more transparent about how they will identify and assist hardship customers. For clarity, it is not proposed that retailers would provide information to the AER and customers about their back-end systems via this requirement. The drafting proposed clarifies this intention.

On complaints and dispute resolution, we agree with stakeholder views and do not consider retailers would be required to develop bespoke complaints and dispute resolution processes for hardship customers. The intent of the requirement is to ensure that retailers are effectively able to handle hardship customer complaints and disputes. We consider the proposed drafting clarifies this intention.

We agree with the Ethnic Communities' Council of NSW's feedback that dispute resolution should be accessible to CALD customers. We consider that clause 37 of the draft Hardship Guideline, which requires retailers to effectively communicate with CALD customers, assists in ensuring that a retailer's hardship personnel effectively communicate in culturally appropriate ways when handling complaints and disputes from CALD customers.

3.2.3 Training

Stakeholders provided views on the proposed measures for a retailer's hardship policy to identify that the retailer's hardship personnel have undergone training to identify and assist hardship customers, and that retailers regularly review this training.

EnergyAid and EWOQ's submissions outlining their first-hand experiences in this area are compelling and illustrative. They noted the level of support, assistance and information customers receive varies between retailer staff and even within a single retailer. This further highlights and supports the need for the proposed requirements set out in section 2.3 of the draft Hardship Guideline. These measures strengthen customer protections by ensuring that retailers are more active in early identification and response to hardship customers.

Ethnic Communities' Council of NSW's feedback also has weight in relation to these provisions. Clause 37 under section 2.5 of the draft Hardship Guideline complements the requirements for training by providing that retailers must effectively communicate with customers with varying needs, including customers from CALD backgrounds. These requirements will require retailers to communicate more effectively with CALD customers experiencing hardship.

We note NCOSS's suggestion for ongoing monitoring of staff after training to ensure its effectiveness. Clause 30 will assist in this regard, by requiring a retailer to regularly review its hardship training to ensure it effectively supports the retailer in meeting its responsibilities.

3.2.4 Information about a retailer's hardship program

3.2.4.1 Description of eligibility processes

Measures to improve transparency of access to hardship programs will assist in increasing customers' knowledge of the assistance available and building trust and engagement between the retailer and customer. This will assist in increasing customers' prospects of positively experiencing and successfully completing hardship programs. Stakeholder feedback, in particular from consumer advocates and ombudsman schemes, demonstrates that measures to increase transparency are needed and would be welcomed.

We have therefore proposed a requirement in section 2.4 of the draft Hardship Guideline for a retailer to include a brief description of its process for assessing the eligibility of a customer for its hardship program. The intent of this requirement is to increase customers' awareness of the assistance available and to improve their ability to navigate through retailers' processes for determining eligibility to their hardship programs. We do not expect retailers to list the eligibility criteria for determining whether a customer is a 'hardship program customer'. We agree with SACOSS's feedback that it may be unhelpful to list the factors that may lead a customer to be identified by the retailer as a 'hardship program customer'.

A number of stakeholders suggested that a customer's engagement with a hardship program is built on mutual trust between the retailer and customer. We agree that an important part of trusted relationships is clear and transparent disclosure of information, particularly where there is a power imbalance in the relationship. Better, clearer information will empower customers to engage with the market and hardship programs, and may increase their trust of the retailer. Retailers may also choose to provide information about customer obligations and responsibilities in engaging with a hardship program, with the aim of improving transparency and successful completion of hardship programs.

EWON¹⁰⁹ suggested that the Hardship Guideline should require retailers to provide a letter outlining the reasons for denying customers entry to their hardship programs. While we agree that, for full transparency, it would be helpful for a customer to understand why they may have been denied entry to a hardship program, we are unable to require this as this is beyond the remit of the Hardship Guideline.

¹⁰⁹ EWON Hardship Guideline issues paper submission, page 7.

3.2.4.2 Conditions on entry or re-entry to a hardship program

The requirements proposed in section 2.4 of the draft Hardship Guideline aim to address examples of hardship policies submitted to the AER for approval that we considered did not meet the purpose of a hardship policy under the Retail Law and where customer protections need to be strengthened. Stakeholder feedback was supportive of requirements to not place blanket conditions, or conditions that require a customer to meet a certain obligation, on entry to a hardship program.

Retailers considered that the ability to place conditions on re-entry could aid customer engagement with a hardship program, particularly where there has been little or no willingness to participate to date. We acknowledge this feedback but consider the findings from our 2017-18 report on the performance of the retail energy market provides compelling evidence for including a requirement preventing conditions on re-entry to a hardship program. Average electricity debt for non-hardship customers has increased steadily over the past three financial years across almost all jurisdictions. In 2015-16, non-hardship customers across all Retail Law jurisdictions had average electricity debt between about \$500 and \$830. In 2017-18, the average debt for customers rose significantly to between about \$730 and \$1,525. This trend is consistent for residential customers with gas debt.¹¹⁰

These findings signal that those who need assistance are not getting it. To address this, we have included a requirement in the draft Hardship Guideline to prevent retailers from placing unreasonable conditions for re-entry to hardship programs.

3.2.4.3 Supporting program completion

The draft Hardship Guideline includes a requirement that retailers include an overview of the steps it will take to support customers to successfully complete their hardship programs. Complementary to the requirement for a retailer to provide a description of its process to assess eligibility to its hardship program (as outlined in **section 3.2.4.1** of this Notice), we consider this measure will assist in improving transparency of the support systems in place to assist hardship customers.

3.2.5 Accessibility of information

The requirements in section 2.5 of the draft Hardship Guideline are complementary to those in section 3.1 of the draft Hardship Guideline. Both aim to improve the accessibility of information provided to all customers, with a focus on groups of customers that may need specialised or tailored assistance.

3.2.5.1 Communicating with CALD consumers

Stakeholder views were clear that the Hardship Guideline should account for the specific issues faced by CALD communities. Within the submissions, it was acknowledged that engagement of CALD consumers is complex and multi-faceted. We have therefore proposed that retailers should include in their hardship policies how they will *effectively* communicate with CALD consumers while not prescribing the processes for retailers to do so. We encourage retailers to consider innovative and wide-ranging strategies to engage these customers, including the use of translation services.

¹¹⁰ AER, *Annual report on compliance and performance*, page 51.

The requirement to outline how a retailer will effectively engage with consumers also applies to customers with disability, intellectual disability and customers in remote areas.

We encourage retailers to consult best practice guidance to ensure these consumers are appropriately serviced.

3.2.5.2 *Customer representatives*

We have included a requirement in the draft Hardship Guideline for a retailer to include in its hardship policy that where a customer has elected for a representative to act on their behalf, the retailer must engage with the representative as they would the customer.

Some stakeholders sought clarification about the purpose of this requirement. For clarity, the intention of the requirement is to ensure that customers can continue to engage in a hardship program while they may be experiencing a range of different hardships, and to recognise that there may be scenarios where customers need to make this change in short timeframes under difficult circumstances. This requirement aims to ensure that customers who wish to have another person act on their behalf can readily do so.

The issues paper noted the proposed that the Guideline would require that ‘the retailer must communicate with the representative as they would the customer’. In the draft Guideline, we propose ‘engage’ as we consider this phrasing more effectively captures the purpose. Effective customer consent is required in these circumstances and a retailer should only engage with a representative in a way the customer has authorised them to. We consider the wording ‘where a customer has elected’ confirms that customers experiencing hardship can self-determine when to have a representative act on their behalf.

3.2.6 **Payment plans and options**

We acknowledge stakeholder comments that requirements in the Hardship Guideline by themselves may not be able to effect an improvement in the numbers of customers successfully completing hardship programs. We agree that the factors influencing successful completion are many and varied. While the proposed requirements in section 2.6 of the draft Hardship Guideline are voluntary, we also consider that the requirement for retailers to set out the steps they will take to assist a customer to successfully complete a hardship program (discussed in **section 3.2.4.3** of this Notice) will aid transparency in this area.

3.2.6.1 *Sustainable Payments Plan Framework*

There was widespread support for the reference to the SPPF in the Hardship Guideline. Noting that the SPPF is a voluntary framework, we have maintained our issues paper position and have placed a requirement in section 2.6 of the draft Hardship Guideline that the retailer may refer to the SPPF if it has adopted the framework.

3.2.6.2 *Flexible payment options*

We have included a non-mandatory requirement that the retailer may consider offering flexible payment options to hardship customers such as debt waivers or payment matching. We note that this complements the standardised statement relating to minimum requirement 3 that the retailer may “waive any debt or charges in accordance with this hardship policy”.

