AUSTRALIAN
ENERGY
REGULATOR

REVIEW OF ENERGY RETAILERS' CUSTOMER HARDSHIP POLICIES AND PRACTICES

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Contents

Overview

The Australian Energy Regulator (AER) regulates energy markets and networks. One of our key priorities is to build consumer confidence in retail energy markets so that energy customers can trust they are receiving an energy service that meets their needs.

Our core functions are set out under the National Energy Retail Law (Retail Law) and National Energy Retail Rules (Retail Rules), which include key protections to support all customers when problems arise, whether in the form of disputed bills, payment difficulties or disconnection of supply.

A key protection for vulnerable customers is the requirement for energy retailers to develop and maintain a customer hardship policy that sets out their approach to identifying and assisting customers experiencing difficulty paying their energy bills.

Some consumer stakeholders have expressed concern about the practical implementation of retailers' hardship policies, particularly around barriers that restrict customer access to hardship assistance and retailers setting unaffordable payment plans. An independent review of Centrepay[1] in 2013 also raised concern that customers' accounts may be carrying high credit balances and recommended the AER investigate energy retailers' practices with regard to this.

In response to these concerns, we undertook a targeted review of the operation of retailers' hardship policies and practices throughout 2014. The purpose of the review was to help us better understand how retailers identify and assist customers experiencing payment difficulties and to share examples of good practice across industry.

Observations and findings

While the review focussed on retailers with residential customers in jurisdictions where the Retail Law applies (New South Wales, the ACT, South Australia and Tasmania), we consider the review offers an important contribution to the national conversation on issues of energy affordability and hardship.

We employed a collaborative and cooperative approach in conducting this review. In particular, we welcome the insights and experiences shared by financial counsellors and consumer advocates. We also acknowledge the willingness of retailers to participate and engage with us where we sought to understand their processes, resolve concerns, and suggest improvements.

We developed important insights into each retailer's approach and attitude towards customers experiencing payment difficulties due to hardship. While we observed a dynamic industry picture, some retailers seem more committed than others to assisting hardship customers—whether through promotion of earlier identification, staff training to promote more consistent and effective engagement, or innovative ways of assisting customers. It was evident during the review that retailers with effective hardship policies and practices benefited by being able to maintain a positive and cooperative relationship with customers dealing with hardship issues.

The review suggests that many community concerns about hardship assistance and payment plan affordability are not symptomatic of widespread non-compliance with the Retail Law and Rules. Rather, they are linked to broader issues of energy affordability and energy literacy (that is, consumers' ability to make informed decisions around selecting an energy offer and understanding their options and rights in relation to their energy supply).

The strong theme highlighted by consumer stakeholders was the fundamental importance of respectful practice. How a retailer engages with the customer to actively listen and validate their experience of financial vulnerability is very important in developing and maintaining longer term engagement. We would encourage retailers to continue focusing on engagement and communication—we continue to hear stakeholders say it is the customers who do not engage that are most at risk of disconnection.

Specific findings relating to the three focus areas of the review are summarised below.

Identification and access

- Common concerns expressed by consumer stakeholders are that customers wait too long before seeking help and retailers allow debt to get too high before offering assistance.
- Consumer stakeholders and retailers acknowledged that a key challenge to early identification is customer engagement. There will always be a group of customers who feel reluctant to identify themselves as being in financial hardship or to demonstrate a willingness to pay.

[1] Centrepay is explained in Section 4 of this report.

- There were variations in retailers' practices to encourage customers to contact them at the first sign of payment difficulties and to identify and contact customers who may be at risk. The approaches that appear more effective involve a combination of strategies, such as increasing customer awareness about how and when to seek assistance, proactive contact by retailers via a range of methods (including SMS, phone calls and email) and approaching hardship issues with empathy and sensitivity.

Capacity to pay assessments

- Retailers discussed a range of approaches to considering capacity to pay, from the 'word of the customer' through to a budget assessment. Our view is that it was not the approach to this assessment that set retailers apart, rather the emphasis placed on ensuring the conversation was undertaken respectfully and provided scope for flexibility, negotiation, and empowerment.
- Retailers discussed the challenges of managing an increasing number of customers who cannot afford to pay for their current consumption, both in terms of the cost impact on their business and managing the interests of the customer as arrears continue to accumulate.
- Assisting customers to maximise their capacity to pay (by ensuring they have accessed all grants or concessions they are eligible for and reducing their energy consumption) is important. Some retailers only offer basic energy efficiency tips, while others offer a more holistic range of assistance, including energy efficiency audits, appliance replacement and retrofit programs, and referral arrangements.

Centrepay arrangements

- Efforts to promote Centrepay appear somewhat limited. Some retailers are more proactive about offering and setting up Centrepay for eligible hardship customers than others. The lack of effort to promote Centrepay was evident through hardship performance data we collected and we are of the view that many retailers could do more in this space.
- The review confirmed it is not uncommon for hardship customers using Centrepay to carry small positive (credit) balances on their accounts; however this typically reflects seasonal smoothing.
- Of note, some retailers reported challenges with returning Centrepay amounts to customers where payments have continued after an energy account has been closed. We have since confirmed with the Department of Human Services that retailers have the authority to stop payments and the Department can assist retailers with payment returns.

Concerns

Despite the review not revealing widespread non-compliance, our review has given us a point of reference from which to monitor improvements or to act on any systemic issues that become apparent. Issues of concern generally related to:

- Retailers that reported relatively high levels of customer debt, in conjunction with comparatively low numbers of customers being assisted through a payment plan or hardship program, which suggests problems with identifying and assisting customers.
- Retailers that reported relatively high levels of debt on entry to a hardship program, which again suggests problems with promptly identifying and assisting customers.
- Disconnection of hardship customers, specifically where the retailer seems unable to stop, or is slow to stop, a disconnection service order issued against a customer who is being processed for entry onto the hardship program.
- Relatively low numbers of hardship customers using Centrepay, suggesting it is not being well-promoted, or even offered to eligible customers.
- Lack of intuitively locatable and easy to read information on a retailer's website about the availability of assistance for customers experiencing payment difficulties, including the placement of the retailer's hardship policy.
- Lack of additional measures to support a hardship customer, meaning a hardship program is little more than a payment plan.
- Incorrect reporting of performance data resulting in a number of performance reports being re-submitted. This was typically due to a one-off mistake, a systemic error in interpretation of the definition of a reporting indicator, or more concerning, failure to record the data.

We are continuing to work with retailers to resolve potential compliance concerns arising from this review.

Early outcomes

We set out to work collaboratively with retailers and consumer stakeholders to promote compliance and improve the effectiveness of assistance provided to customers experiencing hardship. Many retailers acknowledged the review had prompted them to consider their practices and what they could do better or differently.

Already, we have seen a number of retailers move to review their hardship policy and process documentation; identify and correct errors in their reporting of hardship performance indicators; and consider improvements to the quality of information for consumers experiencing payment difficulties on their websites. This is a very positive outcome.

We are also in a stronger position to interpret, and where appropriate probe, the picture presented by retailer and industry hardship performance data—this will enable us to respond more swiftly to potential concerns in the future.

We have developed valuable insight into how retailers individually approach hardship within their business and how this is evolving across industry. In approving new or varied hardship policies since the review commenced, we have been able to offer additional suggestions and feedback for retailers to consider.

The next 12 months

We will continue to monitor retailers' response to our individual engagement and the general findings discussed in this report. In particular, we will look at:

- how retailers approach hardship issues with their customers, particularly around respectful practice to more effectively communicate and engage with customers, including customers with a particular disadvantage or vulnerability
- the range and accessibility of information that retailers provide to customers about their rights to access hardship assistance, and ensuring this assistance is provided in accordance with customers' rights to receive it
- retailers' initiatives to educate and assist hardship customers to understand and manage their energy usage, and
- hardship performance data reported by retailers, including debt levels of non-hardship customers, average debt on entry to hardship programs, number of hardship program participants, and disconnections for non-payment.

We will also continue to work with retailers and other key energy industry stakeholders to explore, develop, and implement strategies to raise standards to better help the customers who most need hardship assistance.

1 Background

1.1 Introduction

Under the Retail Law, energy retailers must develop, implement and maintain a customer hardship policy.[2] The purpose of the policy is to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis.[3]

The Retail Law and Rules set out minimum requirements for a retailer's hardship policy. These include:

- processes to identify customers experiencing payment difficulties due to hardship
- processes for early response by the retailer
- offering flexible payment options (including a payment plan and Centrepay)
- processes to identify concessions and financial counselling services
- processes to review customers' market contracts, and
- programs to assist customers with their energy efficiency.[4]

The AER must approve a customer hardship policy if the AER is satisfied that the policy contains the minimum requirements and will, or is likely to, contribute to the achievement of the purpose of a customer hardship policy.[5]

The AER initially reviewed and approved retailers' hardship policies, as required under the Retail Law. To date, however, we have not actively reviewed the implementation of retailers' policies and whether their practices are consistent with their approved policies.

Members of our Customer Consultative Group,[6] financial counsellors and consumer stakeholders more generally have expressed concerns about the operation of retailers' hardship policies, highlighting customer access and unaffordable payment plans as particular areas of concern. Retailers' use and monitoring of Centrepay as a payment option was also identified as a concern, with the 2013 *Report of the Independent Review of Centrepay* recommending that the AER investigate energy retailers' practices with regard to Centrepay arrangements.[7]

In response to these concerns, this review considered the operation of retailers' hardship policies and practices, targeting the issues raised by stakeholders. The review was part of our compliance activities during 2013–14, as set out in the AER's *Statement of approach: compliance with the National Energy Retail Law, Retail Rules and Retail Regulations*.[8]

The purpose of the review was to:

- better understand the significance and prevalence of concerns regarding customer access to hardship assistance and the affordability of payment plans under retailer hardship programs
- identify any concerns regarding retailers' compliance with the Retail Law and Rules, specifically with regard to identifying customers experiencing payment difficulties due to hardship,[9] how retailers have regard to capacity to pay when establishing payment plans,[10] and how retailers promote, use and monitor Centrepay,[11] and
- work collaboratively with retailers and consumer stakeholders to promote compliance and improve the effectiveness of assistance provided to customers experiencing hardship.

