

SAFE+EQUAL

Standing strong
against family
violence

POLICY ADVICE ON FAMILY
VIOLENCE OBLIGATIONS
FOR EXEMPT SELLERS

Australian Energy Regulator
Final Report
July 2024

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Acknowledgement of Traditional Owners

Safe and Equal acknowledges Aboriginal and Torres Strait Islander peoples as the traditional and ongoing custodians of the lands on which we live and work. We pay respects to Elders past and present. We acknowledge that sovereignty has never been ceded and recognise First Nations peoples' rights to self-determination and continuing connections to land, waters, community, and culture.

Honouring Victim Survivors

Safe and Equal honours the strength and resilience of adults, children and young people who have experienced family violence and recognises that it is essential that responses to family violence are informed by their expert knowledge and advocacy. We pay respects to those who have not survived and acknowledge the lasting impacts of this preventable violence on families and communities.

Content warning

This report discusses sensitive content, including experiences and details of family violence that may be triggering for some people. Please prioritise your own self-care and seek support and assistance as required. See Appendix 1 for a list of support services.

About Safe and Equal

At Safe and Equal, we work towards a world where everyone is safe, respected and thriving, living free from family and gender-based violence.

We are the peak body for Victorian organisations that specialise in family and gender-based violence across the continuum, including primary prevention, early intervention, response and recovery. As a peak, we work with and for our members to prevent and respond to violence, building a better future for adults, children and young people experiencing, at risk of, or recovering from family and gender-based violence.

We bring together evidence, lived experience, practice **expertise and collaborative partnerships** to mobilise for and effect social, policy and system change. We **advocate on behalf of and support the development of** high-quality services and programs across the continuum. We **drive** the continued development of an **innovative and leading** family violence sector.

Our work is practical and based in evidence about what drives and addresses violence. We cannot respond to, and eventually end, family and gender-based violence without well-informed ideas about what works.

Our guiding commitments describe what we hold at the centre of our work – the ideas that will shape what, how, and with whom we work to deliver on our vision and fulfill our purpose.

We support and ally with Aboriginal communities and organisations to further self-determination. We know that for Aboriginal people and communities to be safe, respected and thriving, we must have self-determined systems and services. We are committed to Aboriginal self-determination. We work towards strong relationships with Aboriginal Community Controlled Organisations, Elders and communities. We will work with, learn from and respect community-led solutions. We will build our understanding of the impact of colonisation and other forms of discrimination and use this to challenge oppressive and racist systems, and strengthen cultural safety across the family violence service system.

We recognise and respond to diversity of experience and intersecting forms of power and oppression. We know that gender intersects and overlaps with multiple forms of inequality and oppression to drive violence and compound the impacts. This includes oppression experienced by Aboriginal and Torres Strait Islander Peoples, people from migrant and refugee communities, people of colour, LGBTIQ+ communities, and people living with disabilities. We also recognise the influence of age, location and socio-economic disadvantage, amongst other factors. We aim for everything we do to be socially transformative by addressing power, privilege and oppression, with the aim of ending violence for all. We will advocate for and lead the development of a safe, accessible, inclusive and equitable service system to meet the needs of all people.

We centre and platform lived experience of children, young people and adults affected by violence. We are ultimately accountable to victim survivors of family violence and those who did not survive. Our work is fundamentally shaped by their voices. We prioritise the safety, wellbeing and agency of victim survivors in all that we do. Our work aims to promote flexible service responses that support them to achieve autonomy and empowerment. We recognise the unique needs of children and young people affected by family violence. We will work to ensure that their voices are heard and strengthen systemic responses to prioritise their safety and wellbeing.

We continue evolving as a member-based, intersectional feminist organisation. Intersectional feminism is foundational to who we are and how we work; it is the primary framework we use to deepen our understanding of the family violence evidence base, build coalitions and partnerships, and engage in critical reflection. We have grown from a long history of grassroots and community activism. We have evolved over time to meet the changing needs of our members and communities, and to reflect evolving understandings of violence and oppression. Our work is both evidence-informed and evidence-building, including evidence drawn from practice and lived experience.

We consult with organisations Australia-wide, utilising specialist family violence sector practice knowledge and expertise, alongside the voices of lived experience, to transform the way that businesses respond to employees and customers at risk of or experiencing family violence.

Please note: the advice contained in this report was developed by Safe and Equal for the AER's specific context. The below information should not be treated as general advice relevant to different contexts.

Executive summary

Family violence¹ is a serious but preventable issue in Australia. Currently, almost one in four women and around one in fourteen men have experienced violence by a current or previous intimate partner.² One woman is killed nearly every week in Australia due to family violence.³ To address and improve the safety and wellbeing of victim survivors, family violence must be identified and responded to across all aspects of society.

The essential services sector has experienced significant reform in relation to responding to family violence. This reform recognises there are certain universal principles and actions required in addressing family violence. It also recognises the more specific or unique characteristics to be addressed in the essential services sector – a sector that provides services essential for living but is also weaponised by perpetrators to further enact abuse.

Authorised sellers are now obliged to meet various family violence requirements contained in the National Energy Retail Law and National Energy Retail Rules. The Australian Energy Regulator (AER) is required to address the policy approach for exempt sellers to best identify and respond to customers experiencing family violence, and ensure this approach is feasible for the diverse range of exempt seller settings.

For some exempt sellers, energy retail forms a small part of their overall business. They may be a business of widely variant size or scope, with varying proximity to their customers, and with different regulatory requirements specific to their particular setting or business type. Given this variation, there is an inherent challenge to how all exempt sellers can adequately provide the same protections to customers experiencing family violence as authorised sellers.

Safe and Equal has formulated key recommendations drawing from the relevant family violence knowledge and practice evidence base, alongside consultations with exempt sellers and family violence survivor advocates. These recommendations have been formed to assist the AER in identifying solutions that ensure adequate protections for victim survivors who are customers of exempt sellers.

Summary of recommendations

1. Prioritise inclusive and equitable approaches in the roll-out of all recommendations
2. Develop a tiered approach to regulation
3. Ensure all exempt sellers complete foundational family violence training

¹ Note to reader: In the interests of brevity, we are choosing to use the term 'family violence' throughout this report, which encompasses all forms of family and domestic violence.

² Safe and Equal *Fast Facts on Family and Gender-Based Violence* https://safeandequal.org.au/wp-content/uploads/FastFacts_2023_FINAL_01.pdf (accessed 24 July 2024).

³ Safe and Equal *Who can experience family violence* <https://safeandequal.org.au/understanding-family-violence/who-experiences-family-violence/> (accessed 17 June 2024).

4. Implement a standalone family violence policy template
5. Promote external referral information to exempt seller customers
6. Implement family violence reporting
7. Implement evaluation methods
8. Disseminate family violence practice changes to all exempt sellers
9. Provide a family violence helpline to exempt sellers and their customers
10. Advocate for more equitable outcomes for exempt seller customers

Further detail on the recommendations, along with the required actions to support each, are outlined in the Recommendations section of the report from page 32.

“We had a wall heater control, and he would pull the wires and plug out then leave. I had a three-month-old baby and two-year-old in the middle of winter. He used access to essential services to perpetrate abuse. It’s not just the physical, it’s the mental and emotional. Over time, it grinds you down. When you are left without bare essentials to keep yourself warm or cool, it’s very scary.”

Survivor Advocate, Survivor Advocate Interview, June 2024

Project details

Please note: this report references terms that have been defined in Appendix 1.

Throughout this report, we refer to rule summaries from the National Energy Retail Rules within the *Interim Guidance Note: Family Violence Rule*⁴. These rule summaries were consulted on within focus group and interview settings.

Project contributors

This report acknowledges the contributions of the AER focus group and survivor advocates who have generously given their time and expertise to this project.

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Background

Family violence is a serious but preventable issue in Australia. Currently, nearly one in four women and around one in fourteen men have experienced violence by a current or previous intimate partner.⁵ One woman is killed nearly every week in Australia due to family violence,⁶ and these rates are higher for women experiencing overlapping forms of oppression. It is also understood that LGBTIQ+ people experience family violence at higher rates than non-LGBTIQ+ Australians,⁷ and that further research is required in this area.

Essential services, including retailers of gas and electricity, can be weaponised or exploited by perpetrators of family violence to enact abuse. This can include using essential services to obtain personal information, such as a victim survivor's contact details, and using these to locate or contact them; controlling access to energy bills or refusing to contribute to their payment, leading to mounting debt and eventual disconnection; pressuring victim survivors to sign or agree to contracts or arrangements with energy retailers; or opening contracts in the victim survivor's name.⁸

Perpetrators of family violence can also damage or purposely withhold access to essential services, leaving victim survivors (including children) without access to basic needs, such as electricity, gas or water. Victim survivors may also accrue unexpected debt or unreasonable

⁴ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule* <https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

⁵ Safe and Equal *Fast Facts on Family and Gender-Based Violence* https://safeandequal.org.au/wp-content/uploads/FastFacts_2023_FINAL_01.pdf (accessed 24 July 2024).

⁶ Safe and Equal *Who can experience family violence* <https://safeandequal.org.au/understanding-family-violence/who-experiences-family-violence/> (accessed 17 June 2024).

⁷ The Royal Australian College of General Practitioners *LGBTIQ+ Family abuse and violence* <https://www.racgp.org.au/clinical-resources/clinical-guidelines/key-racgp-guidelines/view-all-racgp-guidelines/abuse-and-violence/specific-populations/lgbtiq-family-abuse-and-violence#:~:text=LGBTIQ+2B%20people%20experience%20family%20violence%20at%20higher%20rates,abuse%20Family%20violence%20%28IPAV%29%20and%20violence%20within%20families%20of%20origin.> (accessed 17 June 2024).

⁸ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule* <https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

charges due to a perpetrator deliberately 'overusing' energy; for example, through allowing visitors to the home, tampering with meters, or for their own gain, including criminal activity.

Customers who disclose that they have been affected by family violence should be believed by energy sellers and treated with flexibility and respect.⁹ It is also vital that essential services providers treat customer information with the utmost care and confidentiality, and not jeopardise a customer's safety by revealing information that perpetrators could use to further enact abuse.

In 2022, the Australian Energy Market Commission finalised new family violence obligations for authorised retailers under the National Energy Retail Rules (NERR).¹⁰ These new obligations took effect on 1 May 2023. The Australian Energy Market Commission recommended that the AER extend these protections to affected customers in embedded networks, by means of including them as conditions for exempt sellers in the Retail Exempt Selling Guideline.