We agree that the ability for customers to be on a payment plan that takes into account capacity to pay is crucial to their success in meeting the conditions of the payment plan. We consider that the standardised statements go some way to addressing this by stating that:

- when the retailer agrees to a payment plan, they will take into account the customer's capacity to pay (minimum requirement 3), and
- if the customer is accepted on the hardship program, the retailer will tell the customer a suitable payment amount that considers the customer's capacity to pay (minimum requirements 1 and 2).

A requirement for a retailer to take into account all of the customer's circumstances when dealing with the customer (discussed in **section 3.2.1** of this Notice) will also assist in ensuring capacity to pay is adequately considered.

Regarding feedback that the Hardship Guideline should consider retailers' processes in cancelling payment plans, we note that the Hardship Guideline cannot prescribe the processes in which retailers cancel payment options as that is beyond the remit of the Hardship Guideline.

4 Communication of customer rights

Section 3 of the Hardship Guideline contains requirements on how a retailer must provide information to customers who are, or who may be experiencing payment difficulties due to hardship. As discussed in **section 3** of the Notice, the Hardship Guideline operates within the requirements of rule 75A(2)(a), which states that the Hardship Guideline must contain “...requirements to be complied with by retailers in connection with the approval (or variation) of their customer hardship policies by the AER.”

Our overarching considerations in forming requirements in the draft Hardship Guideline are whether the requirements assist in ensuring that customers are effectively informed of their hardship rights and entitlements. We are particularly concerned with ensuring that hardship policies are accessible as far as possible to all consumers who may need this information.

4.1 Issues paper consultation

Our December 2018 issues paper sought stakeholder views about how the Hardship Guideline should best ensure that consumers are effectively informed about their rights. We were concerned that, without specific requirements in place, consumers will not be able to readily access information about their rights and retailer hardship programs. We proposed a number of provisions with the aim of improving the accessibility of information provided to customers. These included requirements for the use of plain English and to improve online and offline accessibility.

4.1.1 Accessibility of information

We received general support for the provisions we proposed in the issues paper, with some caveats or requests for further specificity on how requirements would work in practice. SACOSS¹¹¹, EWOSA¹¹² and Ergon Energy Queensland¹¹³ were all supportive of the provisions proposed. While supportive, SACOSS submitted that the Hardship Guideline would best ensure that customers are effectively informed about their rights by specifying a trigger point for retailers to send information to customers, which should form part of the early identification processes in the hardship policy.¹¹⁴

EWON¹¹⁵ and NCOSS¹¹⁶ considered that the language of ‘hardship’ was in itself a barrier to customers receiving information about their rights and entitlements. EWON considered that shifting the language to ‘affordability’ rather than ‘hardship’ may encourage a greater number of customers to self-identify.¹¹⁷ NCOSS submitted that “without a clear definition and common application of the concept of ‘hardship’, inequity will continue to plague this essential service”.¹¹⁸

¹¹¹ SACOSS Hardship Guideline issues paper, page 3.

¹¹² EWOSA Hardship Guideline issues paper, page 2.

¹¹³ Ergon Energy Queensland Hardship Guideline issues paper, page 1.

¹¹⁴ SACOSS Hardship Guideline issues paper, page 2-3.

¹¹⁵ EWON Hardship Guideline issues paper submission, page 3.

¹¹⁶ NCOSS Hardship Guideline issues paper submission, pages 6-7.

¹¹⁷ EWON Hardship Guideline issues paper submission, page 3.

¹¹⁸ NCOSS Hardship Guideline issues paper submission, pages 7.

NCOSS cited their research on energy expenses for people in NSW living in low-income households which supports the urgent need for action in this area. The research found that 20.2 per cent of respondents were not aware that retailer hardship programs existed. The research also found that awareness was even lower amongst households that spoke a language other than English, and households whose main support of income was an income support payment.¹¹⁹

EnergyAid¹²⁰ and EWOQ¹²¹ submitted that retailers could reach and inform customers by building partnerships with community organisations who work directly with people in financial difficulty or engaging specialised non-government organisations to provide training to staff.

Origin¹²² and EnergyAustralia¹²³ considered that the provisions proposed in the issues paper go beyond the scope of the scope of the Hardship Guideline and the Retail Rules. They submitted that retailers should maintain flexibility around how they implement their policies and processes to best suit their customers.

4.1.1.1 Online and offline accessibility

The issues paper sought information on the consumer and consumer advocate experience of accessing information about retailer hardship policies and programs. Stakeholders provided similar experiences regarding their ability to find information on hardship policies and programs both online and offline, highlighting the need for improvement. EWOQ's¹²⁴ interactions with consumers and consumer advocates have revealed the difficulty accessing information about a hardship policy or program online due to the location and naming of hardship policies. EWOQ also submitted that retailers rely on all consumers having internet access to get information about hardship policies. Similarly, the Australian Small Business and Family Enterprise Ombudsman (**ASBFEO**)¹²⁵ submitted that "currently customer hardship policies are difficult to find on providers' websites, are often confusing and do not detail what is included." NCOSS¹²⁶ submitted that many retailers currently lack intuitively locatable and easy to read information about the availability of hardship programs.

On the proposed requirements for offline accessibility, EnergyAustralia¹²⁷ submitted that prescribing how retailers should communicate to customers without the internet will limit the options available to those customers. It suggested that the Hardship Guideline include instead a blanket statement committing the retailer to make its hardship policy accessible.

EWON¹²⁸ advocated for retailers to provide comprehensive alternative sources of information to supplement digital information. St Vincent de Paul Society NSW¹²⁹ considered that the Hardship Guideline needs to be more specific around accessibility requirements for

¹¹⁹ NCOSS Hardship Guideline issues paper submission, pages 5.

¹²⁰ EnergyAid Hardship Guideline issues paper submission, pages 3.

¹²¹ EWOQ Hardship Guideline issues paper submission, pages 3.

¹²² Origin Hardship Guideline issues paper submission, pages 2.

¹²³ EnergyAustralia Hardship Guideline issues paper submission, page 3.

¹²⁴ EWOQ Hardship Guideline issues paper submission, page 2.

¹²⁵ ASBFEO standardised statements issues paper submission, page 1.

¹²⁶ NCOSS Hardship Guideline issues paper submission, pages 11.

¹²⁷ EnergyAustralia Hardship Guideline issues paper submission, page 5.

¹²⁸ EWON Hardship Guideline issues paper submission, page 3.

¹²⁹ St Vincent de Paul Society NSW Hardship Guideline submission, page 1.

consumers who do not have internet access by requiring retailers to proactively inform these customers about the assistance available to them, and readily provide more detailed information about their hardship policy in accessible formats.

4.2 AER positions

4.2.1 Accessibility of information

We agree that the accessibility of hardship policies and information about hardship policies can be improved. The accessibility requirements in section 3.1 of the draft Hardship Guideline therefore aim to ensure that customers both with and without access to the internet are easily able to access a retailer's hardship policy. The proposed retailer responsibility to ensure their hardship policies are easily accessible online through an appropriately named hyperlink from retailers' homepages will assist to alleviate the difficulty stakeholders have encountered in finding hardship policies online due to non-intuitive placement and naming.

The requirement for retailers to ensure that their hardship policies are easily accessible to customers who are unable to access retailers' websites will address feedback that the Hardship Guideline should include requirements to assist customers without internet access, while allowing retailers to best determine how this assistance should be given.

To further assist in improving accessibility of information, we have included requirements for retailers to provide hardship team contact details within their hardship policy and information about their hardship policy. We have also included requirements to use plain English, design content for ease of readability and to provide (if retailers choose to) a shorter, more accessible document with key information on the hardship policy. When implementing these changes and those identified in the standardised statements, we encourage retailers to consider best practice approaches to plain English and easy English including, for example, research recently published by the University of Melbourne.¹³⁰ We note stakeholder views that the language of 'hardship' can be a barrier to customer engagement and self-identification in seeking assistance from retailers and other sources of help.

The term 'hardship' is used in section 2 of Part 1 of the Retail Law. The Guideline is required to be made within this legal framework, and we note that retailers, customers and customer's advocates can and should adopt language in policies and practices that are accessible and meaningful for customers (i.e. the word 'hardship' is not required to be used by customers in order to seek assistance under a hardship program).