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2 Section 43(2) National Energy Retail Law.

3 Section 43(1) National Energy Retail Law.

4 Section 44 National Energy Retail Law. See also *Appendix 2—Requirements of retailers' hardship policies*.

5 Section 45(1) National Energy Retail Law.

6 The Customer Consultative Group (CCG) provides advice to the AER in relation to our functions under the energy laws affecting energy consumers across participating jurisdictions. It includes representatives from organisations that work with vulnerable and disadvantaged consumers. Further information is available at the AER website: http://www.aer.gov.au/about-us/customer-consultative-group.

7 Department of Human Services (Australian Government), *Report of the Independent Review of Centrepay 2013*, p. 95.

8 Available on the AER website at http://www.aer.gov.au/node/6559 The 'Statement of Approach' explains our approach to monitoring compliance and investigating possible breaches of obligations under the Retail Law or Rules, and how we will determine the appropriate response to identified breaches.

9 The Retail Law requires retailers to have processes in place to identify customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by a residential customer (s. 44(a)).

10 The Retail Rules require that a payment plan for a hardship customer must be established having regard to the customer's capacity to pay, any amounts owed by the customer, and the customer's expected energy consumption over the coming 12 months (r. 72(1)(a)).

11 The Retail Law requires retailers, as part of their hardship policies, to offer flexible payment options, including payment plans and Centrepay (s. 44(c)).

1.2 Approach to the review

The review covered retailers with residential customers in Retail Law jurisdictions—New South Wales, the ACT, South Australia and Tasmania. The 16 retailers that we reviewed are set out in Table 1.

Table 1: Energy retailers participating in the hardship review[12]

Energy retailers	
ActewAGL	Lumo Energy
AGL	Momentum Energy
Alinta Energy	Origin Energy
Aurora Energy	Powerdirect
Click Energy	QEnergy
Diamond Energy	Red Energy
M2 Energy[12]	Sanctuary Energy
EnergyAustralia	Simply Energy

Engagement with consumer stakeholders

As a first step, we invited consumer stakeholders in Retail Law jurisdictions to complete an online survey. Eighty financial counsellors, consumer advocates and community workers responded. High level findings are reflected in this report and summarised in *Appendix 1—AER consumer stakeholder survey*. We also met individually with each ombudsman scheme in Retail Law jurisdictions and a range of other consumer stakeholders,[13] some of whom were (or are) undertaking related projects.[14]

12 M2 Energy has two trading names: Dodo Power & Gas (servicing residential customers) and Commander Power & Gas (servicing business customers).

13 Stakeholders we consulted with include our Customer Consultative Group (CCG), the Consumer Action Law Centre (CALC), Financial Counselling Australia (FCA), the Victorian Financial and Consumer Rights Council (FCRC), the Consumer Utilities and Advocacy Centre (CUAC) and Kildonan Uniting Care.

14 Related consumer stakeholder reports include: Consumer Action Law Centre (2014), *Problems with payment*; Consumer Utilities and Advocacy Centre (2014), *Helping Not Hindering: Uncovering Domestic Violence & Utility Debt*; Consumer Futures (2013), *Ability to Pay: Exploring the extent to which Ofgem guidelines regarding indebted consumers are followed, from the consumer and debt adviser perspective;* A report by RS Consulting for Consumer Futures; Financial Counselling Australia and the Australian Communications Consumer Action Network (2014), *Hardship policies and practices: A report on comparative hardship policies*; Financial Credit Financial and Consumer Rights Council (2014) *Rank the energy retailer*.

Retailer information request

The focus of our review was on detailed information sought from retailers about their hardship policies and programs and how they operate in practice, with a focus on customer access to hardship programs, capacity to pay assessments and Centrepay arrangements.

Review of hardship performance data

To complement the qualitative information provided by retailers and consumer stakeholders, we also considered the hardship performance indicator data reported by retailers to the AER during 2013–14 as part of their obligations under the Retail Law.[15] Further information about quantitative hardship indicators is set out in the AER's *Annual report on the performance of the retail energy market 2013–14*.[16]

Review of retailers' hardship policy documents

We also looked at the general accessibility of retailers' hardship policies (for example placement on the retailer's website, language, style and presentation). Our observations are discussed in Section 5—*Review of hardship policy documents*.

Meetings with retailers

Finally, we met with each retailer individually to discuss areas of their responses to the information request that may have presented a concern, required clarification, or potentially represented good or innovative practice. We also used the meetings to provide feedback and raise any concerns coming from our review of the accessibility of policy documents, our consumer stakeholder survey, and the hardship data collected through our performance reporting role.

Ongoing activities

We will continue to work with retailers to resolve any outstanding concerns and to follow up improvements or changes some retailers have undertaken to consider. Should we be unable to resolve any concerns with the level and quality of retailers' compliance—or should we identify further concerns in future—we may consider further action to enforce compliance with the Retail Law.[17]

15 Section 282 National Energy Retail Law. These indicators included the number of customers with an energy bill debt (and the size of that debt), the number of customers on a payment plan, the number of customers on a hardship program (and the level of debt on entry and currently), and the number of disconnections due to non-payment.

16 Available on the AER website at http://www.aer.gov.au/node/28517.

17 Section 275 and s. 283 National Energy Retail Law.

We will also continue to engage with consumer stakeholders and retailers as we work to develop principles that reflect a best practice approach to capacity to pay assessments when establishing payment plans, which we will be encouraging retailers to adopt.

1.3 Structure of this report

In undertaking our review, we considered a broad range of information from various sources, as set out above. This report reflects the key findings and observations only, structured according to the three main areas of focus:

- Identification and access—how retailers identify customers experiencing payment difficulties due to hardship and some of the key barriers to customer access to hardship assistance.
- Capacity to pay assessments—how retailers assess capacity to pay when developing payment plans for hardship customers and other means of providing an early response to customers in financial hardship.
- Centrepay arrangements—how retailers promote, use and monitor Centrepay arrangements when establishing flexible payment options for hardship customers, particularly with respect to managing account balances.

At the end of each section, we include a selection of excerpts taken from retailers' written submissions that illustrate examples of interesting or innovative practice. We also include some verbatim comments made by respondents to our consumer stakeholder survey that illustrate common concerns or interesting perspectives.

Separately, we also include:

- Review of hardship policy documents—we explored how easy it would be for a customer experiencing payment difficulties to find information about support options available to them on their retailer's website, with a particular focus on the accessibility of retailers' hardship policy documents.

2 Identification and access

2.1 Summary

The Retail Law requires retailers to have processes in place to identify customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by a residential customer. Disconnection for non-payment must be a last resort for retailers, who must take a number of steps before disconnecting a customer.[18]

Early identification of customers experiencing financial hardship will maximise the opportunities for effective intervention to help the customer manage and overcome their difficulties. Identification can be prompted by the customer (or a third party on behalf of the customer, such as a financial counsellor or consumer advocate) or the retailer.

Concerns expressed by consumer stakeholders are that customers wait too long before seeking help and retailers allow debt to get too high before offering assistance. While recognising customers could act earlier, consumer stakeholders felt retailers could do more to promote the availability of help and better train their call centre staff to communicate with vulnerable customers and identify those in hardship. Retailers agreed with consumer stakeholders that engagement with customers experiencing financial difficulty can be a significant challenge.

We observed a range in retailers' practices and efforts to encourage customers to contact them at the first sign of payment difficulties and by retailers identifying and proactively contacting customers who may be at risk. Some retailers appeared to do little more than comply with the minimum steps required by the Retail Law, while others went beyond the minimum requirements. On this basis, we would agree that some retailers demonstrate greater effort to identify and engage with customers experiencing payment difficulties due to financial hardship.

Generally, the approaches that appear more effective involve a combination of strategies, such as increasing customer awareness about how and when to seek assistance from their retailer, proactive contact by retailers at the first signs of payment difficulties via a range of methods (including SMS, phone calls and email) and approaching hardship issues with more empathy and sensitivity so that when a customer makes contact, they receive the support and help they are entitled to.

2.2 Identifying customers with payment difficulties

Early identification of customers experiencing financial hardship maximises the opportunities for effective intervention to assist customers to manage and overcome their financial difficulties.

Respondents to our consumer stakeholder survey emphasised the importance of early identification. Consumer stakeholders were concerned that retailers allow customer debt to get too high before offering assistance and customers wait too long before seeking help.

The hardship performance indicators we reviewed lend support to these views, and of most concern to us were several retailers that reported relatively high levels of customer debt:

- in conjunction with relatively low numbers of customers being assisted through a payment plan or hardship program, and/or
- on entry to a hardship program.

We discussed these indicators with particular retailers during the meeting stage of our review and advised them that we expect to see improvements. We will continue to monitor the hardship performance indicator data reported by retailers.

Pathways to identification

Identification can be prompted by the customer or the retailer:

- a customer may contact their retailer to ask for help, knowing that they are unable to meet their payment obligations (which may include a third party, such as a financial counsellor or consumer advocate, contacting the retailer on behalf of the customer) (self-identification), and/or

[18] Section 44(a) National Energy Retail Law.