Embedded networks ('ENs') are private electricity networks that can serve multiple customers. The owner of the site, or another entity, may control or operate the network infrastructure.

In most cases, site owners buy energy from an energy retailer and on-sell it to the occupants of the site. ENs exist for both residential and small business customers.

The main types of residential ENs are apartment blocks, retirement villages, caravan parks and shopping centres. In some circumstances, the AER allows non-authorised retailers to sell energy (i.e. they are 'exempt' from having to seek a retailer authorisation). Commonly, selling energy is not the main activity of the seller and often forms a small part of the business they undertake.¹¹

Scope

The AER is currently reviewing the regulatory framework for exempt sellers they regulate across NSW, QLD, ACT, SA and TAS and is considering how or whether the family violence rules could be applied to them.¹²

The AER engaged Safe and Equal to provide best practice family violence advice to support energy customers within exempt seller arrangements. Advice in this report is based on best practice family violence knowledge and considers the unique perspectives of a range of exempt sellers and survivor advocates of family violence.

This project has provided Safe and Equal with the opportunity to understand embedded network processes and the diversity of selling arrangements and capacity.

⁹ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule* <https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

¹⁰ Australian Energy Market Commission (2022) *Protecting customers affected by family violence* <https://www.aemc.gov.au/rule-changes/protecting-customers-affected-family-violence> (accessed 17 June 2024).

¹¹ Australian Energy Regulator *Embedded networks customers* <https://www.aer.gov.au/consumers/understanding-energy/embedded-networks-customers> (accessed 17 June).

¹² Australian Energy Regulator (2023) *Review of the exemptions framework for embedded networks* <https://www.aer.gov.au/system/files/2023-11/AER%20-%20Review%20of%20the%20exemptions%20framework%20for%20embedded%20networks%20-%20Issues%20paper%20-%2030%20November%202023.pdf> (accessed 17 June).

Safe and Equal has explored the practicality of applying the full suite of retailer rules to exempt sellers through a literature review, research, the design and delivery of an exempt sellers focus group, and the design and delivery of targeted survivor advocate interviews.

This report outlines recommendations for good practice principles or actions for exempt energy sellers to support customers experiencing family violence.

As a result of the stakeholder engagement available, this report will have a particular focus on the experiences of caravan parks, body corporate apartment blocks and retirement villages.

Contributions and engagement

“To be effective, prevention of and responses to family violence need to be informed by multiple forms of knowledge – that is, empirical evidence, lived experience and practice expertise – all of which are mutually beneficial and none more valuable, meaningful or relevant than the others.”¹³

Just as there are multiple ways to embed evidence in our work, or gain practice wisdom and experience, there are many ways that lived experience of family violence and of the service system can be harnessed and embedded into the work of the sector”.

(Excerpt from Safe and Equal’s [Sources of Lived Experience](#) Issues Paper)

This report draws on intersecting forms of knowledge and expertise across evidence and literature, exempt sellers, family violence practice expertise, and the lived expertise of survivor advocates. All insights have contributed to and informed the recommendations in this report, as well as the review of the provided documentation by the AER.

A note on lived experience

The Victorian Royal Commission into Family Violence found that to achieve meaningful change, lived experience must remain at the heart of all family violence reform.¹⁴

Throughout the project, Safe and Equal and the AER have demonstrated a commitment to listening to and amplifying the voices of people with lived experience of family violence by working closely with survivor advocates. This included conducting one-on-one interviews with survivor advocates.

Engaging with survivor advocates throughout the project has added great value and nuanced insights. While it is vital to recognise that the lived experiences of survivor advocates are

¹³ Specialist family violence praxis is a way to conceptualise how we integrate different forms of expertise into our work, while resisting hierarchy of expertise (some views or experiences being given more weight or importance than others). This praxis is multi-directional. Evidence, experience and practice continually inform each other.

¹⁴ The Victorian Government *Family Violence Lived Experience Strategy* <https://www.vic.gov.au/family-violence-lived-experience-strategy/introduction> (accessed 17 June 2024).

unique and varied, key themes have emerged from their wisdom and guidance. These themes have informed this report and Safe and Equal's guiding recommendations.

Family violence and exempt sellers

As stated in this report, family violence in the context of essential services is becoming better understood. Actions to support victim survivors are continuing to be implemented, including operational guidance, regulation, monitoring, and sanctions for failing to comply.

The experiences of victim survivors of family violence receiving their energy supplies within exempt seller arrangements, including apartment blocks, retirement villages and caravan parks have, so far, been less understood. However, it is evident that there is a unique and significant relationship between exempt sellers and family violence.

Retirement villages

"The capacity to be exploited through family members is real. [The] 75-age group plus do not talk about family and domestic violence. They would find it embarrassing. It's hard to know what would be reported." (Exempt Seller, Exempt Seller Focus Group, June 2024)

The National Elder Abuse Prevalence Study (2021) reports that approximately one in six older Australians experience elder abuse in a given year; and this includes residents of retirement villages.¹⁵ This complex form of abuse is defined as 'a single or repeated act or failure to act, including threats, that results in harm or distress to an older person. This occurs where there is an expectation of trust and/or where there is a power imbalance between the party responsible and the older person'.¹⁶

Like all family violence, elder abuse can be perpetrated in many ways, including physical, emotional, sexual, financial, spiritual and social abuse.¹⁷ There are also specific types of violence that are unique to elder abuse, including neglect of care, abandonment, rights abuse and financial exploitation.¹⁸

"The patterns I've seen in victim survivors, the most vulnerable are older women who have lost everything and are in a retirement home or independent living. I see a lot of misuse of power and control in those settings." (Survivor Advocate, Survivor Advocate Interview, June 2024)

¹⁵ Australian Government Attorney-General's Department *Protecting the Rights of Older Australians* <https://www.ag.gov.au/rights-and-protections/protecting-rights-older-australians#top> and *Retirement village operators urged to improve elder abuse protections* | Australian Human Rights Commission (accessed 17 June 2024).

¹⁶ The Australian Institute of Family Studies (AIFS) *Elder Abuse National research: Research definition background paper* <https://aifs.gov.au/research/research-reports/elder-abuse-national-research-research-definition-background-paper> (accessed 17 June 2024).

¹⁷ Great Senior Living (2020) *This is elder abuse: types, warning signs, and how to report it* <https://www.greatseniorliving.com/articles/elder-abuse> (accessed 17 June 2024).

¹⁸ Great Senior Living (2020) *This is elder abuse: types, warning signs, and how to report it* <https://www.greatseniorliving.com/articles/elder-abuse> (accessed 17 June 2024).

The NSW Retirement Villages Residents Association reports that the most common form of abuse in villages is resident-on-resident.¹⁹ An exempt seller focus group participant shared that:

“People who enter retirement villages have sold their home and invest it into their retirement home, and they have no cash and are living in hardship. I was advised that some of the larger retirement villages have care you can purchase, some of the residents cannot afford this [and] it gets built up into debt.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Caravan Parks

“We are a combined industry in NSW; we see lots of tourists. Violence does occur over holiday periods. There are homeowners who lease their home and people who rent, which means there are various socioeconomic situations. Some members have been part of programs to house family violence victims whilst waiting for housing.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Family violence experienced in caravan park settings can be complex and influenced by various factors, making it more challenging to recognise and respond to.

Caravan parks are often utilised by individuals and families with low incomes due to the affordability of living arrangements. Financial stress, whilst not an excuse or reason for violence, can be a significant risk factor for an escalation in a perpetrator’s use of family violence.²⁰

Many residents in caravan parks also experience housing instability. As family violence is the leading cause of homelessness for women and children,²¹ many victim survivors fleeing family violence will need crisis accommodation – and this can be sought within caravan parks.

However, the transitory nature of such housing can contribute to a lack of community support and social isolation.²² Many caravan parks are located in rural or semi-rural areas, which can isolate residents from social services and support networks. This geographic isolation can make it difficult for victims of family violence to seek help, escape their situation, or access healthcare and social services, including those specifically for family violence. The availability and responsiveness of law enforcement may also be limited, as may be connections to strong social networks that can provide support and intervention in cases of family violence.²³

¹⁹ Australian Human Rights Commission (2024) *Retirement village operators urged to improve elder abuse protections* [Retirement village operators urged to improve elder abuse protections | Australian Human Rights Commission](#) (accessed 17 June 2023).

¹⁹ Australian Nursing and Midwifery Journal *Suffering in silence: The reality of elder abuse* [Suffering in silence: The reality of elder abuse – ANMJ](#) (accessed 17 June 2024).

²⁰ Australia’s National Research Organisation for Women’s Safety Limited (ANROWS) *Economic security and intimate partner violence* <https://www.anrows.org.au/wp-content/uploads/2022/11/ANROWS-Economic-Security-Synthesis-2022.pdf> (access 17 June 2024).

²¹ Australian Institute of Health and Welfare (2020) *Specialist homelessness service annual report 2019-20* <https://www.aihw.gov.au/reports/homelessness-services/shs-annual-report-2019-20/contents/client-groups> (access 17 June 2024).

²² Australian Property Journal (2022) *Housing crisis for women and children fleeing family violence* <https://www.australianpropertyjournal.com.au/2022/11/27/housing-crisis-for-women-and-children-fleeing-family-violence/> (access 17 June 2024).

²³ The Victorian Government (2023) *People living in rural and regional communities* <https://www.vic.gov.au/diversity-victorian-government-board-guidelines/key-considerations-cohorts/people-living-rural-and> (access 17 June 2024).

Caravan parks can often be crowded, with families living in close quarters and with limited personal space. The lack of privacy in caravan parks can lead to increased surveillance, or the development of close relationships between neighbours or caravan park staff and victim survivors and perpetrators of family violence – which can both deter and complicate the reporting of family violence incidents.²⁴

As caravan parks often have a high turnover of residents, the transitory nature can also make it difficult for social services to track and support families in need, and for perpetrators to be held accountable for their use of violence.