4.2.2 Provision of information

The Retail Law and Retail Rules provide the circumstances in which retailers must provide their hardship policies to a customer. We consider it important that the Hardship Guideline contain requirements that oblige retailers to send their hardship policies to customers if at any time a customer requests a copy. If requested by a customer, the hardship policy must be sent without charge and in line with the customer's preferences for receiving written

¹³⁰ Maker, Yvette; Paterson, Jeannie Marie; McSherry, Bernadette; Brophy, Lisa; Arstein-Kerslake, Anna; Callahan, Alex and Teo, Eugene (2018) *Thanks a Bundle: Improving Support and Access to Online Telecommunications Products for Consumers with Cognitive Disabilities*, Australian Communications Consumer Action Network, Sydney and Melbourne Social Equity Institute, University of Melbourne.

communication. This requirement will complement the accessibility requirements in ensuring that consumers are effectively informed about their hardship rights and entitlements.

5 Processes and timeframes

As required under rule 75A(2)(a) of the Retail Rules, section 4 of the Hardship Guideline specifies the processes and timeframes retailers must comply with when developing their hardship policy and submitting it to the AER for approval.

We have been considering and approving retailers' hardship policies since the Retail Law commenced in 2012. During this time, we have developed processes as to the information we seek from retailers both within and supplementary to their hardship policies, in order to be satisfied that the hardship policy meets the requirements under section 45(1) of the Retail Law. We capture our processes in the document *Guidance on AER approval of customer hardship policies (Guidance)*.¹³¹

Our approach in specifying the processes and timeframes in connection with the approval of a hardship policy has been to bring the relevant parts of the Guidance within the Hardship Guideline. When published, the Hardship Guideline will replace the Guidance.

5.1 Issues paper consultation

While we did not specifically seek stakeholder views on the processes and timeframes in connection with the approval of retailers' hardship policies in the December 2018 issues paper, two stakeholders provided comments on this issue.

Simply Energy submitted that the AER should include in the Hardship Guideline an express commitment to work in good faith with retailers to review their hardship policies and work through any concerns about content.¹³² Simply Energy also considered the current processes in the Guidance too high level, and sought more express guidance, given new rule 75B(3) imposes strict timeframes on the AER to approve compliant hardship policies.¹³³

On timeframes, EWOQ submitted that consideration be given to specifying a timeframe for new retailer implementation of AER-approved hardship policies, as the requirement in rule 75B(2)(b) for retailers to implement their policies "as soon as practicable" after approval is open to interpretation.¹³⁴

5.2 AER positions

As outlined above, our approach has been to bring the relevant parts of the Guidance into the Guideline. This approach maintains an approval/review process that is necessarily flexible, given the diversity of hardship policies and retailers. We acknowledge feedback that the processes are too high level and seek views as to whether stakeholders would value more explicit approval/review processes within the Hardship Guideline.

¹³¹ AER, Final Guidance on AER approval of customer hardship policies, May 2011, <https://www.aer.gov.au/system/files/Final%20Guidance%20on%20AER%20approval%20of%20customer%20hardship%20policies%20-%20May%202011.pdf>

¹³² Simply Energy Hardship Guideline issues paper submission, page 2.

¹³³ Simply Energy Hardship Guideline issues paper submission, page 2.

¹³⁴ EWOQ Hardship Guideline issues paper, page 1.

We note the timeframes for retailers to submit and for the AER to approve customer hardship policies are specified within the Retail Law and Retail Rules. We are unable to specify a timeframe by which retailers must implement their approved hardship policies through the Hardship Guideline, as this would require an amendment to rule 75B(2)(b) via an Australian Energy Market Commission (**AEMC**) rule change process. We consider the new timeframe as to implementation of a hardship policy to be an improvement on the current situation (where there are no timeframes for retailers to implement their hardship policies). We will be monitoring the timeliness of retailers' implementation of approved hardship policies once the rule change takes effect in April 2019.

Related to timeframes for approval, an issue we have encountered in reviewing and approving retailers' hardship policies is that there are currently no timeframes in the Retail Law governing when a retailer must have an approved hardship policy in place. This creates a risk that a new retailer may not have in place an approved policy for an indefinite period and not be in breach of any provisions under the Retail Law or subject to enforcement options.

While an AEMC recommended Retail Law change¹³⁵ to require that new retailers have their hardship policies in place before they receive retailer authorisation will resolve this issue entirely, we consider the recommendation that Retail Rules 75B(1) and 75B(2) be made civil penalty provisions¹³⁶ will go some way to addressing this issue. If implemented, the proposed civil penalties will effectively place a six month timeframe on retailers to obtain an AER-approved and Guideline-compliant hardship policy where the retailer is a new retailer or has updated its hardship policy in the event the AER amends the Hardship Guideline. We will monitor the progression of these recommended civil penalties closely.

¹³⁵ AEMC, *Rule determination, Strengthening protections for customers in hardship*, 15 November 2018, page iv.

¹³⁶ AEMC, *Rule determination*, page iv.

6 Standardised statements

Section 5 of the draft Hardship Guideline specifies the standardised statements retailers must include in their hardship policies to fulfil their obligations under Retail Rule 75B(b).

Section 44 of the Retail Law specifies the minimum requirements a retailer's customer hardship policy must contain. The standardised statements will inform customers of how the retailer will comply with these minimum requirements, and provide guidance to customers on their rights, and retailer obligations under the hardship protections. Requiring retailers to include the standardised statements will bring about much-needed improvements to hardship protections for customers by:

- creating consistency across retailers on the application of the minimum requirements of a hardship policy,
- providing clear guidance to customers as to their rights, and retailer obligations, under the hardship protections, and
- improving our ability to monitor and enforce the Retail Law and Rules by being better able to determine whether retailers' conduct aligns with the actionable statements within their hardship policies.

Our proposed position on the standardised statements in the draft Hardship Guideline has taken into consideration feedback from stakeholders on the November 2018 issues paper. This consultation provided valuable feedback on the drafting of the standardised statements and we thank stakeholders for their views.

6.1 Issues paper consultation

We introduced an initial draft of the standardised statements to stakeholders at an AEMC and AER joint forum on the AEMC's hardship rule change draft determination in September 2018.¹³⁷ In that forum, we flagged we would seek detailed stakeholder feedback on the content and drafting of the standardised statements through an issues paper.

Our November 2018 issues paper sought comment on whether the draft standardised statements:

- clearly describe the minimum requirements in the Retail Law of a retailer's hardship policy,
- sufficiently address gaps to customers accessing hardship assistance by clarifying customers' rights and entitlements under the hardship protections, and
- contain user-friendly language that would be easily understood by a range of customers.

The majority of stakeholders were supportive of the statements' purpose and intent, although a number of stakeholders suggested we should align the statements and Hardship Guideline with the ESC Framework.¹³⁸ Some stakeholders considered the statements required more further refinement to reflect or go beyond the minimum requirements of the Retail Law.¹³⁹ Retailers and ombudsman schemes were generally supportive of the use of standardised

¹³⁷ AEMC, *Strengthening protections for customers in hardship*, rule change, <https://www.aemc.gov.au/rule-changes/strengthening-protections-customers-hardship>

statements to provide clarity and consistency of application of the minimum requirements.¹⁴⁰ However, retailers cautioned against the statements restricting their ability to be flexible in implementing their hardship policies.¹⁴¹

Stakeholder comments as to the specific consultation questions are summarised below.

6.1.1 Meeting the minimum requirements

The majority of stakeholders that commented on this question generally agreed that the standardised statements described the minimum requirements of a retailer's hardship policy in the Retail Law.¹⁴² Stakeholders that diverged from this view and considered that the standardised statements did not sufficiently describe the minimum requirements, or how the retailer will comply with them, were:

- EWON, which submitted that revisions to the initial draft statements provided at the AEMC-AER joint forum in September 2018 were a softening of strong action-based retailer commitments to comply with the minimum requirements. EWON considered the statements must include strong action-based commitments to be effective.¹⁴³
- Queensland Council of Social Service (**QCOSS**), which submitted the AER's approach in tying the standardised statements to the minimum requirements will not address retailers' current poor practices in relation to the implementation and application of their hardship policies. QCOSS consider the AER should interpret and apply the law and develop standardised statements in a way that best promotes the underlying purpose of the hardship provisions.¹⁴⁴
- SACOSS, which submitted that the statements should go further than current drafting and clearly outline the processes the retailer is bound to implement to achieve the purposes of its hardship policy.¹⁴⁵

¹³⁸ Powershop standardised statements issues paper submission, page 1; QCOSS standardised statements issues paper submission, page 4; SACOSS standardised statements issues paper submission, page 9.

¹³⁹ South Australian Council of Social Service standardised statements issues paper submission, page 18; Queensland Council of Social Service standardised statements issues paper submission, page 8.