- a retailer identifies that the customer is showing signs of being at risk of hardship and proactively contacts the customer to discuss early assistance measures (retailer identification).

Practically speaking, it is difficult to separate the pathways to identification. For the purposes of our report, we have set out below the practices that retailers use to encourage self-identification among customers, and the practices that retailers use to identify customer payment difficulties themselves. Nearly all retailers considered that it is the reality of an overdue bill and reminders from the retailer that prompt the customer to make contact.

Self-identification by the customer

The AER has always encouraged customers to contact their retailer at the first sign of payment difficulties. Some customers will do that, but as our review confirmed, there are a range of challenges to customers proactively contacting their retailer early.

Consumer stakeholders and retailers acknowledge that customers experiencing payment difficulties may face practical and/or social barriers to self-identify. We observed that retailers vary in the nature and scope of their efforts to overcome these barriers and promote their hardship programs and encourage proactive contact by customers.

For example, a key challenge reported by consumer stakeholders was a lack of customer awareness about the existence of retailer hardship programs—people cannot ask for help if they do not know it exists. Of interest, some retailers stated that it is actually the customers who have never experienced ongoing financial difficulties that do not know about available assistance/what to do, as they have never needed it before. Consumer stakeholders also noted that customers with someone to advocate on their behalf, such as a financial counsellor or consumer advocate, will generally get a better outcome, but that more positive outcomes could be achieved by empowering the customer to negotiate for themselves (see also Section 3—*Capacity to pay assessments*).

We recognise the following general communication measures (that is, to communicate to customers at large that assistance options are available should customers find themselves in need of it) as more effective practice for retailers:

- Setting out a clear message on energy bills advising customers to contact their retailer if they are unable to make payments by the specified due date. One retailer discussed an increase in customers proactively contacting them after they improved the language of these messages on their bills.
- Providing easy to find and easy to read information about payment assistance options on their website. This is about making the information customer-friendly and more accessible by going beyond the requirement to publish a copy of their approved hardship policy on their website.[19] (see also Section 5—*Review of hardship policy documents*)
- Providing easy access to information about payment assistance options in other languages or a translation service so that customers who speak a language other than English also know that help is available.
- Having a physical presence, such as a shopfront, kiosk or presence at community events, was also discussed by some retailers as being an effective means to communicate the availability of assistance measures broadly.

We also consider the following targeted communication measures (that is, to communicate to particular customer groups) as more effective practice for retailers:

- Partnering with community and welfare organisations to promote awareness about assistance options—as customers who are likely to require assistance to pay energy bills will likely be experiencing financial difficulties in other aspects of their lives, these organisations are a good means to promote awareness about retailers' hardship programs to customers with the most need. Several retailers have well-established relationships with community organisations and even consumer councils, and these relationships are contributing to the development and implementation of more effective identification strategies.

[19] As required under s. 43(2) and s. 43(4) National Energy Retail Law.

- Tailoring engagement efforts to customers with special needs or a particular vulnerability or disadvantage—for example, Indigenous customers, those with culturally and linguistically diverse backgrounds, customers with a disability and older people. As noted, most retailers have or use a telephone interpreter service, but some promote it more effectively than others. As above, a physical presence (for example, a shopfront or stall) was also well-received by some groups of customers. Further, some retailers provide a dedicated phone number to enable financial counsellors or consumer advocates to contact the retailer on behalf of a customer experiencing financial hardship, so that urgent assistance may be provided to particularly vulnerable customers.
- Several retailers spoke of targeting geographical regions that had been affected by a significant environmental (for example, drought, bushfire) or economic event (for example, industry or business closure) that may have left local residents suddenly more vulnerable to financial hardship and proactively offering early intervention.

Even if customers are aware that assistance is available, consumer stakeholders raised other emotional and practical barriers to customers self-identifying. However, our review also highlighted a range of retailer initiatives that go to breaking down these potential barriers, for example:

- Customers may feel reluctant to self-identify as being in financial difficulty for social reasons, such as feelings of shame and even denial. Methods to overcome this barrier include offering customers the option to contact the retailer via email, which may be perceived as less confronting than directly saying to someone ‘I need help’ (or words to that effect).
- Our consumer stakeholder survey showed that high mobile phone calling costs was also a significant barrier to customers self-identifying. To manage this issue, some retailers will recognise a customer is calling from a mobile and offer to call the customer back. Again, offering an email alternative is also helpful.
- Several retailers discussed that extended call centre hours led to an increase in customer contact during those extended hours, even though the extended hours had not yet been widely promoted—this made the retailer more accessible to customers at a time it suited the customer to call.
- Another key barrier identified in our survey was previous poor experience when asking for help (whether with their current retailer or a different one). This reiterates the fundamental importance of the ‘soft skills’ of call centre staff (such as active listening and respectful practice) in promoting engagement. Some retailers evidenced more commitment than others to training their staff in working with vulnerable customers.

Identification by the retailer

We asked retailers about their approaches to identifying customers experiencing payment difficulties and also how they attempt to engage with these customers.

Disconnection for non-payment must be a last resort for retailers—under the Retail Rules,[20] a retailer is required to take a number of steps before disconnecting a customer:

- send a bill setting out the amount owed, when it is due and payment methods
- send a reminder notice if the customer has not paid the bill in full by the due date
- send a disconnection warning notice if the customer has not paid in full by the time specified on the reminder notice, and
- use its best endeavours to contact the customer as a final step before disconnection (for example, home visit, telephone, fax, email).

The Retail Rules prescribe certain timeframes that must be followed for the steps listed above.

Generally, retailers first become aware that a customer may be experiencing financial difficulties when they miss scheduled bill payments (for example, amounts owing after due dates, missed instalment payments, declined direct debit payments, cancelled payment arrangements).

Specific examples of retailers’ processes to identify customers include:

- automated credit management systems which flag customers who have missed payments and removes them from the standard billing and collections cycle
- checking points built into their credit management systems where staff will manually review and identify accounts in arrears, or
- flags to identify customers who have accumulated a certain level of debt and/or have a history of broken payment arrangements.

[20] Rule 111 National Energy Retail Rules.

There is considerable variation in retailers' efforts to contact customers who have been identified as 'at risk'. While all retailers set out steps consistent with the Retail Rules, we recognise the following examples as going beyond the minimum requirements and bringing about better outcomes:

- including messages on payment reminder/disconnection warning notices inviting the customer to contact the retailer to discuss assistance options
- providing separate consumer-friendly brochures with information about the retailer's hardship program (with energy bills or after a field visit), and
- using a combination of methods and repeated attempts, to contact the customer, such as letters, SMS (which have proven to be effective), emails, multiple phone calls at different times of the day, and field audits at pre-disconnection stage.

In particular, some retailers may make up to eight or nine efforts to contact the customer, compared to others that only send two letters/notices and attempt one phone call before proceeding to disconnection if they cannot contact the customer.

2.3 Access to hardship assistance

Once customers who are experiencing payment difficulties have been identified and are engaging with their retailer, they must be able to access meaningful and appropriate assistance.

The spectrum of payment difficulties

Retailers offer different levels of assistance, depending on the level and severity of the customer's payment difficulties—generally, this may involve:

- Extension of time to pay—if the customer is experiencing payment difficulties over one to two billing cycles but anticipates that their capacity to pay will improve in the short-term.
- Payment plan arrangements—if the customer is experiencing payment difficulties persisting over several cycles, or immediate/significant payment difficulties, but has some capacity to pay and can manage existing debt and future bills with support.
- Referral to hardship program—if the customer's payment difficulties are overwhelming, such that they cannot meet a payment plan arrangement because they lack the capacity to pay for current and future consumption. Hardship programs provide tailored assistance and further support measures to assist customers to manage their bills on an ongoing basis.

Retailers noted that, in reality, a preliminary capacity to pay discussion may help with the decision about the appropriate assistance to offer the customer (see also Section 3—*Capacity to pay assessments*).

Consumer stakeholders reported concerns that for some customers, there may be little practical difference between the support offered on a 'payment plan' or on a 'hardship program'.[21]

We asked retailers if they require a customer to be offered a payment plan (and be unable to manage it) before they are referred to a hardship program. Some said they will offer a payment extension or payment plan arrangement in the first instance, but would never require it if they felt the customer was in genuine hardship and that the hardship program was most appropriate for the customer's circumstances.

Access to a hardship program

Consumer stakeholders reported a range of concerns about access to retailers' assistance programs and support options. A common concern was that frontline staff (usually the call centre) lack knowledge about hardship assistance options, and may not demonstrate empathy and sensitivity to the customer's circumstances, making it difficult for customers to communicate their concerns and to feel understood.

Our review showed variation in retailers' practices and processes responding to customers experiencing payment difficulties. Generally, once the customer is on the phone, frontline staff may ask a series of questions relating to the customer's income and expenses. They will also look for indicators of financial hardship to determine the most appropriate form of assistance for each customer's particular circumstances. Triggers retailers may look out for may include:

- unemployment
- disability
- illness or accident
- death of a family member
- relationship breakdown, or
- domestic violence.[22]

21 However, a customer on a hardship program will not be disconnected while they continue to meet agreed payment arrangements.

22 In its 2014 report, *Helping Not Hindering: Uncovering Domestic Violence & Utility Debt*, CUAC considered how utility providers could better assist victims of domestic violence who may be experiencing payment difficulties. Our review found that a number of retailers included domestic violence specifically as a potential trigger for referral to a hardship team.

Most retailers also reported that indicators of hardship are commonly revealed indirectly throughout the conversation, for example, statements such as 'I can't afford my rent/mortgage payments'.