Body corporate and owners corporation rental properties

“I represent an owners corporation made up of primarily owners. In apartments family violence is a massive issue. Last year, there was a situation where a woman was killed because the emergency services couldn’t find or gain access to the apartment. We have three apartment buildings. We now put a copy of apartment keys in a locker with codes so the emergency services can access the building in case of an emergency.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

A body corporate, or owners corporation as it’s more commonly known, brings together all the individual owners within a single strata titled property (such as a block of flats). Strata is a way of handling legal ownership of part of a building. The owners corporation manages shared expenses, decides how common areas like gardens and lobbies are maintained, and deals with issues between owners, such as noise and parking. Body corporates and owners corporations also manage all the outgoing expenses for the maintenance of a building, including car parks, driveways, entrances, lifts, lobbies, pools, shared courtyards and gardens. Across Australia, owners are legally required to be part of the owners corporation if their property is subject to a strata title, and must pay for things like insurance.²⁵

Similar to caravan parks, family violence experienced within body corporate and owners corporation rental properties can be complicated by a range of factors. Inadequate security measures in body corporate properties can increase the risk of family violence incidents going unnoticed or unreported.

Additionally, residents within body corporate and owners corporation rental properties often reside in close proximity and have unique business relationships with one another that are directly connected to their housing security.²⁶

These relationships are likely to impact or deter a victim survivor of family violence from disclosing their situation, due to the impact of stigma, sharing of personal information, the threat of housing insecurity or the threat to their safety. These relationships are also likely to

²⁴ Australian Housing and Urban Research Institute (2003) *On the margins? housing risk among caravan park residents* https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI_Final_Report_No47_On_the_margins_housing_risk_among_caravan_park_residents.pdf (access 17 June 2024).

²⁵ Real estate (2018) *What is a body corporate and what do they do?* <https://www.realestate.com.au/advice/what-is-a-body-corporate-and-what-do-they-do/> (access 17 June 2024).

²⁶ Better boards (2023) *What is a body corporate in Australia?* <https://betterboards.net/fact-sheet/body-corporate/> (access 17 June 2024).

add further challenges for other residents or members of the body corporate or owners corporation in knowing how to address or respond to concerns pertaining to family violence.²⁷

The management and governance structures of body corporate or owners corporation properties can also impact victim survivors' experiences. Poor management, lack of community engagement, and ineffective dispute resolution mechanisms are likely to contribute to a stressful living environment, further inhibit disclosures of family violence, and fail to hold the perpetrator accountable for their use of violence.

The management acts pertaining to body corporate or owners corporations can negatively affect the safety of victim survivors, with the risk of their information being shared freely:

"Strata [Schemes] Management Act NSW has an unusual relationship with privacy. You can view all information and contact details; any owner has the right to request information.

Strata search means you can look at the Strata plan. They shouldn't withhold this from any owner in the building. You have to book a meeting with the manager and go into the office. This is poorly understood. This needs to be addressed in terms of protections. This needs to be looked at.

Perpetrators of family violence could manipulate this. Legislation needs to be clear about what people can access." (Exempt Seller, Exempt Seller Focus Group, June 2024)

It is evident that a proportion of residents in caravan parks and body corporate apartment buildings that obtain energy through exempt sellers will be experiencing, or at risk of experiencing, family violence. This will significantly impact their quality of life and potentially their capacity to access or pay for essential services.

Victim survivors obtaining their energy through exempt sellers deserve equitable access to the assistance and supports that are provided to victim survivors obtaining energy through authorised sellers.

Best practice for essential services responding to family violence: literature review

Broadly speaking, essential services in Australia recognise the valuable role they can play in supporting victim survivors of family violence, as well as a willingness for reforms and improvement in this area.

Whilst family violence best practice varies between states, there are attempts for consistency. In September 2022, the Australian Energy Market Commission added a final rule that amended

²⁷ Stratacare (2023) *Speaking out on domestic violence in a copy corporate* <https://stratacare.com.au/speaking-out-on-domestic-violence-in-a-body-corporate/> (access 17 June 2024).

the National Energy Retail Rules (NERR). The final rule introduced new measures to protect customers experiencing family violence.²⁸

Several key energy providers throughout all states in Australia have already taken steps to support victims of family violence. Key examples of best practice include:

- Financial hardship programs
- Confidentiality and privacy measures
- Dedicated support services
- Awareness and provision of training
- Collaboration with specialised family violence support services
- Strong, well socialised family violence policies
- Proactive outreach to customers within hardship programs
- Wellbeing support for essential services employees

Gaps in best practice are being identified and further improvements and progress are also being explored. The Essential Services Commission (ESC) in Victoria has collaborated with leading experts in family violence and economic abuse to create best practice guides for energy and water companies to assist consumers affected by family violence²⁹. The guides, incorporating the principles of Safety by Design, will assist businesses in identifying risks and harms within their systems and processes. Safety by Design is a proactive strategy aimed at preventing the misuse of products and services against consumers experiencing family violence.

This partnership, led by the ESC, aims to enhance existing efforts of essential services by sharing and showcasing examples of best practice and fostering the ability to implement change. This will be explored through workshops, stakeholder engagement, and Safety by Design resources. A consistent approach across the water and energy sectors will help reduce risks for consumers experiencing family violence.³⁰

Recent findings from the Victorian Energy and Water Ombudsman *Empowering change: Supporting victim survivors of family violence* report, indicated that four primary factors are likely driving the most common and serious issues impacting victim survivors' experiences with energy and water providers. These are:

1. Inadequate provider knowledge of family violence and related victim-survivor entitlements.
2. Issues with providers' systems, processes and family violence-related policies.
3. Lack of enforceable obligations when a provider has failed to identify a consumer is a victim-survivor.
4. Obligations allowing providers to seek evidence from victim-survivors.

²⁸ The Australian Energy Market Commission (AEMC) *Protecting customers affected by family violence* <https://www.aemc.gov.au/rule-changes/protecting-customers-affected-family-violence> (accessed 23 July 2024).

²⁹ Essential Service Commission (2024) *Safety by Design partnership to support energy and water consumers experiencing family violence* <https://www.esc.vic.gov.au/media-centre/safety-design-partnership-support-energy-and-water-consumers-experiencing-family-violence> (accessed 23 July 2024).

³⁰ Essential Service Commission (2024) *Safety by Design partnership to support energy and water consumers experiencing family violence* <https://www.esc.vic.gov.au/media-centre/safety-design-partnership-support-energy-and-water-consumers-experiencing-family-violence> (accessed 23 July 2024).

To address these factors the following areas of improvement were identified:

1. Maximising the impact of family violence training that energy and water providers deliver to relevant staff and agents.
2. Enhancing the quality and impact of energy and water providers' family violence-related policies.
3. Strengthening obligations relating to energy and water providers recognising and supporting victim-survivors.
4. Removing barriers for victim-survivors accessing relevant protections and entitlements.³¹

These findings were front of mind when engaging with survivor advocates and the exempt seller focus group for this project. This assisted in determining the strengths and challenges that are unique to exempt sellers when supporting their customers experiencing family violence.

Presentation and analysis of data obtained

Summary of findings from exempt sellers focus group & survivor advocate interviews (consultations)

A focus group with exempt sellers was facilitated by Safe and Equal, to understand how the family violence rules in the regulatory framework for authorised sellers could be applied to achieve the most positive outcomes. The AER were responsible for the procurement of focus group members, with representatives from caravan parks, body corporates and retirement villages in attendance.

Safe and Equal also facilitated one-on-one interviews with survivor advocates, all of whom had experience of liaising with energy companies while experiencing family violence. Whilst some survivor advocates did not have direct experience of energy provision via exempt sellers, some had close relations or clients who had. A detailed explanation of embedded networks and exempt selling arrangements was provided to each survivor advocate at the start of their interview, enabling them to apply their lived expertise to the application of family violence rules for exempt sellers.

The review of information provided, alongside feedback from the exempt seller focus group, demonstrated varying levels of willingness to do more to support customers experiencing family violence, with many exempt sellers agreeing in principle.

The survivor advocates interviewed recognised the need for further improvements and were able to demonstrate the very real impact that essential services have in responding to family violence.

However, many concerns and unique challenges were also raised, and it has become evident that the existing obligations for authorised sellers cannot be simply transferred to exempt

³¹ Energy and Water Ombudsman Victoria (2024) *Empowering change: Supporting victim survivors of family violence* <https://www.ewov.com.au/uploads/main/Reports/Other-reports/empowering-change-report.pdf> (accessed 23 July 2024).

sellers in their current form, due to the nature of risk, safety, and unique customer/provider relationships. This complexity will be discussed later in this report.

Essential services and family violence

“There was a period of time before the children and I could get out, and the power and control extended to me not being able to work or leave the home. The [perpetrator] wouldn’t pay the bills and said I had to find a way to pay for heating. A credit card was provided to me, and I racked up a huge debt for food, electricity and basics. It made it very hard to provide for my family when I left.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

All the survivor advocates interviewed were able to provide detailed, unique examples of how a perpetrator utilised essential services to continue to perpetuate abuse.

Within the exempt sellers focus group, whilst the understanding of this correlation was mixed between participants (with many demonstrating some awareness), how this awareness could be translated into required actions provoked some anxiety.

A repeated and significant concern for exempt sellers was the burden of administration and time:

“There are lots of micro-businesses who have little spare time. Selling electricity is a micro part of these businesses and they are under a lot of pressure already.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Whilst this concern was echoed by many stakeholders, small businesses (often family-run organisations) were the most concerned, with some already having unreasonable work commitments including working over twelve hours per day.

Safe and Equal facilitated reflection on the NERR related to family violence during the consultations. The associated rule(s) and related skill requirements are summarised at the beginning of each section below.

Family violence training

Rule summary: Skills requirement

Energy retailers need to make sure their staff are able, on an ongoing basis, to:

- understand the nature and consequences of family violence
- identify and engage appropriately and effectively with customers affected by family violence, and
- assist customers affected by family violence in accordance with the Retail Rules and the energy retailer’s family violence policy.

This requirement extends to any person with authority or capacity to act on behalf of the energy retailer who engages with affected customers. This includes energy retailer employees, contractors, and agents (including call centre and marketing staff), as well as their managers.