¹⁴⁰ Australian Energy Council standardised statements issues paper submission, page 1; AGL standardised statements issues paper submission, page 1; Alinta Energy standardised statements issues paper submission, page 1; Ergon Energy Queensland standardised statements issues paper submission, page 1; Energy and Water Ombudsman NSW standardised statements issues paper submission, page 1; Energy and Water Ombudsman Queensland standardised statements issues paper submission, page 1; Energy and Water Ombudsman South Australia standardised statements issues paper submission, page 1; Momentum Energy standardised statements issues paper submission, page 1; Origin Energy standardised statements issues paper submission, page 1; Powershop standardised statements issues paper submission, page 1; Red and Lumo Energy standardised statements issues paper submission, page 1; ACT Civil and Administrative Tribunal standardised statements issues paper submission, page 1.

¹⁴¹ Australian Energy Council standardised statements issues paper submission, page 1; AGL standardised statements issues paper submission, page 1-2, Alinta Energy standardised statements issues paper submission, page 2, EnergyAustralia standardised statements issues paper submission, page 1; Momentum Energy standardised statements issues paper submission, page 1; Origin Energy standardised statements issues paper submission, page 1; Red and Lumo Energy standardised statements issues paper submission, page 1.

¹⁴² Powershop standardised statements issues paper submission, page 1; Energy and Water Ombudsman Queensland standardised statements issues paper submission, page 1; Energy and Water Ombudsman South Australia standardised statements issues paper submission, page 1; Ergon Energy Queensland standardised statements issues paper submission, page 3, ACT Civil and Administrative Tribunal standardised statements issues paper submission, page 1.

¹⁴³ EWON standardised statements issues paper submission, page 1.

¹⁴⁴ QCOSS standardised statements issues paper submission, pages 7-8.

¹⁴⁵ SACOSS standardised statements issues paper submission, page 5.

Conversely, while largely supportive of the purpose of the standardised statements, EnergyAustralia¹⁴⁶ and Origin¹⁴⁷ considered that current drafting of some statements goes beyond the intended operation of the Hardship Guideline as outlined in Retail Rule 75A(2). These retailers were concerned that some of the statements give effect to how a retailer's hardship policy should operate.

6.1.1.1 Hardship indicators

The draft standardised statements commit a retailer to informing a customer about the retailer's hardship program or recommends that a customer speak to a retailer about entry into a hardship program if certain indicators are met. We received divergent views on the indicators included in the statements relating to minimum requirements 1 and 2 (processes to identify customers experiencing hardship and early response to customers identified as experiencing payment difficulties due to hardship).

EWON suggested that the indicators should be expanded to include, amongst others, customers who had been disconnected for non-payment and who could not afford the requested upfront payment to be reconnected.¹⁴⁸ QCOSS submitted that hardship should be defined consistent with the ESC Framework criteria of a residential customer who has not paid a bill by its pay by date and who has arrears of more than \$55.¹⁴⁹ QCOSS argued that this would lead to more equitable outcomes by ensuring consistency of customers who have access to a retailer's hardship program.

Conversely, AGL¹⁵⁰ and Origin¹⁵¹ argued that including indicators would risk defining 'hardship', remove flexibility and inhibit a retailer's ability to innovate.

6.1.2 Clarifying hardship rights and entitlements

While many stakeholders agreed that the draft standardised statements clarified customers' hardship rights and entitlements, we received a suggestion that the statements should go further in highlighting that customers have responsibilities under a retailer's hardship program.

Ergon Energy Queensland¹⁵² considered the reciprocal nature of customers' rights and responsibilities as key to customers remaining in hardship programs. Ergon Energy Queensland submitted that providing only clarity of rights and entitlements and not information on customers' obligations "does not provide customers with the necessary information to ensure that they remain engaged with their retailer throughout their participation in the hardship program".¹⁵³ In contrast, SACOSS submitted there are no references to customer responsibilities under the Retail Law, and these statements could

¹⁴⁶ EnergyAustralia standardised statements issues paper submission, page 1.

¹⁴⁷ Origin standardised statements issues paper submission, pages 1-2.

¹⁴⁸ EWON standardised statements issues paper submission, page 2.

¹⁴⁹ QCOSS standardised statements issues paper submission, page 4

¹⁵⁰ AGL standardised statements issues paper submission, page 2.

¹⁵¹ Origin standardised statements issues paper submission, page 3

¹⁵² Ergon Energy Queensland standardised statements issues paper submission, pages 1-2.

¹⁵³ Ergon Energy Queensland standardised statements issues paper submission, page 2.

confuse customers. SACOSS argued that any references to customer responsibilities in the standardised statements be removed.¹⁵⁴

6.1.3 User-friendly language

We received several suggestions from stakeholders on how the statements can be improved with more customer-centric and friendly language. The AEC suggested that certain statements could be “softened to be less demanding of the customer” in line with the significant investments retailers have made in tailoring their language to be friendly and appealing for customers.¹⁵⁵ This feedback was consistent with suggestions from EnergyAustralia¹⁵⁶ and Red and Lumo Energy¹⁵⁷, which submitted that the statements be more inclusive and empathetic. AGL suggested that language should be consistent to definitions and terminology used in the Retail Law and Rules.¹⁵⁸

Some stakeholders suggested wording changes to terms such as “hardship” as it does not resonate with customers who may need assistance. EWON suggested that the term “affordability” instead be used as a more inclusive, destigmatised term.¹⁵⁹ More broadly, several stakeholders emphasised the need for plain, simple, jargon-free language within the standardised statements.¹⁶⁰

Several stakeholders raised the importance of language accessibility for CALD consumer groups. ASBFEO¹⁶¹, EWOQ¹⁶², and EWOSA¹⁶³ all submitted that it would be useful for hardship policies to be available in other languages, or for retailers to use other strategies such as translation services, subtitled online videos and other formats such as braille to assist in reaching CALD audiences.

¹⁵⁴ SACOSS standardised statements issues paper submission, page 17.

¹⁵⁵ AEC standardised statements issues paper submission, page 2.

¹⁵⁶ EnergyAustralia standardised statements issues paper submission, page 1-2.

¹⁵⁷ Red and Lumo Energy standardised statements issues paper submission, page 2.

¹⁵⁸ AGL standardised statements issues paper submission, page 2.

¹⁵⁹ EWON standardised statements issues paper submission, page 2.

¹⁶⁰ ASBFEO standardised statements issues paper submission, page 1; EWOQ standardised statements issues paper submission, page 2, EWOSA standardised statements issues paper submission, page 2.

¹⁶¹ ASBFEO standardised statements issues paper submission, page 1.

¹⁶² EWOQ standardised statements issues paper submission, page 2.

¹⁶³ EWOSA standardised statements issues paper submission, page 2.

6.1.4 Drafting changes

Several stakeholders provided detailed drafting suggestions, most of which focussed on the standardised statements relating to minimum requirements 1 and 2 (processes to identify customers experiencing hardship and early response). Broadly, the drafting suggestions:

- recommend changes to the statements so they encompass all retailer obligations and customer rights under Part 2, Division 6 of the Retail Law,¹⁶⁴
- aim to strengthen wording of the standardised statements so that they contain specific actionable commitments,¹⁶⁵ and
- aim to promote flexibility in retailer delivery and implementation of hardship programs, and introduce more appropriate customer-centric and empathetic language.¹⁶⁶

6.2 AER positions

6.2.1 Meeting the minimum requirements

Central to implementing the standardised statements by all retailers, is that they do not go beyond the minimum requirements as specified in section 44 of the Retail Law. To go beyond the minimum requirements will result in the AER going beyond its remit. This would have implications with implementing and enforcing the standardised statements, which is one of the issues that the standardised statements were designed to address.

We consider the wording of the standardised statements provides clear information to customers about their rights as well as providing information on retailer obligations around hardship. The standardised statements are action-based retailer commitments which reflect the minimum requirements. These action-based statements will provide clear expectations for customers that rely on hardship assistance. By adopting the standardised statements, all retailers will have consistent core hardship policies that address the minimum requirements. It is worth remembering that the standardised statements form a sub-set of a retailers' hardship policy. Retailers are encouraged to refer to other frameworks in developing their broader hardship policy in which the standardised statements will form a subset. In addition retailers' hardship policies must set out additional obligations that go beyond the minimum requirements of section 44 of the Retail Law.

6.2.2 Clarifying hardship rights and entitlements

Retail Rule 75A(2)(b) requires that the standardised statements inform customers of how the retailer will comply with the minimum requirements as set out in section 44 of the Retail Law and provide guidance to customers on their rights and retailer obligations with respect to Part 2, Division 6 of the Retail Law.

¹⁶⁴ SACOSS standardised statements issues paper submission, page 17.