Consumer stakeholders and retailers noted these types of questions can be quite personal and may be considered invasive—which poses a challenge to determining and providing the assistance that the customer requires. Retailers also noted that customers will rarely, if ever, say words to the effect of 'I am in financial difficulty/hardship'.

Retailers reported that ultimately, the challenge is to encourage customer engagement so that they can assist customers to overcome their difficulties. They will not presume that a customer is experiencing hardship before understanding their circumstances to determine appropriate support options at the outset—if they cannot engage a customer who is unwilling to pay, they cannot offer them assistance and may then move to disconnect them in accordance with the processes set out under the Retail Law and Rules.

As noted, an important factor in ensuring that customers in financial difficulty are able to access the assistance that they require are the 'soft skills' of call centre staff, such as active listening, respectful practice and demonstrating empathy and sensitivity to the customer's situation. This was reiterated in consumer stakeholder feedback, particularly around how customers' perceptions will influence their willingness to engage with their retailer on an ongoing basis to manage their bills in the longer-term. We observed differences in retailers' practices for recognising and responding to the signs of hardship, which suggest that those with specialist staff training and documented processes in place tend to provide a higher quality response.

We observed that in practice, access to hardship assistance programs and support options depends on a number of factors, particularly proactive identification by retailers (especially to overcome the barriers of customer engagement discussed above), and that any form of proactive assistance needs to be implemented well (especially the 'soft skills' of staff when handling customers experiencing payment difficulties). Retailers with more effective approaches also benefited by being able to maintain a positive and cooperative relationship with customers dealing with hardship issues (see also Section 3—*Capacity to pay assessments*).

Highlighting perspectives and practices

Following are a selection of excerpts taken from retailers' written submissions that illustrate examples of interesting or innovative practice. We also include some verbatim comments made by respondents to our consumer stakeholder survey that illustrate common concerns or interesting perspectives.

ActewAGL

"Customers may be accepted onto ActewAGL's Hardship Program prior to credit action being initiated. Whilst ActewAGL's general approach is that customers should have a debt to be eligible for the program, Hardship team members have the authority to exercise discretion in certain circumstances where a customer does not have a debt. This most frequently occurs when a customer has been on the Hardship Program for a period of time, has met their payment schedule and paid off their debt, but a new bill is due to be issued and staying on the program for longer will enable them to proactively manage that new debt proactively. ActewAGL considers this approach to be beneficial as it encourages customers to take ownership and responsibility for their account requirements."

EnergyAustralia

"The EnergyAssist program has relationships with various community groups across Australia, including (but not limited to) Kildonan, CisVic, Uniting Care and the Red Cross. Our attendance at key community forums, conferences and training sessions allow us to raise awareness amongst our stakeholders about our EnergyAssist program but also ensures we are across trends affecting vulnerable customers. We also have strong working relationships with the Ombudsmen in each state."

Origin Energy

"Origin's customer facing agents are trained to understand customer affordability issues and to identify customers experiencing payment difficulty or hardship. For example, if Origin makes contact with a customer through the collections processes, our agents will pro-actively explore with the customer payment options that they can afford, review past payment plans, identify concessions status, and will look out for key triggers for hardship, such as if someone has lost their job or has been injured at work. Origin's SAP IT system provides our agents with the data necessary to analyse a customer's payment behaviour and understand where this may indicate payment difficulty."

Comments from consumer stakeholders

- "its [sic] about the front end getting it right before it goes wrong and when people start to slip though delayed payments being proactive to get them on the right payment plans concessions and other measures."
- "[C]all centre staff need more training to recognise things such as clients not paying a bill or part paying a bill. [R]ecognising that when a client says I will have to when an unrealistic amount is suggested means they cannot really afford it. [R]etailers should not allow debt to grow to several thousand dollars. [R]etailers should be trying to contact clients when one bill is not paid asking diplomatically if they have forgotten or if they are having problems and need a payment plan."
- "If accounts were monitored and as soon as they were over a given amount and not paid in full; a letter or contact to the customer flagging concern offering hardship assistance/payment plans etc. Proactive rather than reactive. Clients often get reminders and dont [sic] read fineprint [sic] or think to ring and explain their situation. Many accounts are $1000's in arrears; they need to be helped before then".
- "Significant changes in usage should be monitored and if the customer has a history of making payments on time then more information on what is available to assist should be provided to vulnerable customers."

3 Capacity to pay assessments

3.1 Summary

The Retail Rules require that a payment plan for a hardship customer must be established having regard to the customer's capacity to pay, any amounts owed by the customer, and the customer's expected energy consumption over the coming 12 months.[23]

Consumer stakeholders have consistently raised concerns that hardship customers are pressured into payment plans that are not realistically affordable, which leads them to fall behind in payments, be excluded from hardship programs and then be vulnerable to disconnection. Conversely, there is also concern that more affordable payment plans grow a customer's arrears indefinitely.

Retailers discussed a range of approaches to considering capacity to pay, from the 'word of the customer' through to a comprehensive budget assessment. Our view is that it is not the approach to this assessment that really set retailers apart, rather the emphasis placed on ensuring the conversation is undertaken respectfully and provides scope for flexibility, negotiation, and empowerment. Some retailers were more effective than others in demonstrating that this is important.

Retailers acknowledged that they are increasingly managing customers who simply cannot afford to pay for their current consumption (let alone contribute to their arrears). This continues to present challenges for retailers, both in terms of the cost impact on their business and also managing the interests of the customer as arrears continue to accumulate. Retailers conceded that maintaining engagement with the customer by accepting payments markedly less than consumption (at least in the short term) is increasingly necessary. Sustainability of such arrangements into the long term is more contentious and noted as a source of frustration for many retailers.

Assisting customers to maximise their capacity to pay (by ensuring they have accessed all grants or concessions they are eligible for and reducing their energy consumption) is important. Some retailers offer little more than basic energy efficiency tips, while others offer a more holistic range of assistance, including energy efficiency audits, appliance replacement and retrofit programs, and referral arrangements.

3.2 Developing payment plans

For retailers to demonstrate consideration for a customer's capacity to pay when developing a payment plan, it is reasonable to expect that they either:

- are willing to broadly accept, on face value, a payment amount proposed by the customer as being affordable without probing into the customer's circumstances, or
- have procedures in place to proactively explore with the customer what they can afford to pay, having regard to at least a minimal level of knowledge about the customer's circumstances, income and expenditure.

Our review showed that retailers use both of these approaches. However, for retailers that more closely align with the second approach, we observed considerable variation in the extent to which retailers engage and collaborate with the customer to negotiate a payment arrangement. Many retailers reinforced that there were no set protocols—all customers are dealt with as individuals and they are willing to negotiate and be flexible.

Our review also showed variation among retailers in their willingness to allow payments that are less than consumption. To successfully complete a hardship program, generally a customer must pay off their arrears and demonstrate a capacity to meet their consumption on an ongoing basis. This would normally require a hardship customer to progress to making payments above their current consumption such to gradually reduce their overall debt over time.

However, in reality, retailers discussed that an increasing number of customers cannot even pay current consumption. They noted this presents challenges both in terms of the cost impact on their business and also managing the interests of the customer as arrears continue to accumulate. In these circumstances, we support the general consensus among stakeholders that an appropriate strategy is to limit the growth in a customer's arrears by setting payments that are as close to consumption as possible, so that if/when the

23 Rule 72(1)(a) National Energy Retail Rules.

customer's capacity to pay improves, they have greater prospects of repaying their arrears.

This section discusses retailers' approaches to considering a customer's capacity to pay as follows:

- capacity to pay based on the word of the customer
- capacity to pay in collaboration with the customer
- willingness to allow payments to be less than consumption
- negotiation, disputes, and the role of financial counsellors.

Capacity to pay based on the word of the customer

Several retailers, including some smaller retailers and/or those with a relatively small number of hardship customers, develop a payment plan based on what the customer perceives as being affordable to them. The retailers described this as an honesty system that relied on a great deal of trust with the customer.

For example, one retailer described a very hands-off approach, recounting a conversation that might go 'can you afford $200?', and when the customer responded 'no', the question was asked 'can you afford $100?', and when the customer again responded 'no', the final question would be 'what can you afford?' and that would be the figure.

Other retailers asked the customer upfront 'what can you afford?' and if the retailer thought the amount proposed was reasonably adequate (having regard to the customer's accrued debt and consumption), it was accepted—even if this was lower than the customer's consumption.

Consumer stakeholders appear to prefer retailers to ask an open question such as 'what can you afford?', which nudges the customer to consider their financial situation at a holistic level, rather than a closed question such as 'can you afford this?', which may encourage the customer to close down the conversation.[24]

Only if the gap between what the customer proposed and what the retailer had calculated based (only) on debt and consumption was very significant would further discussions with the customer to understand the customer's financial circumstances occur.

One advantage of this approach is that it is less invasive for the customer, quicker and can make the customer feel validated if they have not had to defend their circumstances. However, risks may include customers being too optimistic about what they can afford or agreeing too quickly to an amount suggested by the retailer that they know is not affordable because they feel inhibited from saying so. Even consumer advocates agree that often the customer may not even know what is affordable for them.

Capacity to pay in collaboration with the customer

The majority of retailers reviewed described practical processes that relied on a discussion with the customer about their financial situation. We observed significant variation in approaches, but the starting point for most retailers was generally a calculated figure (not necessarily disclosed to the customer upfront) based on the customer's current outstanding debt and estimate of future consumption.