This obligation also applies to those responsible for systems and processes that guide interactions with small customers.³²

Consultations

“An understanding of family violence is needed. People need to understand how it can impact all aspects of someone’s life. The women don’t have money to do things like let their children go on school camp. People need to understand the knock-on effect and how it impacts the victim survivor’s mental health.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

When the consideration of family violence training was discussed, it was evident that the level of skills and knowledge of family violence was varied within the group. Many stakeholders welcomed training:

“The committee has a lack of understanding about family and domestic violence. It would be beneficial to have further education on the subject. Residents of retirement villages are our members; they will ring us when they have issues with their managers, but I have not heard anything around family violence. The residents are aged 75 upwards and I’m not sure where they would go for help.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Survivor advocates interviewed were also supportive of exempt sellers receiving family violence training and were able to share examples of what content would be most valuable:

“Having some videos of someone who might have [these] experiences and what it looks like and what it means could be a simple way of getting it across.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

“It’s good to cover things about perpetrators; how they can be manipulative and how they might come across. They can be a tourist that seems like they have it all together. Some people think it’s [one] type of person, but it can be your neighbour and anyone you cross paths with.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

While the concept of eLearning was mostly welcomed by exempt seller focus group participants, some survivor advocates shared some concerns related to the accessibility and compliance of this type of training:

“I don’t support training being delivered through an eLearn. I will only support it if it is designed with accessibility in mind, particularly people who have ADHD. Many people are not used to working with computers, this is a burden; they click through without doing the training. When training is designed with ADHD in mind, they are less text heavy, more interactive and it is compulsory that they have to go through each section. If not, people

³² Australian Energy Regulator (2023) *AER interim guidance note: family violence rule*
<https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

who are not technically savvy will not participate.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

Safety

Rule summary: Prioritisation of safety

In all dealings with an affected customer, energy retailers must:

- have regard to the affected customer’s safety, and
- take into account the particular circumstances of an affected customer.³³

Rule summary: Customer identification

Energy retailers must implement a secure process that:

- provides a method to readily assess if a small customer is affected by family violence
- provides a method to readily identify the account of a small customer who has been identified as being affected by family violence
- avoids the need for the affected customer to repeatedly disclose or refer to their experience of family violence, and
- provides for effective ongoing engagement with an affected customer.³⁴

Consultations

When considering responses to family violence, safety must be paramount. Safety was widely discussed with stakeholders, and the role of privacy and management of customer data was explored. It was again evident that both expectations and practice varied widely between exempt sellers. It was also evident that customer data can be accessed in ways that can increase the risk of harm to a victim survivor.

For some stakeholders, there is a range of existing regulations and legislations pertaining to privacy and the sharing of customer data. Whilst caravan park regulations appear to be the strongest, there are still concerns around asking customers about their experiences of family violence.

“In the RLLC [Residential (Land Lease) Communities] Act, there are strict laws about privacy and rights to privacy.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

“Nearly all parks have strong privacy rules. If someone calls requesting information about a guest or resident, they will not tell them what park they are in. They will not get any information from the park manager.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

³³ Australian Energy Regulator (2023) AER interim guidance note: family violence rule

<https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

³⁴ Australian Energy Regulator (2023) AER interim guidance note: family violence rule

<https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

"I am concerned about the privacy issue and overstepping those roles and getting involved." (Exempt Seller, Exempt Seller Focus Group, June 2024)

Many of the survivor advocates were also able to identify the unique barriers to disclosure in exempt seller situations:

"The embedded networks need to understand that not everyone is going to be able to come to them. It took me a long time to be able to talk about it. There would be hesitation from victims, and fear. Shame and fear are very real barriers." (Survivor Advocate, Survivor Advocate Interview, June 2024)

"If exempt sellers do not have experience of family violence, it is important they understand the fear of abuse – they then might be able to see some of the red flags." (Survivor Advocate, Survivor Advocate Interview, June 2024)

The participants of the exempt seller focus group also had concerns around managing safety when the both the perpetrator and victim survivor are well-known to them. This included concerns regarding the safety of staff and other customers within their organisations when addressing and responding to family violence.

"From a caravan park perspective, we have a complicated business. We need to be aware of guests, residents and staff. That is one of our values. There is a common overlay of everyone's safety, you really don't want an incident in your park and for it to disturb holidaymakers and result in violence against park managers. Operators are loathed to create an incident that results in an issue for them and their customers." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"With regards to the safety of staff, we would hope that staff would call 000 instead of putting themselves on the line." (Exempt Seller, Exempt Seller Focus Group, June 2024)

When discussing current incident management practices, including family violence within organisations, relationships with emergency services (including the police) was a key area familiar to many participants in the exempt seller focus group:

"If we were to have an incident, the first call is to the police, then if staff are around, they would ring us and we make sure that they are okay, then our residents." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"Sometimes police drive through and some rarely have them visit. It takes an hour to get there." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"Police can take 10 minutes, or up to four hours." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"We have been able to ask them to drive around a few times a night over a week due to a possible risk, and they have done that for us. One night we noted four runs!" (Exempt Seller, Exempt Seller Focus Group, June 2024)

Whilst this anecdotal evidence provides some reassurance of the relationships between police and exempt sellers, it also demonstrates that interventions are normally only intercepted when

there is significant crisis or risk, and that physical violence is the most clearly understood form of family violence by exempt sellers.

The concept of safe record taking was also discussed and appeared to be a common practice. However, this again varied between organisations. It appears that clear guidance on how to maintain and store secure notes and information is not currently widespread, with much of this left to the discretion of the organisation. Additionally, because of the varying size, professionalism and income of these businesses, some do not have access to secure IT systems or the literacy to navigate them.

"I don't know from a pure residential park if it's the same. From a tourist point of view, they are really active in keeping notes on behaviors or if they notice something. I imagine residential parks are the same. We have to record everything because people come back to us months after saying something happened. 10 per cent are not using online software – there are some security issues around that." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"I tell my staff if you wouldn't like your information used in that way, then don't do it." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"We have a daily diary, and notes on the file are for those points that our staff need to know, often for their own safety. That is flagged on our park system, available to the front office staff." (Exempt Seller, Exempt Seller Focus Group, June 2024)

Survivor advocates echoed concerns pertaining to safety of recording victim survivor details, demonstrating there is a significant risk of harm:

"How they are managing this disclosed information – what policy do they have around confidentiality? They probably won't have a big team, [but] who is responsible for this info and making sure it doesn't get out? They need to make sure, whether it is proven or not, when someone discloses it is kept with high confidentiality." (Survivor Advocate, Survivor Advocate Interview, June 2024)

"Confidentiality, absolutely. This would be really important to include in the training for exempt sellers, including the risk involved if they don't take this seriously. It could be that the victim survivor is going into crisis accommodation or making a plan to leave. The exempt seller could disclose this unknowingly and it therefore opens up a massive risk, it undoes an entire plan." (Survivor Advocate, Survivor Advocate Interview, June 2024)

Finance

Rule summary: Financial impacts of family violence

Before taking action to recover debt from an affected customer, or transferring the affected customer debt to a third-party debt collector, energy retailers must take into account:

- the potential impact of debt recovery action at that time on an affected customer, and
- whether someone else is jointly or severally responsible for the energy usage resulting in the debt.

Energy retailers must also:

- waive late payment fees for affected customers, and
- allow payment using Centrepay.

Rule summary: Hardship and payment plans

An energy retailer must recognise family violence as a likely cause of a residential customer being a hardship customer or a small customer experiencing payment difficulties.

Energy retailers need to offer affected customers further payment plans, even if they have had two cancelled due to non-payment in the previous 12 months or have been convicted of an offence involving illegal energy use in the last two years, where someone else may have been jointly or severally responsible for these actions.³⁵

Consultations

Family violence is likely to cause significant financial impacts for victim survivors. Victim survivors may need to leave possessions behind if they flee in a crisis, and many will have ongoing legal and financial issues to navigate. Perpetrators of family violence often deliberately financially abuse victim survivors, leaving them in considerable debt or without the capacity to work.

The topic of finance was discussed at length with the exempt sellers focus group. Whilst almost all stakeholders agreed that financial support for victim survivors accessing their energy through exempt sellers was positive in theory, many systemic issues were raised.

These were particularly in relation to existing hardship supports for energy customers of authorised sellers that exempt seller customers do not have access to, including the Utility Relief Grant Scheme and some cost-of-living payments and grants. This appears to be a considerable issue when a customer's energy payment is included within their rental payment.

"For debt recovery, we need to go the NSW Civil and Administrative Tribunal (NCAT) recovery. The provider holds the debt. There are a very small number who refuse to help. There are issues with how to charge energy, we have been involved with court. When it comes to paying site fee[s] if they are in credit, they cannot use that for utilities (under the Act)." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"CentrePay is not available to embedded networks." (Exempt Seller, Exempt Seller Focus Group, June 2024)

Victim survivors with body corporate or owner-occupied customer accounts that accrue debt, also face the challenge of this information being shared with other tenants:

³⁵ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule* <https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

"In apartments, the owners are linked collectively through corporate fees. If one person is in arrears for levies, it affects us all." (Exempt Seller, Exempt Seller Focus Group, June 2024)

As a result of these issues, many focus group participants expressed concerns about the high financial burden they face when supporting customers experiencing hardship due to family violence. This appeared to be most strongly felt by smaller business and within the caravan park sector.

"I love this idea in principle. I wish the government would stop asking private investors to cover this. It would be great if there could be a fund to override this. Help businesses who need to feed their families." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"The issue can be – just how much debt are we to carry? Small businesses still have debts to pay as well." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"We had one that we helped recently and by the time that we had cleaned the cabin it cost us to have them here." (Exempt Seller, Exempt Seller Focus Group, June 2024)

The survivor advocates were also able to accurately demonstrate the interconnections between family violence, housing insecurity and financial insecurity.

"The perpetrator used the utilities as a way to continue to perpetrate violence and it led to ongoing significant debt. It took years to clear. It made things very difficult." (Survivor Advocate, Survivor Advocate Interview, June 2024)

De-energisation

Rule summary: De energisation for not paying a bill

An energy retailer must not arrange for the de-energisation of an affected customer's premises unless the energy retailer has taken into account:

- the potential impact of de-energisation on the affected customer at that time, and
- whether other persons are jointly or severally responsible for the relevant nonpayment or action.