¹⁶⁵ EWON standardised statements issues paper submission, pages 5-11; QCOSS standardised statements issues paper submission, page 7; SACOSS standardised statements issues paper submission, page 11-17.

¹⁶⁶ AGL standardised statements issues paper submission, pages 3-9; EnergyAustralia standardised statements issues paper submission, pages 1-2; Momentum Energy standardised statements issues paper submission, page 1-2; Origin standardised statements issues paper submission, pages 1-3; Red and Lumo Energy standardised statements issues paper submission, pages 2-3.

We consider that the re-drafted standardised statements provide clear and concise information to customers about their rights as well as retailer hardship obligations. The standardised statements provide customers with information on how retailers will engage with them to help identify them as a customer experiencing hardship, the conversation that the retailer will have with the customer around payment plans and their capacity to pay, as well as how to engage when circumstances change.

The standardised statements address gaps in hardship assistance by clarifying customers' rights and entitlements under the hardship protections.

We maintain that the standardised statements are not intended to provide for automatic entry of any customer into a retailer's hardship program. The standardised statements will instead focus on ensuring retailers have processes for identification and early response. This is within the minimum requirements.

The standardised statements provide a framework for retailers to engage with customers who may be in financial difficulty due to hardship and who may benefit from being offered the protections under a hardship program. The standardised statements do not remove a retailer's right to assess customers for entry into hardship programs.

The minimum requirements as set out in section 44 of the Retail Law specify retailer obligations only in respect to customers in financial hardship. We consider that the minimum requirements cannot extend beyond customers identified as experiencing financial hardship to all customers experiencing payment difficulties. To do so would be to go beyond the minimum requirements. Retailers are free and encouraged to go beyond the minimum requirements in developing and implementing their hardship policies.

6.2.3 User-friendly language

We agree, where possible, the language used in the standardised statements should be simple, jargon-free and easily understood. Some stakeholders suggested that we move away from the term 'hardship' and we adopt a term that may be considered more inclusive, such as 'affordability'.¹⁶⁷

We note stakeholder views around the language of 'hardship' being a barrier to engagement. As discussed in **section 4.2.1** of this Notice, for the purposes of the Hardship Guideline, we consider it is important to use language that is consistent with the Retail Law and Retail Rules.

We are supportive of hardship policies being more accessible including in languages other than English and via alternative formats.

As outlined in **Appendix C**, some of the changes that we have made to the re-drafting of the standardised statements, following the first consultation process, have been with respect to simplifying the language used whilst maintaining the intent of the standardised statements.

Before publishing the final Guideline, we will review the plain English and easy English accessibility of the standardised statements to see if these need to be refined in the Final

¹⁶⁷ EWON standardised statements issues paper submission, page 2.

Guideline. This will help to make the standardised statements accessible and easy to understand for most customers and better achieve their intended purpose.

6.2.4 Drafting changes

Some submissions provided detailed wording suggestions regarding individual standardised statements.

In considering whether to re-draft a standardised statement, we considered whether the re-draft:

- added value to the standardised statement, that is, did it add something that had not been considered but was consistent with the intent of providing information to customers on their rights and retailer obligations around hardship,
- resulted in greater clarity of the standardised statement for customers,
- did not go beyond the minimum requirements, and
- was in line with the intent of the new Retail Rule 75A.

Not all of the suggested drafting changes were adopted. In some instances, the suggested change would result in the AER potentially going beyond the scope of the minimum requirements, adding complexity to the standardised statements with little benefit to customers, and risking enforceability issues.

Appendix C provides a comparison of the original draft standardised statements, re-drafted standardised statements following submissions received during the consultation process, and the reason for the change made to the standardised statements.

Appendix A: Summary of additional submissions and AER responses on the standardised statements

This table details additional stakeholder feedback on the standardised statements for use in customer hardship policies issues paper and our responses not already covered in the body of the Notice above.

Submissions to Hardship Standardised Statements for Use in Customer Hardship Policies Issues Paper – November 2018

Stakeholder respondents	Stakeholder feedback	AER response
Overall approach to the standardised statements		
<p>Queensland Council of Social Service (QCOSS)</p> <p>South Australian Council of Social Service (SACOSS)</p> <p>Powershop</p> <p>Public Interest Advocacy Centre (PIAC)</p>	<p>SACOSS, QCOSS, PIAC and Powershop advocated for alignment with the Essential Services Commission’s (ESC) <i>Payment Difficulty Framework</i> (ESC Framework) regarding early identification and response, flexible payment options, and customer protections around disconnection. QCOSS suggested the AER consider using the ESC Framework as the basis for the standardised statements to ensure fair and equitable outcomes for all customers across the National Energy Market (NEM). Although SACOSS were also supportive of the Hardship Guideline aligning with the ESC Framework, SACOSS acknowledged that AER must develop the Hardship Guideline with regard to the National Energy Customer Framework (NECF), unlike the ESC.</p> <p>Both SACOSS and QCOSS also submitted that the standardised statements will not adequately address retailers’ current poor practices in relation to implementation and application of their hardship policies. To this end, SACOSS and QCOSS argued that the standardised statements should go beyond the minimum requirements to include specific action statements that detail the processes the retailer will implement to effect the minimum</p>	<p>The AER must develop the standardised statements against the minimum requirements as set out in section 44 of the Retail Law. Retailers may opt to implement other frameworks beyond the Retail Law and Retail Rules where this would complement and be consistent with the Retail Law, Retail Rules and this Guideline.</p> <p>We maintain that the standardised statements should provide customers with information on their rights and retailer obligations with respect to hardship. It is important the Hardship Guideline supports customers getting access to hardship assistance if they need it. We consider the standardised statements as drafted, provide clear guidance to both customers and retailers on the issues that need to be considered when talking to customers experiencing financial difficulty due to hardship and how best to help these customers.</p> <p>The AER has incorporated a number of hardship related provisions referenced in the Retail Rules into the standardised statements.</p>

requirements. Specifically, QCOSS and SACOSS submitted that the AER should develop the standardised statements by interpreting and applying the Retail Law in a way that best promotes the underlying purpose and principles of hardship provisions with regard to Sections 43(1) and 45(3) of the Retail Law. SACOSS submitted that the new Retail Rules do not constrain the AER from incorporating specific processes and actions in the standardised statements that retailers must adhere to.

SACOSS also submitted a proposed framework for the standardised statements that incorporates Sections 43(1) and 45(3) of the Retail Law. The proposed framework also expresses the standardised statements as clear objectives, and includes performance indicators.

The broader retailer hardship policy will contain additional information that a customer needs to know about their rights and retailer obligations around hardship under the Retail Law and Retail Rules.

Additional requirements for inclusion in the standardised statements

<p>Energy and Water Ombudsman New South Wales (NSW) (EWON) QCOSS</p>	<p>Both EWON and QCOSS consider retailer hardship policies to also contain a standardised statement on a customer's right to make a complaint to the relevant ombudsman scheme, if they are not satisfied with their retailer's response to their request for assistance, or were unable to resolve the issue with their retailer.</p>	<p>The basis of the standardised statements is to give clarity and action to the minimum requirements as outlined in section 44 of the Retail Law. The minimum requirements are not explicit in requiring retailers to include information regarding referrals to the relevant ombudsman scheme. Therefore, this inclusion falls outside of the standardised statements. However, the standardised statements form a subset of a retailers' hardship policy. Retailers are encouraged to reference customer rights in its broader hardship policy and encourage customers to make a complaint to their relevant ombudsman scheme.</p>
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Further defining the term 'hardship'

<p>PIAC EWON</p>	<p>PIAC, EWON and QCOSS advised against using the term 'hardship' on the basis that the term is often stigmatised and customers might not self-identify as experiencing or being in</p>	<p>The AER does not have a role in defining hardship. Section 2 of the Retail Law defines a 'hardship customer'. To go beyond the current definition would be beyond the AER's remit and the</p>
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Ergon Energy
Queensland

QCOSS

SACOSS

'hardship'. EWON suggested the term 'affordability' be used instead. Ergon Energy also welcomed efforts to destigmatise participation in hardship programs.

PIAC, EWON and QCOSS also suggested that the term 'hardship' be further defined through the AER's Hardship Guideline to ensure customers receive consistent access to support and assistance across retailers. SACOSS acknowledged that there is no current definition for 'customers experiencing payment difficulties' under the Retail Law. QCOSS recommended that the AER adopt the ESC's approach to defining 'hardship' through specific indicators consistent with the ESC Framework, which is any residential customer who has not paid a bill by the due date and is in arrears of \$55.