To calculate the figure, the most comprehensive assessments were based on a framework that typically sought to consider:

- The cause of debt—what has contributed to a customer's difficulty paying their energy bills, particularly whether it is an on-going problem of low/reduced income, lack of budgeting skills, or a more short term issue with good prospect for resolution.
- Available income and other expenses—including essential expenses such as food, rent, mortgage, medication, education, and other debt repayments.
- Circumstances—how many people are living in the property, the form of income being received, and other relevant circumstances.

Retailers provided a range of examples of calculators and template scripts that showed the type of questions used to prompt discussion with the customer, and others described the process in detail.

It is important to note that we do not propose that the most comprehensive budget assessment is necessarily the best nor the most effective, nor that it is a realistic objective in the circumstances. Comprehensiveness needs to be carefully balanced against the skill and sensitivity of the agents undertaking the assessment and the value for the customer and retailer in achieving this level of precision.

For example, even if the assessment accurately captures information about the customer's capacity to pay, the risk of alienating a customer through a process they perceive as insensitive or invasive may lead to disengagement. Conversely, for retailers willing to invest in the consultation, training and evaluation required to develop and maintain such an approach, it may prove to be quite effective.

[24] Consumer Futures (2013), *Ability to Pay: Exploring the extent to which Ofgem guidelines regarding indebted consumers are followed, from the consumer and debt adviser perspective*; A report by RS Consulting for Consumer Futures, p. 44.

Unsurprisingly, retailers had different appetites for getting into this level of detail with their customers with most openly saying they did not consider it was their role to ask for detailed information about the customer's income and expenses, nor to make judgements about a customer's budget. These retailers preferred to maintain a higher level discussion with customers—even if the trade-off is a less precise assessment that risked developing an arrangement that was beyond a customer's capacity to pay, or in fact, well within.

Willingness to allow payments to be less than consumption

In our engagement with retailers, it was clear there are different specific approaches to balancing legal obligation and social responsibility to consider a customer's capacity to pay against their commercial objectives as a business. In particular, retailers discussed increasingly being confronted with customers simply unable to pay consumption—or even close to it. In conversation, the proportion estimated by retailers was said to be as high as one third in some cases. Many estimated having a relatively small proportion of customers paying more than their current consumption.

At one end of the spectrum, several retailers presented a compelling picture of a culture and practices consistent with tolerance and empathy with the challenges facing hardship customers and a stronger commitment to helping such customers over the longer term. These retailers typically displayed more patience for payment plans being less than consumption, offered a more extensive range of other supports and tools to help customers move towards a more financially sustainable position with respect to their energy consumption, and a greater commitment to developing their practices and procedures to manage hardship and affordability as enduring business challenges.

At the other end, several retailers gave the impression of a culture and practices that were frustrated by the challenges and costs of managing hardship customers. While not necessarily presenting compliance concerns on the face of our engagement to date, for these retailers, debt recovery seemed to be the overriding objective in the development and maintenance of payment plans for hardship customers. Indeed a key theme from our consumer stakeholder survey was that some retailers appeared to be focused on debt recovery and payments on time, rather than taking into account the customer's particular needs and circumstances over the longer term. Examples here include retailers that persistently stretched customers to meet at least their current consumption (to keep prices down for all customers) even if the customer says that they cannot afford this amount.

These extremes are generalised, and most retailers fluctuated somewhere in between. We also had the impression that for most retailers, their culture and practices were quite dynamic. For example, in the period of only six to eight weeks between submitting information to us and the time we spoke to them, one retailer was already driving cultural change with respect to its position on accepting payments being less than consumption, conceding fair and reasonable payment plans are a better outcome than no payments.

Further, consumer stakeholder feedback suggests that customers who have agreed to an amount they cannot afford often tend to pay nothing rather than try to negotiate a lower rate. This results in their debt escalating and leaving them more vulnerable to disconnection. Most retailers concurred that it is more desirable to accept a small payment than none at all, though how this happens in practice is unclear.

The performance hardship indicators we collect cannot measure the appropriateness of a retailer's capacity to pay assessment, however some indicators lend support to retailers' discussions of their approaches to payment plans. For example, comparing debt *on entry* to a hardship program to average debt while on a hardship program may provide a useful indication of the extent to which retailers may be accepting payments that are less than consumption—and we observed significant variations here which prompted discussion with retailers to understand their approach.[25] Similarly the number of customers who successfully complete a hardship program compared to the number of customers excluded from a hardship program (due to non-compliance) may be indicative of a higher proportion of well-managed customers who are paying above their consumption. While this was an observation that prompted discussion with retailers, we note there are other considerations in interpreting these indicators.

Negotiation, disputes and the role of financial counsellors

Feedback from our consumer stakeholder survey was consistent with research findings in Great Britain that giving customers the opportunity to effectively negotiate for themselves provides an important sense of control and empowerment.[26] Doing so also promotes a sense that the retailer is willing to listen and is approachable at a

25 That is, where average debt while on a payment rises relative to debt on entry, it may highlight retailers that are consistently accepting payments lower than consumption (noting of course this is not an absolute conclusion as the data does not capture the payment history of individual hardship customers over time).

26 Consumer Futures (2013), *Ability to Pay: Exploring the extent to which Ofgem guidelines regarding indebted consumers are followed, from the consumer and debt adviser perspective*; A report by RS Consulting for Consumer Futures, p. 41.

time of difficulty. A recent report by Financial Counselling Australia (FCA) talks about the ability to pay as being inextricably tied to human dignity: "[it] gives people the dignity to be able to pay—people want to pay".[27]

This was a theme repeated by financial counsellors through our survey, with many respondents commenting that while the involvement of financial counselors was needed to achieve outcomes for the customer, more positive outcomes could be achieved by empowering the customer to negotiate for themselves.

In developing payment plans, retailers invariably encounter situations where they consider it is not possible to reach a mutually acceptable payment arrangement with the customer. In this instance, a small number of retailers may establish the plan based on what the customer proposes to be affordable and then review payment amounts after several billing cycles. However, for the majority of retailers, failure to reach an acceptable compromise with the customer is usually the point at which the retailer proposes the involvement of a financial counsellor.

Stakeholders have anecdotally reported concern that financial counsellors are often involved unnecessarily in the negotiation process. For example, consumer stakeholders reported that customers are being told by retailers that they *must* speak to a financial counsellor before they can be put on a payment plan (despite this not being a requirement)—and as financial counselling services are a limited resource, customers are often placed on waiting lists and may go weeks without hardship assistance.

However, retailers did not agree that they place an over-reliance on financial counsellors. Instead, they maintained that they *suggested* (not *required*) the involvement of a financial counsellor to help the customer assess their capacity to pay only when they could not negotiate a payment arrangement or had reason to doubt the customer's perception of their capacity to pay. This is most commonly the case when a customer is seeking to make payments significantly lower than consumption, suggesting to the retailer that the customer is in a high level of financial distress and most likely suffering across all basic living expenses. Retailers therefore generally did not regard the involvement of financial counsellors as primarily about brokering an arrangement, rather to support a customer with a high level of need.

Often customers in hardship will already have an established relationship with a financial counsellor, and in these instances, retailers fairly unanimously indicated that the advice of the financial counsellor on the customer's capacity to pay was readily accepted.

All retailers have established internal dispute resolution processes and provide contact details for local energy ombudsman schemes for when negotiation is not successful.

3.3 Further ways to assist hardship customers

In addition to supporting a hardship customer with a payment plan, we are of the view that more effective practices involve retailers having procedures in place as part of their hardship policies to help customers maximise their capacity to pay their arrears and future consumption and reduce the likelihood of escalating energy debt problems. This can be achieved, for example, by offering energy efficiency advice and solutions, tariff checks, government concession and grant information, and referrals to third party agencies as appropriate.

As outlined in *Appendix 1—AER consumer stakeholder survey* for the most part, the Retail Law requires retailers to have processes in place to this effect. As part of our review, we asked retailers to demonstrate the range of programs and initiatives that they were implementing to provide further assistance to hardship customers.

In our engagement on this topic, a number of retailers reiterated the contents of their hardship policy document without providing a strong sense that anything more than these minimum requirements were being practically implemented. That is, those retailers spoke of tariff checks, provision of grant and concession information and referrals to financial counsellors as standard practice (which was not a key area of focus in this review), but had little to discuss by way of extra initiatives and programs to assist hardship customers to manage their energy usage and bills.

Conversely, we also observed retailers that demonstrated a genuine effort to go beyond the minimum requirements of the Retail Law to develop and implement strategies designed to engage with hardship customers, including to educate customers about energy consumption and energy efficiency and to encourage customers' commitment to payment plans via financial incentives. Some of these initiatives were already well established, but often we heard of new programs being scoped and piloted which reinforced that a growing number of retailers are looking to further ways to address hardship and payment difficulties through education. This is clearly an area where retailers have an opportunity to distinguish themselves.

[27] Financial Counselling Australia and the Australian Communications Consumer Action Network (2014), *Hardship policies and practices: A report on comparative hardship policies*, p. 46.

This section discusses the following further assistance measures:

- encouraging customers through financial incentives
- assisting customers to reduce consumption (energy efficiency)
- referral to third parties.

Encouraging customers through financial incentives

While there is no obligation (direct or implicit) on retailers to offer financial incentives, we found that these incentives can help make an insurmountable debt become more manageable and empower customers by rewarding them for their commitment to a payment plan.

Feedback from our consumer stakeholder survey reaffirmed FCA research findings that payment matching arrangements, which involve the retailer crediting a payment after a customer has made a number of payments to an outstanding debt, were perceived very favourably. This is because customers feel like their efforts are being rewarded and encourages them to develop good budgeting habits and address debt in a more timely way.