Consultations

When discussing this recommendation with the exempt seller focus group, participants stated that de-energisation was not common practice. Many informed us that electricity payments can be inclusive with rental payments, and that other existing legislations prevented exempt sellers from taking immediate action for non-payment. This was particularly prevalent within caravan parks:

"The process is long to chase arrears. Utilities are two separate payments. A lot of the residents are older and pop in for social interaction, it's a way for the operator to know they are ok. We have so many different regulations and being a tight industry." (Exempt Seller, Exempt Seller Focus Group, June 2024)

“The resident under the land lease living act are the most protected people, it is really hard to evict people.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

However, whilst it was reported that de-energisation was not common practice within owner occupied apartments, it was concerning that tenants were much less protected, with evictions were occurring more frequently:

“In apartments, people get evicted. It happens very quickly. When a tenant is evicted, they are locked out and their belongings are distributed. You know when there has been an eviction, there is a bulk waste room and they are filled with people belongings. There needs to be better protections.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Safe and Equal support duplication of this rule (De energisation for not paying a bill) in its entirety for the safety and security of victim survivors. Further information can be found in the Recommendations section of this report.

Evidence of documentation

Rule summary: Documentary evidence

Energy retailers must not require affected customers or third parties acting on their behalf to provide any documentary evidence of family violence as a precondition for receiving family violence protections.

Consultations

When this rule was discussed with the exempt sellers focus group there were mixed responses:

“Parks where you have a majority of renters, what would be stopping them to pull that card when it wasn't them. Occupation fee is aligned with utilities. If we were to notice an increase in them not being paid, we would know it was an issue, we would hope that someone would come and speak to us. (Exempt Seller, Exempt Seller Focus Group, June 2024)”

“Some of our members who have been kicked out of everywhere else. I think it would put our operators further into debt” (Exempt Seller, Exempt Seller Focus Group, June 2024)

“Not many clients disclose FV if a hardship is offered to you for a range of business. When it has been disclosed to me, it's not easy. I think it should be accepted. Not too much of a concern for an electricity company providing energy” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Most of the exempt sellers agreed, in principle, that documentation should not be required as evidence in cases of family violence. However, there were concerns that this obligation could be exploited by residents and that perpetrators could be misidentified. Others felt that whilst the financial burden could be covered by larger exempt sellers or energy companies, it would have significant financial impact on smaller exempt sellers.

Survivor advocates recognised the potential barriers for victim survivors in accessing supports if they were required to provide evidence:

“Usually, the accountability to show proof is on the victim survivor, but a lot of these women don’t have the skills to go online and provide evidence.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

Safe and Equal also note that, should any evidence be required, consideration would need to be given to determining what types of documentation would be required, who or which roles would determine the sufficiency of documentation and how the confidential storage of documentation could be ensured.

External support services

Rule summary: Information about external support services

- Energy retailers must provide affected customers with information about the availability of one or more external family violence support services at a time and in a manner that is safe, respectful, and appropriate given the affected customer’s circumstances.
- Energy retailers must also keep a current list of one or more external support services on their website.³⁶

Consultations

This obligation requires external family violence support services to be understood and promoted by authorised sellers to customers. This was discussed at length, with both the exempt sellers and survivor advocates.

Many exempt sellers felt this obligation could be enacted, whether through promotion on notice boards or websites. However some exempt sellers did identify barriers, namely whether the display of promotional information for support services would be appropriate for a caravan park where tourism is the main business.

“For our network it would be really easy. Apartment buildings have notice boards, they would have them there.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

“Looking at it more from [the] tourist side (main area) cluttering website, it’s not our core business. When a resident needs it, it is provided by the operator and is in the hardship policy. I don’t think a holiday park is where people would go for this information.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Again, the realities of time, I.T. literacy and resourcing were raised in relation to the sharing of external referrals:

“Largely, industry would like to be able to provide information about these services, and services which may help residents manage their finances, etc. However, access to this information can be complicated and overwhelming – even for park operators who are not in financial or mental distress! If simple fact sheets or resources could be made available

³⁶ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule* <https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

to park operators, I am confident they would be willing to share this information.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

“Providing this information with the initial information kit (or including the fact that this information is available from the office) would be more practical.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

The benefits of sharing this information and how it can help support victim survivors was well articulated by the survivor advocates:

“When I came out of my situation, I was so isolated. I didn’t know anything about family violence. Any opportunity that information can be provided needs to be given. There is no excuse for being uncomfortable.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

“External referrals are fantastic; it really helped my family. They need to not just give general services that just focus on crisis responses. We needed support on how to get out of the situation, that is when most people go back. How do we help the victim survivor past crisis to ensure they don’t go back?” (Survivor Advocate, Survivor Advocate Interview, June 2024)

Guidance versus regulation

Rule Summary: Family violence policy

- Energy retailers must have a family violence policy that sets out how they will identify and assist affected customers, including how the energy retailer will afford them the protections outlined in the Retail Rules. Energy retailers are required to implement, maintain, and comply with their family violence policy.
- The family violence policy must be:
 - published in an easily accessible place on an energy retailer’s website
 - reviewed and updated from time to time to reflect changes in circumstance and ensure consistency with leading practice.
- To the extent of any inconsistency, an energy retailer’s family violence policy will take precedence over the terms and conditions of an affected customer’s market retail contract.³⁷

Consultations

While authorised sellers are regulated to comply with family violence obligations, the consideration of a guidance response over a regulated approach was preferred by most exempt sellers.

³⁷ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule* <https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

“Guidance in forms and templates, [a] training video would be so appreciated. We are so regulated by so many acts.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

However, for body corporate or owner-occupied rental properties, there was a strong argument made for a regulatory approach:

“Large, embedded networks need regulation. They have moved into these spaces for money. In the apartment space it must be regulation. [The] idea of tiering is important.” (Exempt Seller, Exempt Seller Focus Group, June 2024)

The survivor advocates interviewed shared mixed feelings about a guidance approach. While many felt that guidance was valuable, there were concerns about accountability and sustainability in the absence of regulation:

“I think a bit of regulation would be good. There are people who are sophisticated and have the means for this. Sometimes guidance is too wishy-washy.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

“The guidance should be a reminder to the essential services of their responsibilities within their community. They need to understand that they are the caretaker of vulnerable children. There is a responsibility that comes with that.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

“Some parts should be mandated so it gives people the details of how to enact the family violence items within their organisation. The burden shouldn’t be on the organisation. Instead of making it harder, make it easier. Bring some consistency. Some aspects can be optional, some could be regulatory, as not everything will be relevant to all exempt sellers.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

“I think that guidance is fine, if there is a backup net that a survivor can go to if they are not helped. There needs to be an avenue available to women should the embedded provider not act on their responsibility and goodwill.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

“[If] we are leaving it up to individual[s] – some might participate, some might not. If we say, “we ask you to do this”, not many people are going to do it. If you are asked to read a policy, you just go down and tick it. If they do not come from the family violence sector they will just move on.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

Safe and Equal has taken a measured approach and provided recommendations pertaining to the diversity of exempt sellers and the essential components of a family violence response. It is for the AER to best determine the balance between regulation and guidance in practice.

Tiered approaches

A key theme throughout the focus group, was the wide-ranging variation of experiences, practice and regulations amongst participants.

Caravan parks appear to manage existing strong regulations that support tenants and customers, including the Residential Land Lease Living Act in NSW, where any attempts to recover debt cannot be commenced until at least 30 days have passed.

Conversely, body corporate and owner-operated organisations in NSW are governed under the Residential Tenancy Act, with focus group participants reporting that tenants who have accrued rental debt will be issued a notice after 14 days, with evictions occurring frequently.

In contrast, focus group representatives of caravan parks stated that evictions are notoriously difficult and rare. These are just some examples of the differences between exempt sellers.

The concept of family violence obligations being tiered based on exempt seller type was welcomed by focus group participants and will be explored later in this report.

The focus group suggested exempt sellers be differentiated as follows:

1. Caravan Parks and Residential Communities
2. Retirement Villages
3. Apartment Complexes
4. Commercial Complexes
5. Embedded Network Retailer

"I have been arguing this for about three years. We were demanded to be part of Energy Water Ombudsman NSW at a cost to our business, for a few minor issues over the whole industry. Split It!" (Exempt Seller, Exempt Seller Focus Group, June 2024)

"We would support a tiered approach; especially one that considers other legislation that is in play in this space. For example, caravan parks are highly regulated through [NSW] state tenancy laws (which in some cases have other family violence provisions), therefore the risk to the customer is far less than it is in an apartment." (Exempt Seller, Exempt Seller Focus Group, June 2024)

Survivor advocate experiences with energy providers

In addition to demonstrating the different ways in which essential services intersect with family violence, the survivor advocates interviewed were able to share the wide range of responses they experienced from essential services following disclosures of family violence, and the impacts these had on their recovery:

"I had to evacuate the building. My agent and landlord were great, the only people who gave me a hard time were [the] electricity, gas and water providers." (Survivor Advocate, Survivor Advocate Interview, June 2024)

"I was put in a very bad financial situation; I had to buy all my furniture (the previous place was furnished). It was very difficult, but I was trying to manage it. The electricity company put me on a payment plan for \$34. I had letters from the police proving my situation, yet they did not wipe the debt." (Survivor Advocate, Survivor Advocate Interview, June 2024)

*"I learned that there was a grant you could apply for to help with electricity and gas, but at that stage I had gotten on top of it. I applied for the grant to support with a smaller bill, but I realised I should have accumulated debt, rather than receiving the grant for smaller amounts. This information was not provided to me freely from energy providers."
(Survivor Advocate, Survivor Advocate Interview, June 2024)*

The range of different experiences shared demonstrates the very real impacts that essential service responses have on victim survivors. Despite obligations being in place, there is a strong need for ongoing evaluation and scope for further reform if required.

The final National Energy Retail Family Violence Rule is:

Rule summary: No breach of contract

This rule contains override provisions to give retailers regulatory certainty and confidence when helping customers affected by family violence.

- A retailer will not be in breach of its contract if it is unable to fulfil an obligation under its retail contract as a result of complying with the family violence rules.
- If an affected customer is unable to fulfil an obligation under their retail contract by using their preferred method of communication with the retailer, the customer will not be in breach of their contract.

While this rule did not generate much discussion with the consultation groups, Safe and Equal recommends the prioritisation of family violence best practice in ensuring that victim survivors, alongside with exempt sellers, are not in breach of contract under the above conditions.

Challenges and risks

There are many unique challenges to how family violence victim survivors are supported within exempt seller arrangements.

However, as noted in this report, the interconnections between exempt sellers, family violence and prevalence data strongly indicate that there will be residents within exempt seller networks who are experiencing (or at risk of experiencing) family violence.