PIAC, SACOSS and QCOSS argued that there should be no discernible difference between a customer experiencing payment difficulty due to hardship and a customer having difficulty paying for any other reason. Therefore, these stakeholders advocated that the Hardship Guideline and, by extension, the standardised statements apply to all customers experiencing payment difficulties, irrespective of whether the customer is facing payment difficulties *due to hardship* or not.

application of the standardised statements to the minimum requirements as outlined in section 44 of the Retail Law.

We note stakeholder views around the language of 'hardship' being a barrier to engagement. We consider that as well as using language that is clear and simple, it is important to use language that is consistent with the Retail Law and Retail Rules.

We consider that the minimum requirements cannot be extended beyond customers identified as experiencing financial hardship to all customers experiencing payment difficulties. To do so would be to go beyond the minimum requirements.

Extending Hardship Guideline to cover small to medium enterprises (SMEs)

Australian Small
Business and Family
Enterprise
Ombudsman
(ASBFEO)

The ASBFEO suggested that customer hardship policies be extended to Small to Medium Enterprises (SMEs) on the basis that it will enable SMEs to better manage their payments and enable continuation of operation.

The Retail Law specifies that the requirements around hardship relate to residential customers. The AER cannot extend the application of hardship requirements to small to medium enterprises until there is a change in the Retail Law. Retailers are free and encouraged to go beyond the minimum requirements in developing and implementing their hardship policies.

Appendix B: Summary of additional submissions and AER responses on the Hardship Guideline

This table details additional stakeholder feedback on the Hardship Guideline issues paper and our responses not covered in the body of the Notice above.

Submissions to AER issues paper – Hardship Guideline – December 2018

Stakeholder respondents	Stakeholder feedback	AER response
Further defining ‘hardship’ through specific indicators to trigger early identification and response		
South Australian Council of Social Service (SACOSS)	SACOSS, ECC, PIAC, SVDP NSW, NCOSS, EWOSA, NSA and EWOQ advocated for the need to further define ‘hardship’ using specific indicators to trigger early identification and response by retailers. These stakeholders consider that by setting indicators, it will ensure equitable outcomes for consumers in receiving proactive assistance and support from retailers early on, before their situation exacerbates, and remove the onus from the customer to self-identify.	The term ‘hardship customer’ is defined in section 2 of the Retail Law. The Hardship Guideline must be consistent with the Retail Law, the framework established under it and the hardship rule made by the AEMC. We appreciate stakeholders’ broad views on this issue.
Ethnic Communities Council (ECC)		
Powershop	Specifically, SACOSS, ECC, PIAC, SVDP NSW and NCOSS suggested adopting the Essential Services Commission’s (ESC) <i>Payment Difficulty Framework</i> (ESC Framework) definition of ‘hardship’ in the AER’s Hardship Guideline through specific indicators consistent with the ESC Framework, which is any residential customer who has not paid a bill by the due date and is in arrears of \$55. Powershop also supported alignment with the ESC Framework, however, further noted that this would ensure retailers do not have to implement further system changes.	We consider that the minimum requirements cannot be extended beyond customers identified as experiencing financial hardship to all customers experiencing payment difficulties. To do so would be to go beyond the minimum requirements.
Public Interest Advocacy Centre (PIAC)		
St Vincent De Paul Society of NSW (SVDP NSW)		
Energy and Water Ombudsman South Australia (EWOSA)	SACOSS, ECC, PIAC, SVDP NSW and NCOSS argued that there should be no discernible difference between a customer experiencing payment difficulty due to hardship and a customer	The AER must develop the standardised statements against the minimum requirements as set out in section 44 of the Retail Law. Retailers may opt to implement other frameworks beyond the Retail Law and Retail Rules where this would complement and be consistent with the Retail Law, Retail Rules and this Guideline.
NSW Council of Social Service (NCOSS)		
National Seniors Australia (NSA)	We maintain that the standardised statements should provide customers with information on their	
Energy and Water		

Ombudsman Queensland
(EWOQ)

having difficulty paying for any other reason, as it is difficult to determine or separate the specific factors that lead to the customer experiencing payment difficulties. As such, these stakeholders advocated that the Hardship Guideline apply to all customers experiencing payment difficulties, irrespective of whether the customer is facing payment difficulties *due to hardship* or not.

rights and retailer obligations with respect to hardship. It is important the Hardship Guideline supports customers getting access to hardship assistance if they need it. We consider the standardised statements as drafted, provide clear guidance to both customers and retailers on the issues that need to be considered when talking to customers experiencing financial difficulty due to hardship and how best to help these customers.

The AER has incorporated a number of hardship related provisions referenced in the Retail Rules into the standardised statements.

The broader retailer hardship policy will contain additional information that a customer needs to know about their rights and retailer obligations around hardship under the Retail Law and Retail Rules.

Use of the language 'hardship'

ECC

EWON

PIAC

NCOSS

ECC, EWON, PIAC and NCOSS advised against using the term 'hardship' on the basis that the term is often stigmatised and customers might not self-identify as experiencing or being in 'hardship'. Instead, EWON suggested the term 'affordability' be used instead.

NCOSS submitted that the use of the term 'hardship' could be a barrier in consumers accessing retailers' hardship policies. ECC also agreed with NCOSS' view, further noting that the term 'hardship' does not resonate with CALD community members.

We acknowledge stakeholder concerns about use of the term 'hardship'. Working consistently with the Retail Law and Retail Rules, we have retained the term 'hardship' in the Hardship Guideline for reasons noted in **Appendix A** above. We note that nothing in the Hardship Guideline requires retailers, consumer advocates, consumers or other parties to use the term 'hardship' in their interactions with customers. We also encourage retailers to ensure that their processes for identifying customers experiencing hardship do not rely a customer using the term 'hardship' to access assistance.

Additional requirements for inclusion in the Hardship Guideline

EWON	EWON raised the need for the Hardship Guideline to include an additional obligation to monitor and report on the effectiveness of their early identification and response systems. EWON was also of the view that this data should be provided to the AER, and could feed into AER's price comparator website, Energy Made Easy (EME) to help consumers compare retailers based on their affordability or hardship policies.	We consider there is merit in some of the additional requirements suggested by stakeholders, particularly EWOSA's recommendation regarding metrics to assist retailers in the early identification and response. However, we also agree with EWOSA's comment regarding the tight timeframes to develop the Hardship Guideline, making it difficult to determine what would be the most appropriate metrics without substantial further work and consideration of potential changes to the <i>AER (Retail Law) Performance Reporting Procedures and Guidelines</i> . We therefore note it would be more appropriate to consider some of these requirements during consultations on future iterations of the Hardship Guideline.
EWOSA	EWOSA suggested that metrics could be introduced to help in early identification and response, such as number of bills paid in a row, sustained level of debt, as well as the amount of debt relative to the quarterly bill the customer usually pays. EWOSA, however, also acknowledged the tight timeframes in which the Hardship Guideline needed to be finalised in and the difficulty in determining the most appropriate metrics. To this end, EWOSA recommended that we look to address this in another consultation round after the Hardship Guideline was finalised.	
SACOSS	EWOSA also suggested that Hardship Guideline require retailers to provide information on the debt-collection if they do not pay their arrears, noting that if the debt owing will be subject to debt-collection by an agency and the consumer might become default listed. SACOSS argued that the Hardship Guideline should provide guidance around the specific circumstances which can lead to a customer exiting a retailer's hardship program.	

Additional suggestions outside of scope of the Hardship Guideline

Energy Aid	Energy Aid suggested that a national advocacy model to assist consumers with their energy accounts be established, expanded and shared between multiple organisations across all NEM network areas.	The intent of the Hardship Guideline is to provide industry with binding guidance on the requirements in connection with the approval (or variation) of their hardship policies. While a
NCOSS		
NSA		

Energy Aid also considered energy literacy sessions in schools and across communities, and using media platforms, to educate consumers about their rights and responsibilities in respect to payment and energy usage.

NCOSS submitted that the AER publicly release further information about 2017 Hardship Review as this may assist retailers and community organisations in supporting people who are experiencing payment difficulties.

NCOSS also considered that a national energy concessions framework be established with consistent eligibility criteria, submitting that Australia's current concessions framework has been found to be ad hoc, inconsistent, complex, confusing and inadequate.

NCOSS further submitted that the AER should support increasing Newstart and other income support payments.

NSA supported further expanding customer protections for customers experiencing payment difficulties due to hardship, which included prohibition of disconnection for customers who have been identified as vulnerable.