A number of retailers are currently offering some form of payment matching arrangements and several more are trialling a similar system. The value and arrangement of these incentives differ, however something in the order of one payment matched to every five or six made by the customer, or a credit of a fixed amount for every fifth or sixth payment made.

Debt waiver arrangements provide similar incentives, but appear to be used on a more ad-hoc and discretionary basis. Two retailers specifically spoke of offering debt waivers in place of an appliance replacement or new purchase, for example, if the customer agreed to replace an inefficient appliance, the retailer would subsidise the cost of the new appliance by waiving an equivalent amount of debt.

Despite the popularity of financial incentives among consumer stakeholders, there are mixed views among retailers about their effectiveness, and financial incentives are not necessarily the benchmark of best practice. Other retailers preferred to focus on different ways of incentivising or supporting customers through behavioural change (for example, energy efficiency).

Assisting customers to reduce consumption (energy efficiency)

While the Retail Law only requires retailers to have procedures to assist customers to improve their energy efficiency where doing so is required by a local instrument, we will look for retailers to increasingly focus on practical measures to educate consumers about their energy consumption. This is particularly so when energy consumption could reasonably be reduced without compromising a reasonable standard of heating and cooling comfort for a household struggling with high bills.

Feedback from consumer stakeholders confirmed the importance of helping consumers to understand, manage and (where possible) reduce their usage. All stakeholders in the energy industry have a role to play in contributing to the achievement of this objective.

A number of retailers are now developing online portals that customers can access to monitor their energy consumption. While these portals can help customers to adapt their behaviour and manage their consumption, retailers generally recognised these tools are most appealing to customers already engaged with their energy usage and may not be the most practical tool for hardship customers generally. However, several retailers did discuss that tools to help hardship customers visualise fluctuations in their consumption can help them to identify and manage drivers of high consumption.

Energy audits and the provision of energy efficiency advice were a focal point of discussion and revealed considerable differences between retailers. The small number of retailers most committed to this form of education discussed their experiences with energy audits, and in particular, talked of a shift towards telephone audits in preference to home audits. Confirming anecdotes from consumer stakeholders, retailers agreed that home audits were often perceived by customers as inconvenient and invasive and had a low take-up rate. Room-by-room telephone audits allowed customers to retain their privacy and could be conducted more efficiently, but even still, there was no consistency of views on the effectiveness of phone audits.

A number of retailers had previously referred customers to energy audits through the Home Energy Saver Scheme,[28] which was discontinued from July 2014. The retailers that had relied on this were considering alternatives.

The retailers most committed to assisting hardship customers through energy efficiency education also spoke of their experience with appliance replacement schemes. These were not reported to be universally effective, with some customers continuing to use both the old appliance (for example, a fridge) as well as the replacement energy efficient appliance. On a smaller

[28] The Home Energy Saver Scheme (HESS) was an Australian Government program provided through community organisations to assist low income households to use less energy in the home. This included information about ways to reduce consumption, budgeting advice and checking whether relevant rebates were being claimed. The scheme has been replaced with funding for financial counselling services to assist people experiencing increased financial pressure.

scale, water efficient shower heads, light globes, and draught stoppers were the typical retrofit products provided to customers, although one or two retailers recounted more innovative examples such as tubes of silicone to fix window seals.

Some retailers also participated in, or ran their own, community energy efficiency workshops or had local shop fronts that customers could more easily access.

We note that for some retailers, the provision of energy efficiency advice constituted little more than referral to the retailer's own website for a small range of rather basic tips.

We note that there are a number of national, state and territory government websites that retailers could refer customers to for information and tips on energy efficiency, managing their energy bills, and managing their budget where their own resources are limited, for example:

- Energy Made Easy (www.energymadeeasy.gov.au)
- Your Energy Savings (http://yourenergysavings.gov.au/)
- MoneySmart (www.moneysmart.gov.au)

Referrals to third parties

Some retailers were more proactive and thorough in their offering of additional advice and referrals to third party assistance. It was encouraging to observe in the documentation provided by some retailers that training material and/or process documentation contained listings of a range of services that could be offered to customers where conversations identified it as potentially relevant. Such services include:

- financial counselling (discussed above)
- local and national community welfare organisations
- legal aid
- mental health services (depression, anxiety)
- services that deal with addictions (drugs, alcohol, gambling), and/or
- other services that may be able to support a customer experiencing a particular vulnerability (domestic violence, natural disasters).

Offering a printed list of contacts or referral to a web page where such numbers are available is a simple way for a retailer to offer these referrals discreetly.

Highlighting perspectives and practices

Following are a selection of excerpts taken from retailers' written submissions that illustrate examples of interesting or innovative practice. We also include some verbatim comments made by respondents to our consumer stakeholder survey that illustrate common concerns or interesting perspectives.

Origin Energy

"At the close of the 2012–13 financial year, Origin provided more than $4.3 million to customers in payment support, through a combination of incentive payment plans and energy efficiency programs. We carried out more than 900 home energy audits during the year, assisting our customers to identify energy saving opportunities and providing more than $75 000 worth of energy efficiency items as a part of this service, including retrofits and replacement appliances."

AGL

"AGL has recently developed a more comprehensive methodology for assessing capacity to pay, which is currently being trialled. This involves asking more questions regarding the customer's specific financial situation to attempt to identify capacity to pay in a more objective manner than a representation from the customer. Initial trials suggest that this has been a successful exercise. Customer service representatives have been provided with additional training regarding how to have appropriate conversations with customers regarding financial matters, and have been able to place customers on more sustainable payment plans that seem to be reducing arrears over time."

Lumo Energy

"LE [Lumo Energy] has introduced case management to enable the development of trust between staff and customers in hardship. LE approaches the individual's case with integrity and in a non-judgemental manner, building and developing trust throughout the customer's period of difficulty. This open approach enables the customer to feel safe when discussing their private situation without retribution. It also enables LE staff to gain a more comprehensive understanding of a customer's financial and personal situation and therefore ensuring that assessing capacity to pay is done effectively."

ActewAGL

"All ActewAGL customers (whether they are part of the Hardship Program or not) are offered information on ways they can reduce their energy consumption. This information is provided by customer facing staff when customer raises questions or concerns regarding the consumption associated with their account, and is also provided through ActewAGL's Essentials magazine and multiple other programs administered or sponsored by ActewAGL.

ACT customers are also able to access energy efficiency assistance via ActewAGL's Energy Efficiency Improvement Scheme (EEIS). The EEIS makes free energy saving house calls to install products that assist in saving energy; including draught stoppers, standby power controllers and energy-efficient light bulbs.

In addition to this, ActewAGL runs free Energy Efficiency workshops that customers can attend at a number of different locations and times. These workshops aim to educate customers about the different strategies they can utilise to minimise their bills."

Comments from consumer stakeholders

- "The issue of a consumer meeting ongoing usage payments is a complex one. It is difficult to find a middle ground between not placing consumers in a worse position and actually assisting them."
- "Both [Retailer X] and [Retailer Y] have a dedicated hardship team that is nearly always accessible. [T]he team members clearly understand that each customer's situation is different, and they strive to arrive at a solution that will meet that particular customer's need. They also seem to appreciate that an unaffordable payment plan is not a solution to the problem of an unpaid bill."
- "[Retailer X]'s hardship program provides a great range of incentive payment plans which truly benefits the customer; and enables them to address their debt in a timely manner. I have found consultants within the [Retailer X] hardship department friendly, understanding and considerate when assessing a customer's ability to pay, and the circumstances that have led to the debt. When there has been a need for me to contact the [Retailer X] Hardship team on behalf of a client, I have not been subjected to lengthy waits on the phone and always find staff to be polite and willing to take on my assessment of the clients financial situation. [Retailer X's] hardship department offer three types of incentive payments each one dependent on the amount of the debt and provide the best outcome for the customer. Once a customer is included in the hardship program, they are provided a caseworker which eliminates the need for customers to constantly repeat their situation."

4 Centrepay arrangements

4.1 Summary

The Retail Law requires retailers to offer flexible payment options (including Centrepay) to hardship customers.[29] Centrepay is a free direct bill-paying service available to customers receiving Centrelink payments. In principle, stakeholders support the use of Centrepay as a valuable financial management tool; however numerous concerns with the operation of Centrepay led to an independent review in 2013.

The Australian Competition and Consumer Commission and AER made a joint submission to this review, and the report published in June 2013 included a recommendation that the AER investigate energy retailers' practices with regard to Centrepay arrangements. In response to this recommendation, we undertook to explore how retailers promote, use and monitor Centrepay arrangements when establishing payment plans for hardship customers, particularly with respect to managing account balances.

While the review confirmed observations from consumer stakeholders that it is not uncommon for hardship customers using Centrepay to have moderate positive (credit) balances on their accounts, it did not confirm that this was attributable to the use of Centrepay per se. Retailers concurred that Centrepay was treated no differently to any other payment method a customer may choose, and the same approach to developing a payment plan was followed. We are of the view that concerns about Centrepay deductions are therefore more likely underpinned by concerns around capacity to pay assessments and the affordability of payment plans more generally.

More often than not, a positive balance was indicative of seasonality, and if asked, most retailers would honour a refund or negotiate a reduction in ongoing payments to manage a high balance. A minority would proactively offer a refund.

We did, however, find there was scope for some retailers to better promote the availability of Centrepay to eligible customers. The review also revealed the issue of returning credit balances on closed Centrepay accounts could be challenging and confusing. We have since confirmed with the Department of Human Services that retailers have the authority to stop payments and the Department can assist retailers with payment returns.

4.2 Promoting, implementing and monitoring Centrepay

What is Centrepay?