Therefore, if no changes are made:

- There will be a considerable inequity for exempt seller customers, many of whom may be already experiencing complex issues including housing or financial insecurity. This inequity is in addition to the lack of access to hardship provisions or grants that are accessible to customers of authorised sellers.
- Perpetrators of family violence within exempt seller arrangements will not be held accountable and may seek to intentionally exploit these networks.

- Providers and employees within exempt seller arrangements will not be provided with clear guidance or regulation, and therefore will be more likely to engage in inconsistent practice. This may further increase the risk of harm, both to victim survivors and to themselves.
- These conditions could lead to an increased risk of harm to children and young people, who are victim survivors in their own right.

Through the exempt sellers focus group, it became evident that customers within these networks have little or no choice of their energy provider or their energy tariff. This lack of choice is likely to further impact victim survivors, who have already lost considerable autonomy and power through their experiences of violence.

Furthermore, limited options may mean victim survivors are not able to open separate essential services accounts, leaving them feeling trapped in an arrangement and potentially impacting their capacity to leave a violent relationship and seek safety.

There are also challenges and risks involved with proceeding to reform family violence provisions for exempt sellers.

For many exempt sellers, retailing energy is not their main business. Managing detailed compliance obligations and updating I.T. systems, alongside extensive staff (and in many situations, volunteer) training may not be feasible, particularly within small businesses.³⁸

If compliance obligations or I.T. systems are not well understood or executed effectively, there is ample risk that a victim survivor's data could be leaked to others, including the perpetrator. For example, if a computer screen or printer is visible to guests within a caravan park, this could raise the risk of harm and unsafety to the victim survivor(s) and potentially the employees.

Whilst there may be challenges to engage all employees within exempt sellers in training, it is unreasonable to expect employees to be equipped to manage family violence without adequate support. Any training provided to employees should be aligned with current family violence best practice. Failure to engage in professional or limited training could result in exempt sellers unknowingly engaging in inappropriate practice that could increase risk of harm to victim survivors.

In some scenarios, victim survivor and employee confidentiality may be complicated, and safety compromised, due to sellers and perpetrators living in close proximity and having existing relationships. Rules that apply to the retailer/customer relationship may not be suitable for such scenarios and may create additional risks for victim survivors, employees and providers.³⁹

³⁸ Australian Energy Regulator (2023) *Review of the AER exemptions framework for embedded networks* <https://www.aer.gov.au/system/files/2023-11/AER%20-%20Review%20of%20the%20exemptions%20framework%20for%20embedded%20networks%20-%20Issues%20paper%20-%2030%20November%202023.pdf> (accessed 17 June 2023).

³⁹ Australian Energy Regulator (2023) *Review of the AER exemptions framework for embedded networks* <https://www.aer.gov.au/system/files/2023-11/AER%20-%20Review%20of%20the%20exemptions%20framework%20for%20embedded%20networks%20-%20Issues%20paper%20-%2030%20November%202023.pdf> (accessed 17 June 2023).

For example, one of the current National Energy Retail Family violence Rules is:

Rule summary: Protection of affected customer information

- Energy retailers must not disclose or provide access to information about an affected customer to any other person (including a current or former joint account holder), without the affected customer’s consent.

If both the victim survivor and perpetrator are well known to the exempt seller (for example within the context of a small caravan park), failure to share information on one party to the other is likely to arouse suspicion, tension and increase the risk of harm to the victim survivor or exempt seller employee.

Another example is implementation of the following rule:

Rule summary: Communication

- Energy retailers need to identify, record and use an affected customer’s preferred method of communication. The affected customer may use this method in their communications with the energy retailer. If an affected customer’s preferred method is not practicable, energy retailers need to offer alternative methods.
- An affected customer’s preferred method of communication takes precedence over any other customer communication requirement in the Retail Rules.

If communication methods noticeably change, again this is likely to arouse suspicion, tension and potentially lead to increased risk of harm to the victim survivor or exempt seller employee.⁴⁰

⁴⁰ Australian Energy Regulator (2023) *AER interim guidance note: family violence rule*
<https://www.aer.gov.au/system/files/AER%20interim%20guidance%20note%20-%20family%20violence%20rule%20-%20April%202023.pdf> (accessed 17 June 2024).

Recommendations

The following recommendations pertain to the application of family violence rules for exempt sellers. These recommendations have been developed from the consultation methods outlined in the Scope section of this report.

1. Prioritise inclusive and equitable approaches in the roll-out of all recommendations

Due to social inequality and discrimination, some groups of exempt seller customers will experience significantly higher rates of family violence and may experience barriers to accessing further support.⁴¹ Safe and Equal recommends that all training, family violence policy and operational guidance demonstrates a broad and intersectional understanding of family violence.

Required action to achieve recommendation:

- a) When developing training and resources, partnerships with organisations that represent marginalised groups and communities should be considered to ensure exempt sellers understand what family violence and its impacts look like for everyone.

2. Develop a tiered approach to regulation

There are significant disparities between the size and capabilities of exempt sellers, which range from large established body corporate properties to small family run caravan parks – as well as disparities within these groups themselves. Therefore, Safe and Equal advises that the AER consider tiering their regulatory approach to ensure that supports are fit-for-purpose and most effective for the diversity of exempt sellers and their customers. This will ensure that victim survivors are not put at risk due to regulations imposed on exempt sellers that do not have the capacity or capability to safely and effectively adhere to them.

A tiered approach would mean that the family violence obligations and expectations would be assigned differently to exempt sellers based on considerations of capacity, safety and risk.

As stated earlier, many of the current regulations for authorised sellers (including changing methods of communication or keeping victim survivor information confidential) may not be practical when the exempt seller is known to both the victim survivor and perpetrator. It is possible that both exempt sellers and victim survivors could be put at higher risk in their attempts to implement certain regulations if they are not in a position to safely do so.

Required actions to achieve recommendation:

- a) Duplicate authorised seller obligations in their entirety and their current state to any exempt seller that has sufficient capacity (as determined by the AER).

⁴¹ Safe and Equal *Who experiences family violence* <https://safeandequal.org.au/understanding-family-violence/who-experiences-family-violence/> (accessed 17 June 2024).

Capacity could be determined through consideration of the following factors:

- I. consultation with exempt seller peak bodies
 - II. size of exempt seller and access to finances
 - III. whether the organisation relies on volunteers or paid employees
 - IV. whether the burden of obligations will increase the risk of harm to the exempt seller and victim survivors (for example, if the victim survivor, perpetrator and exempt seller live in close proximity to one another or are well known to each other, risk of harm could increase).
 - V. whether the burden of obligations will incur unreasonable financial, emotional, physical or any other form of distress and harm to the exempt seller including risk of closure.
- b) Implement a 'minimum requirement' response for all exempt sellers, consisting of mandated training (see recommendation 2); compliance with a family violence policy (see recommendation 4); and reporting compliance (see recommendation 6). This would need to be supported by the AER in its roll-out to ensure that the responsibility of adherence to minimum requirements does not sit solely with exempt sellers, who may not have the capacity or competency. As detailed further in recommendations 3, 4, 5, 8 and 9, the AER should support the application of these minimum requirements through the provision of resources, clear communication, and support. This 'hands on' approach and oversight would help to ensure consistency and safety within the minimum requirements.

3. Ensure all exempt sellers complete foundational family violence training

Through consultation, it was evident that exempt sellers had varying levels of family violence understanding. A shared, consistent understanding of these issues, including associated risks of family violence, is required to build buy-in, commitment and awareness from this group to safely enact any family violence measures.

Required actions to achieve recommendation:

- a) The design and production of foundational family violence training, utilising a co-design approach. The AER should engage a specialist family violence organisation to create the training, alongside survivor advocates from priority communities to support content development. Co-delivery of the training with survivor advocates and people from marginalised groups and communities should also be considered.
- b) Training designers and providers should understand and address the specific nuances and challenges of all exempt seller types.
- c) Training should include:
 - VI. an explanation of the different forms of family violence
 - VII. how to recognise indicators of family violence

- VIII. barriers to disclosure, including shame and stigma
 - IX. how to respond to disclosures of family violence
 - X. the importance of confidentiality and how to appropriately record keep and report information
 - XI. perpetrator misidentification
 - XII. how to respond to perpetrators seeking information within the context of essential services
 - XIII. how perpetrators may exploit exempt sellers.
- d) Delivery of training should be mandated, delivered at regular intervals (for example, annually or biannually), and accessible through different modalities (for example, via eLearning modules or face-to-face training). eLearning modules should be designed with compliance in mind, ensuring that certain sections are compulsory.
 - e) Training should be independently evaluated by specialist family violence services on a regular basis to ensure accuracy of information and the effectiveness of implementation, with agreed outcome measures.
 - f) Training should be tailored and targeted to each exempt seller type to ensure specific issues are addressed (for example, it is advised that an elder abuse module would be mandated for retirement villages).

4. Implement a standalone family violence policy template

“Having a family violence policy is so important, it's what has enabled me to be in the position I am now.” (Survivor Advocate, Survivor Advocate Interview, June 2024)

While there was consideration of incorporating family violence provisions into existing hardship policies, survivor advocates were unanimous in the need for a standalone family violence policy.

Safe and Equal recommends that all exempt sellers are supported by the AER to create and comply with a standalone family violence policy.

Required actions to achieve recommendation:

- a) The policy template should be developed in collaboration with specialist family violence organisations, survivor advocates, and people from marginalised groups and communities.
- b) The policy should be standalone but should be aligned and linked with the existing hardship policy.
- c) The policy template should cover the unique supports and considerations that are required when supporting someone through family violence and be aligned with all the training content requirements outlined in recommendation 2 of this report.

- d) The templated policy should be provided to exempt sellers, containing relevant information particular to their exempt seller type.
- e) The policy template should be evaluated and reviewed regularly by the AER with the assistance of a specialist family violence organisation.