NSA also argued for an independent review of eligibility decisions.

number of the suggested requirements relate to hardship in a broad sense, we consider they are out of the scope of the Hardship Guideline and, therefore, beyond the scope of this work.

Appendix C: Standardised statements – outline of changes to drafting following consultation

ORIGINAL STANDARDISED STATEMENT	REVISION TO DRAFTING FOLLOWING CONSULTATION	REASON FOR CHANGE
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GENERAL STATEMENT:

<p>This policy applies to all residential customers experiencing difficulties paying their energy bills due to hardship.</p> <p>This policy:</p> <ol style="list-style-type: none"> 1. Explains how we can help you manage your energy costs 2. Helps us take your circumstances and needs into account when determining how we can assist you, and <p>Explains your rights and responsibilities as a customer in our hardship program.</p> <p>If you have a financial counsellor you can ask them to contact us on your behalf.</p>	<p>This policy applies to all residential customers residing in <i>[retailer to add state/territory]</i> experiencing difficulties paying their energy bills due to hardship.</p> <p>This policy:</p> <ol style="list-style-type: none"> 1. Explains <i>what we will do to</i> help you manage your energy bills. 2. <i>Explains how we will</i> take your circumstances and needs into account when determining how we can assist you; and 3. Explains your rights and responsibilities as a customer in our hardship program. <p>If you have a financial counsellor <i>or other person who is helping you</i>, you can ask them to contact us on your behalf. <i>We need your permission to speak to them on your behalf.</i></p>	<p>Change to include reference to 'territory' in the drafting. (ACAT).</p> <p>Specific wording changes in points 1 and 2 to simplify the language and reflect retailer obligations. (SACOSS) The changes presented reflect a consolidation of the suggested changes in an attempt to make the wording clear, easily understood and concise.</p> <p>Removal of 'and responsibilities' is to:</p> <ul style="list-style-type: none"> • mirror the wording in the new rule 75(2)(b)(ii) which requires the AER to provide guidance on customers rights and retailers obligations (SACOSS); and • emphasis the focus on intended outcomes for consumers and the specific actions that a retailer will undertake in specific circumstances (PIAC). <p>Change to provide clearer information to customers around privacy obligations. This change is intended to provide information to customers around the fact that retailer staff will not be able to speak to a financial counsellor or anyone else unless they have the permission of the customer to do so. This change was suggested by a retailer.</p>
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MINIMUM REQUIREMENTS 1 AND 2:

<p>We will tell you about our hardship program and how it might help you if:</p> <ul style="list-style-type: none"> • you tell us you are having difficulties paying your bill • you are referred to our hardship program by a financial counsellor or other community worker • we think you may be experiencing financial hardship <p>We will recommend that you speak to a staff member about entry into our hardship program if:</p> <ul style="list-style-type: none"> • your payment patterns show late payments and requests for payment extensions • we have issued disconnection warning notices on your account • you have applied for or used relief grant or other emergency assistance to pay your bills • you mention personal circumstances (e.g. death, illness, family violence, unemployment) that suggest hardship support may be needed <p>Our staff member will talk to you about your individual circumstances and eligibility for the hardship program.</p> <p>[Retailer can insert its timeframes for assessing a customer's application for hardship assistance]</p>	<p>What we will do:</p> <p>We will tell you about our hardship program and how it can help you if:</p> <ul style="list-style-type: none"> • you tell us you are having trouble paying your bill; or • you are referred to our hardship program by a financial counsellor or other community worker; or • we are concerned you may be experiencing financial hardship <p>We will recommend that you speak to a staff member who handles enquires about how you might join our hardship program if:</p> <ul style="list-style-type: none"> • we see that your payment patterns show late payments, broken payment plans and/or requests for payment extensions; or • we have sent you a disconnection warning notice or you have been disconnected for non-payment; or • you let us know you may be eligible to use a relief grant or other emergency assistance to pay your bills; or • you mention personal circumstances (eg. death, household illness, family violence, unemployment or reduction in income) or any other circumstances that suggests hardship support may help-be needed. <p>Our specially trained staff members will ask you a few questions about your circumstances and let you know if you might be able to join the hardship program.</p> <p><i>[Retailer can insert its timeframes for assessing a</i></p>	<p>Changes to wording are to ensure the wording is simplified and user-friendly wherever possible.</p> <p>Specific wording change ties in closely with terminology used in minimum requirements (EWON and SACOSS). We consider that the change to 'identify that' specifies that onus is on the retailer to inform the customer – this reflects the obligation to identify and support.</p> <p>The inclusion of 'broken payment plans' as an additional indicator for entry onto a retailer hardship program (EWON).</p> <p>Changes to wording around disconnection warning notice are to better reflect wording used in the Retail Rules.</p> <p>Change to dot point 3 is to address unintended consequence of creating cost and implementation burden on retailers by extending the identifier to <i>applications</i> for relief. Retailers are not always aware or have visibility of when a customer has applied for assistance (AGL and AEC).</p> <p>AER drafting change to extend list of examples of possible personal circumstances.</p> <p>Inclusion of 'any other circumstance' to allow for consideration of other issues which the customer may be facing without placing a limitation on issues that will be considered (EnergyAustralia).</p> <p>AER drafting change to include instances where a retailer may not have a dedicated hardship team but rather where all staff has been trained in talking to customers about hardship. Change to 'inform you of your...' firms up commitment of part of the retailer to advise the customer of his/her eligibility for the hardship program (SACOSS).</p> <p>Change in drafting to include reference to a timeframe within which a retailer will advise the customer about acceptance onto its hardship program. Such a change provides clear</p>
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<p>If you are accepted onto our hardship program, we will tell you</p> <ul style="list-style-type: none"> • whether you are on the most suitable plan for your circumstances or if there is a plan that may better suit your needs • concessions and rebates you may be able to receive • how you can reduce your current and future energy use • a suitable payment amount that considers your capacity to pay • whether you can use Centrepay as a payment option. <p>We will send you information confirming the details of your agreed payment arrangement and the contact details for our hardship team. We will send you a copy of our hardship policy at no cost if you ask for it.</p>	<p><i>customer's application for hardship assistance]</i></p> <p>We will let you know if you are accepted onto our hardship program within [retailer to insert timeframe to advise customer, eg x business days].</p> <p>If you are accepted onto our hardship program, we will:</p> <p>tell you:</p> <ul style="list-style-type: none"> • let you know whether you are on the most suitable plan for your circumstances or if there is a plan that may better suit your needs • talk to you about government concessions, relief schemes or energy rebates you may be able to receive • give you ideas on how you might be able to reduce your future energy use • talk to you about a payment amount that takes into consideration your circumstances. • whether you can use Centrepay as a payment option. <p>We will send you information confirming the details of your agreed payment arrangement and the contact details for our hardship team. We will offer to send you a copy of our hardship policy at no cost. if you ask for it.</p>	<p>indicators and expectations for customers. Clarification inserted so the customer has clear expectation of when they will be advised of acceptance (or otherwise) into the program (QCOSS).</p> <p>Wording changes to more accurately reference wording in the Retail Rule 33 around government concessions, relief schemes and energy rebates (SACOSS).</p> <p>AER drafting change to more active language.</p> <p>Word change to 'may be able to reduce your future energy use' to reflect circumstances where it may not be possible for a customer to reduce energy use (EnergyAustralia and Momentum).</p> <p>Change to take into consideration a customer's individual circumstances (QCOSS).</p> <p>Change to move reference to Centrepay and payment arrangement details to be covered under Minimum Requirement 3. This is to avoid duplication and to provide clarity to customers around the use of Centrepay as a payment method (Origin).</p> <p>Inclusion of 'offer to' send the hardship policy to the customer at no cost, makes the action more consumer focussed on the part of the retailer (EWON).</p>
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MINIMUM REQUIREMENT 3:

<p>When you are in our hardship program, we will offer you flexible payment options, based on your individual circumstances.</p> <p>There are different payment options available to</p>	<p>There are different payment options available to hardship customers, including:</p> <ul style="list-style-type: none"> • payment plans 	<p>Change to 'discussing' is to reflect that when a payment plan is agreed to, a conversation will occur between the retailer and the customer and that there is an ongoing discussion between retailers and customers experiencing hardship</p>
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<p>hardship customers, including:</p> <ul style="list-style-type: none"> • payment plans • the use of Centrepay. <p>[Retailer to add additional payment options].</p> <p>When agreeing a payment plan with you, we must take into account:</p> <ul style="list-style-type: none"> • your capacity to pay (how much you are able to pay) • your debt with us (how much you owe), and • how much energy we expect you will use in the next 12 months. <p>Our payment plan will include an offer to pay in advance or in arrears by instalments.</p> <p>Once the payment plan is agreed we will send you details of:</p> <ul style="list-style-type: none"> • how long it will run • how many payments you need to make, and when you need to make them, and • how we calculated your payments (in advance or in arrears). <p>It is important that you make these payments when they are due. If you make payments as agreed, we will not disconnect you for non-payment.</p> <p>If you can't meet the payments we agreed as payment plan, or if your circumstances change, please contact us immediately on [X] so we can talk about this with you. We can review your hardship program including payment plan</p>	<ul style="list-style-type: none"> • the use of Centrepay. <p><i>[Retailer to add additional payment options].</i></p> <p>What we will do:</p> <p>When you are in our hardship program, we will offer you flexible payment options, based on your individual circumstances.</p> <p>When agreeing discussing a payment plan with you, we will take into account:</p> <ul style="list-style-type: none"> • how much you are able to pay • how much you owe; and • how much energy we expect you will use in the next 12 months. This will be used as a guide to help us figure out the best payment plan. <p>Our payment plan will include an offer to pay in advance or in arrears by instalments. We will offer you a payment plan best suited to your situation. This will include instalments which cover what you owe, and an amount that aims to cover your future energy use.</p> <p>Once we agree to a payment plan, we will send details including:</p> <ul style="list-style-type: none"> • contact details if you need further assistance • how long it will run • the amount of each payment, how many payments you need to make, and when you need to make them (that is, the frequency of the payments), and • how we calculated your payments (in advance or in arrears). <p>If you are eligible and would like to use Centrepay, we will make this available.</p>	<p>(EWON and Red/Lumo).</p> <p>Word changes around 'arrears and advance' in response to submissions by both retailers and consumer advocates. Submissions stated that consumers do not understand this language and the drafting to describe this process should be clearer (SACOSS, EnergyAustralia, Momentum and Origin).</p> <p>Change to provide additional information to customers on the details of their payment plan (EWOSA) and contact details of the retailer if the customer needs further assistance or information. The changes take into account the requirements of Retail Rule 72(2) (SACOSS).</p> <p>Inclusion of information on Centrepay as a payment option and to more accurately reflect requirements of Retail Rule 74 (SACOSS).</p> <p>AER drafting change to clarify the intent and to make specific reference to 'energy' plan.</p> <p>Addition of retailer obligations regarding the waiving of debt to reflect Retail Rule 76 (SACOSS and EnergyAustralia).</p> <p>AER drafting changes to make the obligations in the standardised statements clearer and less repetitive.</p> <p>Drafting change around removal from the hardship program and risk of disconnection to clarify what may occur if customer does not adhere to payment plan and to reflect Retail Rule 33(2) (SACOSS, EWON and Origin).</p>
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<p>arrangements.</p> <p>If we notice you have missed a payment, we will contact you [retailer must set out contact process when a hardship customer misses a payment plan instalment]</p> <p>It is important you let us know if anything comes up that means you might not be able to make the payments agreed for your payment plan or hardship program. You also need to let us know if you have new contact details. If you do not do that, we may consider removing you from the hardship program.</p>	<p>In addition, we will review your energy plan to determine whether there is another energy plan that you may be better suited for. If there is, with your consent we will transfer you to that plan at no cost.</p> <p>We may waive any debt, fees or charges in accordance with this hardship policy.</p> <p>If we notice you have missed a payment, we will contact you to see if your current payment plan is still suitable for you [retailer must set out contact process when a hardship customer misses a payment plan instalment]</p> <p>What we need you to do:</p> <ul style="list-style-type: none"> • If you can't meet the payments as agreed as payment plan or If your circumstances change and you may not be able to make the payments agreed to under your payment plan, please contact us. us immediately on [X]. We can then review your payment arrangements. • It is important you let us know if anything comes up that means you might not be able to make the payment agreed for your payment plan or hardship program. You also need to let us know if you have new contact details. <p>If you do not do that, we may consider removing you from the hardship program.</p> <p>If you cannot meet the payments agreed to under your payment plan and cannot be contacted, we may not be able to continue to offer you assistance. If that happens, you will be at risk of disconnection.</p> <p>If you have had two payment plans cancelled, due to non-payment in the last 12 months, we do not have to offer you another payment plan.</p>	
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MINIMUM REQUIREMENT 4:

<p>Depending which state you live in, you may have access to Government schemes, concessions and rebates that are designed to help with your energy bills.</p> <p>We will tell you about government concession programs and financial counselling services. We will explain these programs to you so you understand how they can help you.</p> <p>If you find out you are eligible for these programs, please let us know immediately so that we can help you.</p>	<p>Depending which state or territory you live in, you may have access to Government schemes, concessions and rebates that are designed to help with your energy bills.</p> <p>What we will do:</p> <p>We will tell you about government concession-relief schemes, energy rebates, concession programs and financial counselling services that may be available to you. We will explain these programs to you so you understand how they can help you.</p> <p>What we need you to do:</p> <p>If you find out you are eligible for these programs, please let us know as soon as possible immediately so that we can help you.</p>	<p>Change to include a reference to 'territory' (ACAT).</p> <p>Changes to the wording is to reflect the wording of the Retail Rules (Rule 33) with respect to government relief rebates and other programs (SACOSS).</p> <p>Removal of second sentence (EWON).</p> <p>Change to 'as soon as possible' is to soften the language and to take the emphasis off the customer to contact their retailer 'immediately' (AGL).</p>
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MINIMUM REQUIREMENT 5:

<p>We also offer the following services to assist you whilst you are participating in the Hardship Program: [insert other services/products offered to hardship customers].</p> <p>We will take into account your individual circumstances to find the programs or services that can best help you</p>	<p>We also offer the following have a range of programs and services to assist you whilst you are participating in the hardship program: <i>[insert other services/products offered to hardship customers]</i>.</p> <p>What we will do:</p> <p>We will take into account your individual circumstances to find the programs (e.g. including concessional programs) or services that can best help you.</p>	<p>Change to broaden the language around programs and services available to assist customers participating in the hardship program (SACOSS).</p>
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MINIMUM REQUIREMENT 6:

<p>As soon as you enter our hardship program, we will discuss your energy usage and whether you are on the most suitable plan for your</p>	<p>What we will do:</p> <p>As soon as When you join our hardship program, we will discuss your energy usage and whether you are on the</p>	<p>Change from 'as soon as' to 'when' is to reflect discussions with customers in practice. Submission comments suggested that in some instances, a customer does not want to have the conversation with their retailer about energy</p>
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<p>circumstances.</p> <p>If we agree you will benefit from changing to a new plan, we will explain it to you and get your consent to transfer you to the new plan at no cost.</p>	<p>most suitable plan for your circumstances.</p> <p>If we agree we think changing to a new energy plan might better suit your needs, we will explain it to you and ask if you would like to transfer to the new plan at no cost. We will only ask you about plans that our business offers.</p>	<p>usage or suitable plans as soon as they enter the hardship program. In some instances, this happens at a later agreed time (AGL and EnergyAustralia).</p> <p>The removal of 'we agree' is to simplify the language and to take into account that the retailer agreement on benefit is not material to a customer's decision to take the plan or not (AGL).</p>
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MINIMUM REQUIREMENT 7:

<p>As soon as you enter our hardship program, we will tell you ways you can improve your energy efficiency (how much energy you use). This may vary according to what state you live in.</p>	<p>What we will do:</p> <p>As soon as you When you join our hardship program we, will let you know about ways you may be able to improve your energy efficiency (how much energy you use). This may vary according to which state or territory you live in.</p>	<p>Change from 'as soon as' to 'when' as per minimum requirement 6.</p> <p>Change to 'may' as in some instances, a customer's energy efficiency cannot be improved. It is still important to have the conversation around energy efficiency but it may not always result in a change to the customer's usage (EnergyAustralia and Momentum). In addition, a retailer needs to understand a customer's usage before they can offer effective advice about energy efficiency (Red/Lumo).</p>
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MINIMUM REQUIREMENT 8:

<p>N/A</p>	<p>[Not applicable]</p>	
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MINIMUM REQUIREMENT 9:

<p>We will not:</p> <ul style="list-style-type: none"> charge our hardship customers late payment fees, or require our hardship customers to provide a security deposit. 	<p>For customers on our hardship program, we will not:</p> <ul style="list-style-type: none"> charge our hardship customers late payment fees; require our hardship customers to provide a security deposit; or put you on a shortened collection cycle without your consent. 	<p>Drafting changes are to ensure clarity of this standardised statement.</p> <p>Addition to reflect Retail Rule 34 (SACOSS).</p>
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