Centrepay is a free direct bill-paying service available to customers receiving Centrelink payments. Through Centrepay, customers can pay bills by having a regular amount deducted from their Centrelink payments and transferred electronically to an approved Centrepay business. Centrepay make it easier for customers to budget by having their bills paid in more manageable instalments. Customers can arrange it themselves online, by phoning Centrepay, or by completing a Centrepay deduction form. Businesses can also assist the customer to arrange deductions.

More information about Centrepay is available from the Department of Human Services.[30]

Promoting Centrepay

Respondents to our consumer stakeholder survey suggested that retailer promotion of Centrepay is fair, but experiences have been mixed. Of concern were comments that some retailers were not offering Centrepay, that it was not mentioned as a payment option, or that customers were told they cannot use Centrepay. There were also several calls for Centrepay to be promoted to eligible customers before they find themselves experiencing financial hardship. Only one or two retailers specifically mentioned that they already do this by raising it with customers who receive government concessions.

[29] Section 44(c) National Energy Retail Law.

[30] For consumers: http://www.humanservices.gov.au/customer/services/centrelink/centrepay.
For business: http://www.humanservices.gov.au/business/services/centrelink/centrepay-for-business-and-organisations/.

The hardship performance data that retailers report to us supports the perception that Centrepay is not consistently promoted. For instance, while 70 per cent of hardship customers make repayments through an agreed payment plan, on average only 28 per cent of hardship customers use Centrepay—and this varies markedly between retailers.[31]

Generally, retailers' efforts to proactively promote the availability of Centrepay were limited to references in their hardship policy documents,[32] and for some, on their website information on payment options. The number of retailers that promoted the availability of Centrepay on a regular invoice or bill insert was very low. The majority of retailers stated Centrepay was raised during the process of establishing the customer on a hardship program and that many eligible customers would already be familiar with Centrepay and knew to seek it for themselves. While some retailers spoke of encouraging eligible hardship customers to use Centrepay to demonstrate a willingness to pay and establish good payment behaviour, a minority conceded they did not actively promote it.

Implementing Centrepay

Respondents to our consumer stakeholder survey felt there is scope for the process of setting up Centrepay to be easier for the customer, with many proposing a role for retailers to facilitate this or authority for financial counsellors. Specific concerns related to the effort required for the customer and their inclination to disengage if required to contact Centrepay themselves. Conversely, most retailers discussed that they had the facilities to assist customers set up Centrepay and that this was typically how it worked in practice.

One retailer explained that encouraging and supporting the customer to manage the Centrepay process themselves was an important part of empowering the customer to take responsibility for their finances. One survey respondent offered a contrary view—that utilising Centrepay had the effect of disempowering some customers to take action to reduce their energy consumption.

All retailers concurred that the Centrepay deduction amounts were initially set (and subsequently monitored and reviewed) in the same way as instalment payments under other payment plans—the payment method did not have any bearing on the payment amount. Some retailers mentioned that Centrepay customers can also make payments via other payment methods (for example, part direct debit, part Centrepay).

Therefore, it seems likely that the concerns discussed in the 2013 *Report of the Independent Review of Centrepay* about payments being too high are less likely to be attributable to the use of Centrepay per se. Rather they may be linked back to the general issues surrounding capacity to pay assessments.

Monitoring Centrepay balances

Many respondents to our survey indicated they were aware of instances where their clients had accumulated positive (credit) balances against their energy accounts due to Centrepay deductions. In most instances, any action to refund an excess balance or reduce payments would need to be initiated by (or on behalf of) the customer, but once approached, retailers generally addressed the situation (either by refund, transfer to another account, or suspension/reduction of payments). In some instances, respondents indicated concern with retailers' management of a high positive balance even after they had been approached. Several respondents reported instances where a retailer had initiated action about a high positive balance.

Our survey findings were generally consistent with the understanding we developed from our engagement with retailers, that is, it is not uncommon for retailers to have some hardship customers with a moderate positive balance against their account at some time. Typically they explained this was due to seasonal variation. This seems to be supported by consumer stakeholders' experiences, who reported that for some customers, a moderate positive balance was a useful budgeting tool. At the time we canvassed this with retailers (early winter), retailers generally reported average credit balances in the order of $200–$350 (of their hardship customers that had a positive Centrepay balance). One retailer advised it had a customer with a balance in excess of $1200, and when asked to explain, indicated this would be in anticipation of a winter bill and after this point, that customer would likely be ready to complete the hardship program.

This same retailer was in the minority of retailers that had a policy of not refunding positive balances while a customer remained on its hardship program. The majority of retailers, however, expressed a willingness to honour any request made by a Centrepay hardship customer for a refund of all or part of an excess balance provided there is a genuine credit on the account. Alternatively, it was also common for a high balance to be managed by adjusting regular payments for the duration of the plan in the same way other payment plan arrangements would be reviewed. A minority of retailers proactively contacted a customer to offer a refund.

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31 Further information is set out in the AER's *Annual report on the performance of the retail energy market 2013–14*, available on the AER website at http://www.aer.gov.au/node/28517.

32 As required under s. 44(c) National Energy Retail Law.

It also must be recognised that there will be instances where a customer's move into credit signals an improvement in their circumstances, thus indicating they may imminently be ready for graduation from the hardship program.

Highlighting perspectives and practices

Following are a selection of excerpts taken from retailers' written submissions that illustrate examples of interesting or innovative practice. We also include some verbatim comments made by respondents to our consumer stakeholder survey that illustrate common concerns or interesting perspectives.

ActewAGL

"The overwhelming factor influencing whether or not a customer successfully completes the Hardship Program is ownership. A customer must take ownership of their debt and be willing to assume responsibility for managing it. ActewAGL supports and encourages customers on their Hardship Program journey, but long term, ActewAGL has observed that it is the motivated and committed customers who succeed in getting on top of their debts.

Centrepay is one way that ActewAGL encourages customers to take ownership. By providing customers with the information and tools they need, but at the same time ensuring that they have to take the final step themselves to physically set up the payments, ActewAGL customers take ownership and start assuming responsibility for their finances themselves. In the event that a customer is incapable of setting these payments up, ActewAGL may offer to work with Centrelink to facilitate the request for the customer."

Origin Energy

"Currently only the Hardship Team is able to enrol a customer on Centrepay. However, this functionality will be extended to all customer facing teams over the course of this year. We expect that, by July 2014, our Collection agents and Ombudsman Team will be able to manage Centrepay enrolments, and, in mid-August, this will be rolled out to the Call Centre. This will mean that customers will no longer need to be transferred to the Hardship Team to set up Centrepay. Our agents will also be able to change or cancel a Centrepay deduction on behalf of our customers. We believe this will support customers through making Centrepay an accessible and easy payment method, to help them with budgeting for their energy bills."

Simply Energy

"If the contributions that a customer is making to their account see them move into credit, the outcome the customer experiences depends upon the customer's circumstances. If the move into credit signals a substantive improvement in their personal circumstances, then we will assess whether to graduate the customer from the hardship program and return them to the normal bill cycle. Any credits will be recognised in their next bill, unless the customer would prefer that we provide them with an earlier refund via cheque or bank credit.

If the conversation with the customer reveals that, while they may be in temporary credit, they are still experiencing a level of payment difficulty, then we may maintain them as a hardship customer or their personal circumstances may allow us to upgrade the customer from a hardship plan to a regular payment plan that still helps them further reduce their debt. The credit will be used to pay off any outstanding debt the customer has with us."

Comments from consumer stakeholders

- "Promote the use of [C]entrepay right from the beginning of the customer's account by pointing out the benefits. Make it more attractive to the customer. It seems that until the customer finds problems, [C]entrepay is not pushed as a way of making payment less of a problem."
- "I would love for the energy companies to be able to organise Centrepay. It is a lot of work for the client to organise this, and ensure that it's happening."
- "Retailers have pushed Centrepay on clients out of their own interests at times. We have heard from people where large payments have been set up which leaves customers with very little for other essentials. There seems to be a lack of understanding with some employees about how much Centrelink payments are and so what would be appropriate."

5 Review of hardship policy documents

5.1 Summary

The Retail Law outlines the minimum requirements for a customer hardship policy,[33] and the AER approves retailers' policies based on whether they meet these requirements. The AER must also be satisfied that the policy will or is likely to contribute to the purpose of identifying hardship customers and helping them manage their energy bills.[34] While retailers are required under the Retail Law to publish their approved policy on their website,[35] there are no requirements around prominence or positioning.

To support our consideration of potential barriers to identification and access (see section 2), we conducted an informal review of retailers' websites to determine how retailers approach hardship information on their website, primarily how and where hardship was discussed and the readability of their hardship policy documents. We were interested to explore how easy it would be for a customer experiencing payment difficulties to find information about options available to them on their retailers' website.

Our review found that many hardship policies would be reasonably easy to find if the customer knows what they are looking for (such as under a 'Payment difficulties' section). Some retailers, on the other hand, buried their hardship information in places that a customer would be unlikely to look (such as under a 'Privacy and Legal' section). Most hardship policies are well written (that is, they made sense), but appeared to be written for people who have a relatively high level of literacy. Few policies were designed in a visually appealing way, and most were simply plain blocks of text.

We would encourage retailers to consider the following for their hardship policy documents:

- logical, reasonably prominent placement on the retailer's website
- meaningful title
- consumer-friendly brochure to complement the AER approved policy document
- supporting/ explanatory text on the relevant web page
- written in plain English, and
- multiple document formats (noting we did not see any retailer doing this).