"We are very supportive of the provision of guidance papers and templates, providing they are clear, plain English and not overly onerous (this is necessary for both park operators and electricity customers). As mentioned in the consultation session, useful guidance would be around identifying family violence, working with customers who might be experiencing family violence (i.e. not providing complicated information), what services the customer can be referred to, a templated policy for dealing with these situations, [and] case studies/best practice examples." (Exempt Seller, Exempt Seller Focus Group, June 2024)

"It needs to be standalone. Someone could be suffering from hardship but not family violence. There are considerations greater than financial hardship when it comes to family violence. Family violence provisions should all be in one place." (Survivor Advocate, Survivor Advocate Interview, June 2024)

- f) The policy template should outline that the 'De-energisation for not paying a bill' obligation, existing within the NERR, is duplicated in its entirety. This prioritises the safety and security of victim survivors.
- g) The policy template should outline that the 'No breach of contract' obligation that exists in the NERR is duplicated in its entirety. This prioritises family violence best practice and ensures there are no repercussions for the exempt seller or victim survivor.

5. Promote external referral information to exempt seller customers

Some exempt sellers raised concerns about promoting external support information for family violence to customers. Caravan park representatives shared that their usual modes of communication were designed with tourists, not residents, in mind. Whilst there is limited research into family violence for people on holidays, the prevalence data and our understanding of family violence as a chronic, ongoing pattern of behaviour means that it will continue to occur within families and relationships on holidays. The geographical and social isolation of staying in a caravan park could further compound risk of harm to victim survivors. Additionally, many residents of caravan parks are not tourists, but residents seeking short to long-term accommodation.

The benefits of informing victim survivors on how to access the most appropriate supports and manage their safety and risk cannot be overstated. This information is comparable to the materials available in other public-facing community facilities, such as cafes, restaurants and sporting venues. By reducing the stigma associated with talking about family violence, and ensuring visible information is available, embedded networks can help ensure more people are safe in their temporary or permanent homes. These promotional materials are also likely to encourage victim survivors to contact specialist services for support, therefore reducing responsibility for the exempt seller provider.

Conversely, a lack of family violence support information provision can further perpetuate the shame and stigma associated with experiencing family violence, keep it hidden and help perpetrators retain power and control.

Required actions to achieve recommendation:

- a) The AER to provide advice to exempt sellers on national family violence supports that can be publicised to exempt seller customers.
- b) Exempt sellers to publicise family violence information in public spaces in a way that is inclusive and accessible to all; for example, through notice boards, websites, bills, brochure stands, bathroom signage and information packs.
- c) Referral organisation information to be regularly audited and updated as needed by the AER, with compliance to be mandated.
- d) Referral information to be appropriate to the organisation; for example, seniors rights supports advertised in retirement villages.
- e) Support service information regularly disseminated by the AER at peak body and community service forums and events.

6. Implement family violence reporting

Safe and Equal acknowledges the risk highlighted by exempt sellers and victim survivors that customer information can be identified through mandatory reporting. However, reporting can provide a means for accountability that family violence provisions are implemented, particularly for areas that are given a guidance approach.

Therefore, Safe and Equal recommends a staged approach to the implementation of reporting, to ensure the safety of victim survivors. This staged approach would ensure family violence awareness and competency in exempt seller groups is raised before any mandatory reporting is considered.

Required actions to achieve recommendation:

Stage one – implement reporting

- a) Training and guidance should be provided to ensure safe data reporting. This guidance should be developed in conjunction with family violence specialist services, in line with recommendation three.
- b) All exempt sellers should report on outcome measures, such as confidence levels in family violence identification and reporting, and how family violence guidance or regulations are being implemented in their business. This reporting should be done irrespective of the size of the exempt seller and must not include any information about individual family violence incidences.

- c) An outcome measurement framework should be designed in consultation with a specialist family violence service to consider the methods by which data is collected, analysed and used. A considered framework will ensure that reporting does not put victim survivors at any further or unnecessary risk.
- d) This data should be collated by the AER and reviewed in consultation with a specialist family violence service, to measure capability levels and ensure the future application of any mandated reporting across exempt seller groups is safe.
- e) The AER could also consider maintaining strong relationships with the exempt seller sample groups and proactively gather information through activities such as focus groups and surveys. This would achieve a deeper understanding of confidence and implementation levels across various groups outside of existing reporting data. It would also help to identify further supports the AER could provide to assist in reporting processes.

Stage two – consider mandating reporting

- a) Once skills and capability for safe reporting have been raised amongst exempt seller groups, consider the implementation of mandated reporting.
- b) Any amendments or additions to reporting in stage two should be undertaken in consultation with a specialist family violence service.
- c) This reporting must be de-identified and provided to the AER by exempt sellers. The data should demonstrate whether and how many times family violence provisions have been utilised.
- d) Options to decline data submission should be provided to smaller exempt sellers, if this level of detail poses further risk of harm to the victim survivor.

“Family violence is already dangerous for park operators, as they are an onsite landlord – so if the violence spills out of the dwelling, the park operator is automatically involved. We have seen numerous incidents where park operators have been assaulted, harassed and intimidated in their place of work for this reason. If a park had to report, we would ask that it be as simple as ‘has this provision been used.’” (Exempt Seller, Exempt Seller Focus Group, June 2024)

7. Implement evaluation methods

The AER should invest in independent evaluation methods to audit compliance and effectiveness of any family violence guidance or regulations, to better understand guidance or regulation efficacy and whether initiatives are being weaponised by perpetrators.

Required actions to achieve recommendation:

- a) Evaluation methods should be designed in consultation with a specialist family violence service and include a range of qualitative and quantitative measures.

- b) Evaluation should occur regularly (for example, every six months or annually).
- c) Evaluation should include consultation with exempt sellers to further analyse data, to understand how things are operating on the ground, and to explore any data gaps.
- d) Evaluation should include consultation with specialist family violence services and victim survivors to ensure a robust understanding of how implementation has impacted responses for victim survivors.
- e) Evaluation outcomes should be used for quality improvement with a focus on improving outcomes for victim survivors.

8. Disseminate family violence practice changes to all exempt sellers

It is vital that all exempt sellers are made aware of any family violence regulatory or guidance changes, and that this information is shared in a clear and accessible way. It should also be disseminated in a way that moderates the responsibility to reduce the burden on smaller, individual organisations with less resourcing.

Required actions to achieve recommendation:

- a) Existing structures, such as peak bodies, to be utilised to disseminate this information to their members.
- b) All practice changes to be communicated through existing methods (for example, newsletters, emails, letters, compulsory meetings).
- c) The AER to partner with one or more specialist family violence organisations to create informational resources, such as videos and or other content to explain key changes.
- d) The dissemination of information must be planned and intentional. Peak bodies should be provided with guidelines and timelines for implementation.

9. Provide a family violence helpline to exempt sellers and their customers

There will be occasions where it is not safe or possible for a victim survivor to disclose their family violence situation to an exempt seller, or where an exempt seller has concerns about family violence, but it is not safe to ask.

Safe and Equal recommend that the AER provide an independent family violence helpline that can provide skilled support and advice to both victim survivors and exempt sellers. The support and advice could pertain to financial assistance, communication preferences, additional support or confidentiality requirements. This would go some way to providing exempt seller customers with the same services that authorised seller customers can access. It would also provide exempt sellers with advice on how to best manage the customer service situation

safely and sensitively. This helpline would be publicised in the relevant external referrals stated in recommendation five.

The helpline would provide the AER with increased visibility over the practice of exempt sellers and enhance their understanding of how the rules are being implemented, and whether there are any gaps or themes to be addressed.

Required actions to achieve recommendation:

- a) The AER to explore options for the provision of this support. It should be considered whether this is provided by the ombudsman or the AER's internal team.
- b) Processes need to be developed to ensure calls are confidential and trauma-informed.

"I spoke to the water company and that's how I got connected to other services. [The water company] were the best, they were amazing. I remember calling up about the bill, my ex-partner was redirecting the mail to my mother's house. He put everything in my name. He put huge water bills in my name. I told the water company that I couldn't pay it and that I have nothing. They put me onto another service - that phone call changed a lot for me." (Survivor Advocate, Survivor Advocate Interview, June 2024)

10. Advocate for more equitable outcomes for exempt seller customers

The AER is in a unique position to drive innovations in this sector and should utilise their position to advocate for ongoing improvements that create better outcomes for victim survivors Australia-wide.

Overall, research in this project demonstrates that exempt seller customers experiencing family violence are at a considerable disadvantage in comparison to the customers of authorised sellers. There are also significant opportunities for perpetrators to exploit the exempt seller relationship.

Customers of authorised sellers are entitled to various financial supports; for example, the Utility Relief Scheme, cost of living grants and CentrePay, as well as access to specialist teams trained in how to respond to disclosures of family violence who can support victim survivors appropriately. CentrePay is not available to customers of exempt sellers and access to the utility relief scheme in Victoria is not accessible for victim survivors residing in exempt seller situations if they do not receive an energy bill (e.g.: in cases where all bills are inclusive within the rental payment). Other provisions often add an additional burden to the exempt seller, for example:

"In Queensland, the caravan parks have administered the Asset Dividend, which is now the Cost-of-Living rebate for around five years...with no financial reward despite the fact the Government has outlawed their ability to breakeven (let alone make a profit) selling electricity. While the process of claiming the credit is simple and will not take the parks much time, the process of allocating the credits to each household and communicating the credit is time consuming and parks have advised us that it takes on average 5 minutes per household to claim the credit, process the credit on this individual

household accounts and to communicate this information. Based on the fact that a Clerical grade 3 is paid a minimum of \$23.09 per hour (under the Hospitality Industry (General) Award 2020), this is a cost of \$1.92 per household incurred by the caravan or residential park – in a large park, this adds up!” (Exempt Seller, Exempt Seller Focus Group, June 2024)

Victim survivors often rely heavily on these initiatives to support their independence and recovery. This lack of access is not only detrimental to victim survivors, but also exempt sellers – many of whom cannot afford to shoulder the financial burden when customers are unable to pay their energy bills.

Suggested actions to achieve recommendation:

- a) Ensure visibility of and consider contribution to future developments in sector research and insights, such as improvements implemented by the ESC Victoria, insights from the Safety by Design partnership, and the finalised Energy and Water Ombudsman of Victoria Position Paper – Family Violence to improve quality of regulations and guidelines.
- b) Aim to enhance existing efforts of essential services and help promote consistency across energy providers, through sharing best practice and partnering with stakeholders including family violence specialist services. This includes playing a role in ensuring exempt sellers unique positions are represented and understood during improvement processes.
- c) Consider ongoing engagement or partnership with an organisation(s) to undertake further research in this area and identify advocacy opportunities and priorities.
- d) Consider the development of a position paper or similar undertaking in collaboration with other decision-makers to address the inequity between authorised seller customers and exempt seller customers. Note that this undertaking aligns with the recent findings of the Victorian Energy and Water Ombudsman to work on 'removing barriers for victim survivors accessing relevant protections and entitlements'.

Conclusion

The AER approached Safe and Equal to provide best practice family violence advice to support energy customers within exempt seller arrangements, and to contribute to the AER's consideration of how or whether the regulated family violence rules could be applied to them.

There are considerable complexities and challenges in providing family violence rules for exempt sellers. Challenges lie in the diversity of both businesses and individual customers within the group, the high vulnerability of victim survivors living in embedded network arrangements, and in the varying levels of exempt seller capacity to meet regulations. There is also the consideration of the practicalities surrounding implementation, when often the priority of one stakeholder group opposes or conflicts with the other.

Safe and Equal reviewed information provided by the AER, conducted desktop research and facilitated consultations with both exempt sellers and survivor advocates. This, coupled with

the application of our specialist family violence expertise, has created the analysis within this report.

Safe and Equal considered the practicality, competency and ability of exempt sellers, and weighed that up against prioritising the safety of victim survivors. We consulted on the direct application of existing family violence rules for authorised retailers to test the viability of direct transfer. We also considered the need to bridge the divide between supports offered to customers of authorised retailers and those not available to customers of exempt sellers. With all these aspects considered, we have developed the series of recommendations contained in this report.

This report contains the application of family violence evidence, subject matter expertise and advice from Safe and Equal. We trust that the AER will use their expert knowledge to inform the implementation of the recommendations, including future guidelines and regulations.

Overall, the AER have a significant opportunity to affect meaningful change. By implementing these recommendations and improving access and outcomes for exempt sellers and their customers experiencing family violence, they are perfectly placed to reduce the inequity gap between customers of exempt sellers and customers of authorised retailers.

The perpetration of family violence is always evolving, and the AER have a responsibility to continue to understand this and to innovate future solutions.

The implementation of these recommendations could lead to meaningful and impactful change. Safe and Equal commend the AER on their investment in best practice and specialist family violence expertise to inform solutions for customers at risk of or who are experiencing family violence, and the exempt sellers supporting them. We recognise that the AER have identified the need for a nuanced approach to identifying these solutions, as well as the important role they play in implementing them.

Endnote

Safe and Equal acknowledges that billing agents were not specifically considered within the existing scope of this project and did not participate in any of the consultative functions. We therefore recommend that this stakeholder group be considered in the application of any family violence regulation or guidance, to ensure consistency and alignment with their exempt seller counterparts.

Appendix 1

Definitions

Aboriginal definition of family violence	The Victorian Indigenous Family Violence TaskForce defined family violence against Aboriginal people as “an issue focused around a wide range of physical, emotional, sexual, social, spiritual, cultural, psychological and economic abuses that occur within families, intimate relationships, extended families, kinship networks and communities ... it extends to one on- one fighting, abuse of Indigenous community workers as well as self-harm, injury and suicide”. This definition acknowledges the spiritual and cultural perpetration of family violence by non-Aboriginal people against Aboriginal partners, children, young people and extended family members, abuse of Elders, and lateral violence within Aboriginal communities. ⁴²
Authorised retailer	A retailer authorisation allows businesses to sell energy (gas or electricity) under the National Energy Retail Law (Retail Law). ⁴³
Billing agent	Any entity that submits charges to the billing utility on behalf of itself or any provider of a product or service. ⁴⁴
Disclosure	May include someone sharing personal or sensitive information in any manner pertaining to themselves or others with or without permission of the people affected.
Economic abuse	Economic abuse is a form of domestic and family violence that involves a pattern of behaviour that controls a person’s ability to acquire, use and maintain economic resources, in a way that threatens their economic security and potential for self-sufficiency. ⁴⁵
Embedded Network	In some sites like apartment blocks, retirement villages, caravan parks and shopping centres, the electrical wiring is configured in such a way to allow the owner of the site to sell energy to all the tenants and residents based there. ⁴⁶
Exempt seller	Exempt selling occurs when a person or business purchases energy from a retailer and on-sells the energy to their customers, commonly through an embedded network. ⁴⁷

⁴² Victorian Indigenous Family Violence Task Force (2003), *final report*, Dept. for Victorian Communities – Aboriginal Affairs Victoria

⁴³ Connor James (2023) *Preparing to Apply for a Retailer Authorisation: A Comprehensive Guide* <https://www.compliancequarter.com.au/preparing-to-apply-for-a-retailer-authorisation-a-comprehensive-guide/> (accessed 17 June 2024).

⁴⁴ Law Insider Dictionary (1999) *Billing agent definition* <https://www.lawinsider.com/dictionary/billing-agent> (accesses 23 July 2024).

⁴⁵ Centre for Women’s Economic Safety *What is economic abuse?* <https://cwes.org.au/what-is-economic-abuse/>

⁴⁶ Australian Energy Regulator *Embedded networks customers* <https://www.aer.gov.au/consumers/understanding-energy/embedded-networks-customers> (accessed 17 June).

⁴⁷ Australian Energy Regulator (2022) *Retail exempt selling guideline – July 2022*

Family member	May include current and former spouses or domestic partners, people who have or had an intimate personal relationship with the relevant person (sexual or otherwise), relatives (including children) and significant others who are not part of the physical household but are part of the family and/or fulfilling the function of family. This may include a person related according to Aboriginal and/or Torres Strait Islander kinship roles. ⁴⁸
Family of choice	A family that someone is emotionally, socially or culturally connected to, who shares commonalities, mutual love and support. Chosen family is particularly relevant to members of the Stolen Generations who may have lost contact with families of origin, and/or people from LGBTIQ+ communities who may be estranged from members of their family of origin (someone biologically or legally connected). It is important to be mindful of this definition of family for some people and that violence can occur within these relationships. ⁴⁹
Family violence	<p>Family violence is recognised as any behaviour that occurs in family, domestic or intimate relationships that is physically or sexually abusive; emotionally or psychologically abusive; economically abusive; threatening or coercive; or is in any other way controlling and causes a person to live in fear for their safety or wellbeing, or that of another person.</p> <p>This definition includes violence within a broader family context, such as extended families, kinship networks and ‘family-like’ relationships which can include a paid or unpaid carer for people with disabilities; families of choice for LGBTIQ+ people; and cultural kinship networks.</p> <p>In relation to children, family violence is defined as behaviour by any person that causes a child to hear or witness or otherwise be exposed to the effects of the above behaviour.</p> <p>Family violence involves patterns of coercive, controlling and abusive behaviours by the perpetrator and makes the victim survivor fear for their own or someone else’s safety and wellbeing. Family violence can take many forms, none of which are mutually exclusive. It can include physical, sexual, psychological, emotional and spiritual violence, and financial/economic abuse and control. It can also include exposing a child to the effects of family violence, such as</p>

⁴⁸ State of Victoria, Australia, Family Safety Victoria, February (2021) *MARAM Practice Guides Foundation Knowledge Guide* https://content.vic.gov.au/sites/default/files/2021-07/MARAM%20practice%20guides_Guidance%20for%20professionals%20working%20with%20adults_Foundation%20Knowledge_0.pdf (accesses 23 July 2024).

⁴⁹ Department of Social Welfare, Jeonbuk National University (2021) *Conceptualizing “Family” and the Role of “Chosen Family” within the LGBTQ+ Refugee Community: A Text Network Graph Analysis* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8066340/> (accesses 23 July 2024).

	through hearing, witnessing or otherwise living with violence at home.
Perpetrator or Person Using Violence	A person who carries out violence, including patterns of coercive tactics against an intimate partner, spouse or family member (the victim survivor).
Survivor advocate	The term survivor advocate is used in the family violence system to describe people who have experienced family violence and are engaged in formal activities and mechanisms to influence policy development, service planning and practice. The term does not have currency for all people or groups within the community, notably Aboriginal communities.
Victim survivor	<p>A victim survivor is the person against whom a perpetrator directs their coercive and violent acts.</p> <p>'Victim survivor' is commonly used in Victoria by government and the family violence sector to describe people, including children and young people, who have experienced family or gender-based violence.</p> <p>This term is understood to acknowledge the strength and resilience shown by people who have experienced, or are currently living with, violence. The term must not be used to wholly define a person. Experiencing family violence is a part of someone's life among many other experiences. People who have experienced violence have different preferences about how they would like to be identified. They may choose to use victim or survivor separately, another term like 'person with lived experience of family violence' or prefer no label or term at all. Be mindful of context when using 'victim survivor' – do not use the term to describe someone who did not survive. The plural is 'victim survivors'.</p>

Appendix 2

List of National Support Services

<p>National 1800RESPECT Line Provides national free advice and counselling for both people experiencing family violence and professionals responding to family violence (24 hours).</p>	<p>Call 1800 737 732, 24 hours, 7 days Text 0458 737 732, 24 hours, 7 days http://1800respect.org.au/</p>
<p>Lifeline</p>	<p>Call 13 11 14 https://www.lifeline.org.au/</p>

Provide crisis support and suicide prevention services (24 hours).	
<p>Kids Helpline</p> <p>Australia’s free, confidential 24/7 online and phone counselling service for people aged 5 to 25.</p>	<p>Call 1800 55 1800 24 hours, 7 days</p> <p>http://kidshelpline.com.au/</p>
<p>Men’s Referral Service</p> <p>The Men’s Referral Service is the national counselling, information and referral service for men looking to change their behaviour.</p>	<p>1300 766 491</p> <p>https://ntv.org.au/get-help/</p>
<p>QLife</p> <p>QLife is a peer-to-peer telephone and webchat based service providing free support and referral for LGBTIQ+ Australians wanting support around gender, sexuality and relationships.</p>	<p>Call 1800 184 527, 3pm – 12am, 7 days</p> <p>Webchat, 3pm-12am, 7 days</p> <p>https://qlife.org.au/</p>
<p>13YARN</p> <p>13YARN is the first national service of its kind for Aboriginal & Torres Strait Islander people in crisis. They offer a confidential one-on-one over the phone yarning opportunity and support with a trained Lifeline Aboriginal & Torres Strait Islander Crisis Supporter for mob who are feeling overwhelmed or having difficulty coping.</p>	<p>Call 13 92 76, 24 hours, 7 days</p> <p>https://www.13yarn.org.au/</p>

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