5.2 Key observations

Accessibility and explanatory text

Many retailers titled their policy using the word 'hardship' and placed their policy on a page that also contained this keyword. Although this is logical given that this is the name these policies are given in the Retail Law and Rules, it may not be a word that customers looking for help will recognise. This is especially problematic given that some retailers' hardship policies are not located (or cannot be found) in their website's main menu or footer menu, and can only be found by searching 'hardship'.

Other retailers gave a unique name to their hardship program, and also used this name in their menus. This raises similar issues around whether customers recognise these names as belonging to a program that can help with their payment difficulties. As with any website, being able to locate content in more than one way (for example, using the search tool or under the main menu) is considered ideal.

Only one retailer has a dedicated box on its homepage for hardship information. The majority of retailers had a hardship link available in the main menu bar at the top of the screen and/or in the footer menu at the bottom of the screen. The title of the menu items varied. Many placed hardship information under a 'Help' or 'Payment difficulties' section, and these were relatively easy to find.

33 Section 44 National Energy Retail Law. See also *Appendix 2—Requirements of retailers' hardship policies*.

34 Section 45(1)(b) National Energy Retail Law.

35 Section 43(2) and s. 43(3) National Energy Retail Law.

Other retailers placed their hardship information under headings that we did not consider intuitive or easy to find, and we provided this feedback to retailers (several of whom expressed a willingness to reconsider placement). Examples of page titles where policies were found include: 'Privacy and Legal', 'Residential' or 'Resources'. Another had a small paragraph for hardship at the bottom of a page titled 'Pay your invoice'. The better websites placed hardship on its own page or under a relevant page with a prominent sub-heading. Introductory text on the page was considered ideal, as this gave customers key information without having to open the full hardship policy.

Language and content

The majority of hardship policies did not seem to be written for the benefit of residential customers. To some extent, this is probably because they were written with the requirements of the Retail Law and Rules in mind. For example, the long version of one retailer's hardship policy described its commitment to providing services to a range of potentially disadvantaged or vulnerable customers, including 'people with low levels of literacy', which is not typically a message for customers seeking assistance for payment difficulties. Similarly, other policies described the training provided to staff or the internal hardship processes followed by the retailer.

While it may be important to the retailer to document this level of detail in their policy, we consider such examples highlight the potential benefit to retailers (and their customers) from publishing a short, consumer-friendly document or brochure in addition to the AER approved document. This short version need only contain the key information customers would be interested in (such as the help available and how to access it) and avoid the need for the customer to rely on the approved policy for information. We note that several retailers already have brochures designed for customers.

We also considered the type of language used. A policy document is most effective if it is written in as simple language as possible, as this ensures it can be understood by the broadest possible range of customers. We found that the language in the policies varied in their complexity. Most were well written (that is, they made sense), but appeared to be written for people who have a fairly high level of literacy. For example, we consider that using basic words—such as 'help' instead of 'assist' and 'try' instead of 'endeavour'—is a simple way to make a document understandable to a larger group of people. We also found some policies to be quite vague and wordy, and found that the better policies not only used plain English, but also talked in concrete, specific language.

Length and design

The design and layout of a document can have a significant impact on its readability and user friendliness. Images, for example, can make a document look more interesting and breaks up large chunks of text. Of the 16 hardship policies that we reviewed, very few contained one or more images. One policy contained a complex diagram illustrating the retailer's process for dealing with customers in hardship. Other policies contained tables or flow charts. Few policies were designed in a visually appealing way, and most were simply plain blocks of text.

All but one policy was in PDF format, and these documents ranged in size from five pages to 14 pages. We consider that shorter policies, containing only information hardship customers (or people acting on their behalf) would need to know and written in very simple language, would be far more helpful to consumers. As discussed above, we consider that in cases where the AER approved policy is particularly long and detailed, it may be beneficial to provide a shortened version. We will also be providing this feedback to retailers in any future assessment of new hardship policies. This will benefit consumers who are unable or unwilling to read the full hardship policy. The short version should be clearly identifiable and distinguishable from the long version.

Appendix 1—AER consumer stakeholder survey

About the survey

Purpose

In April 2014, we ran a small online survey for financial counsellors and frontline consumer advocates in Retail Law jurisdictions (that is, New South Wales, the ACT, South Australia and Tasmania). The survey was designed to build on anecdotal feedback we had received from consumer stakeholders in the lead up to the review.

The insights and experiences shared through the survey complemented the information we gathered from a range of sources for this review, however, as the scope and distribution of the survey was somewhat limited, we consider the results to be informative rather than significant.

About the respondents

The majority of respondents were financial counsellors or worked in money management. There were also respondents who identified as social or other welfare workers and consumer advocacy or policy roles. Respondents represented all jurisdictions covered by the review, with the majority being from South Australia, followed by New South Wales. Nearly half the respondents advocate to an energy retailer on behalf of their client more than once a week (47 per cent) and nearly one fifth advocated about once a week. Less than five per cent said they had never advocated for an energy customer.

Summary of headline observations

Identification and access to energy retailers' hardship programs

The accessibility of hardship programs was consistently rated as fair, however ratings of both relatively poor and relatively good were also reported.

While all potential barriers listed in the survey were found to be relatively significant, of most concern was requiring customers to make unaffordable upfront payments.

Lack of awareness about hardship programs and mobile phone call costs were the next most significant.

The importance of early intervention was reinforced. In particular, respondents strongly agreed that customers with an advocate get better outcomes, that retailers allow debt to get too high before offering support and that customers wait too long before seeking help.

Comments frequently mentioned the soft skills of call centre staff, particularly that staff should be trained to better recognise the signs of hardship, that they should respond with sensitivity and empathy, and have more knowledge about other programs and supports available.

Capacity to pay assessments

Respondents reported mixed experiences with retailers' practices around establishing payment plans and considering a customer's capacity to pay. While there was a strong cluster of scores around the fair to good rating, others offered a rating of less than fair and even very poor.

Respondents most strongly agreed that repayment amounts should be regularly reviewed and that a common framework for capacity to pay assessments would be beneficial. Respondents were also concerned that customers feel pressured to accept what is offered and agreed retailers should ask what is affordable before suggesting a repayment amount.

Centrepay arrangements

The results suggest Centrepay deductions are being managed relatively well, but promotion of Centrepay is only fair. Some suggested not all retailers are offering Centrepay (as required by the Retail Law).[36]

In discussing any experiences they may have with high positive (credit) balances for customers using Centrepay, respondents indicated that any action to refund the balance would need to be initiated by the customer, but that if approached, retailers generally addressed the situation.

36 Section 44(c) National Energy Retail Law.

Appendix 2—Requirements of retailers' hardship policies

One of the AER's roles is to approve retailers' customer hardship policies. Our role, and the requirements of hardship policies, is described in our guideline, Guidance on AER Approval of Customer Hardship Policies,[37] and summarised below.

Minimum requirements for customer hardship policies

In order for a retailer's customer hardship policy to be approved, the AER must be satisfied that the policy contains the following minimum requirements, as specified in the Retail Law:

- processes to identify customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by a residential customer
- processes for the early response by the retailer in the case of residential customers identified as experiencing payment difficulties due to hardship
- flexible payment options (including a payment plan and Centrepay) for the payment of energy bills by hardship customers
- processes to identify appropriate government concession programs and appropriate financial counselling services and to notify hardship customers of those programs and services
- an outline of a range of programs that the retailer may use to assist hardship customers
- processes to review the appropriateness of a hardship customer's market retail contract in accordance with the purpose of the customer hardship policy
- processes or programs to assist customers with strategies to improve their energy efficiency, where such processes or programs are required by a local instrument
- any variations specified or of a kind specified by the AER, and
- any other matters required by the Retail Rules.[38]

The AER must also be satisfied that the retailer's customer hardship policy will, or is likely to, contribute to the achievement of the purpose of a customer hardship policy.[39]

Approving customer hardship policies

Further, the Retail Law requires the AER, when considering whether to approve a retailer's customer hardship policy (or variation), to have regard to the following principles:

- that the supply of energy is an essential service for residential customers
- that retailers should assist hardship customers by means of programs and strategies to avoid disconnection solely due to an inability to pay energy bills
- that disconnection of premises of a hardship customer due to inability to pay energy bills should be a last resort option, and
- that residential customers should have equitable access to customer hardship policies, and that those policies should be transparent and applied consistently.[40]

How the AER intends to have regard to these principles

In having regard to the above principles, some factors the AER may consider when reviewing a retailer's customer hardship policy (or variation) for approval, include:

- how the policy gives effect to the general principle that the disconnection of a customer due to hardship or an inability to pay their energy bills will be a last resort option
- how the policy reflects an understanding that energy is an essential service and that disconnection from these essential services can have significant impacts on members of the household

37 Available on the AER website at http://www.aer.gov.au/node/6768.

38 Section 45(1)(a) and s. 44 National Energy Retail Law.

39 Section 45(1)(b) and s. 43(1) National Energy Retail Law.

40 Section 45(3) National Energy Retail Law.

- how the policy explains to customers that the retailer's hardship programs and strategies are aimed at assisting customers to better manage their ongoing energy bills and avoid disconnection
- whether the policy is written in plain language and is clear and easy for customers to understand
- whether the retailer has prepared a shorter, more accessible and 'consumer friendly' document outlining key information regarding their hardship policy for their customers
- whether the policy explains how customers can access the program and the retailer's commitments to its customers on the program, in particular the services and assistance that these customers will be offered
- whether the policy explains any expectations the retailer has as to how its customers will participate in the hardship program and any obligations that these customers must meet in order to remain on the program. This may include any circumstances that may result in a customer being removed or excluded from participating in the hardship program, as well as any requirements that the customer must meet to be able to re-enter the hardship program
- whether the policy includes information for customers on the retailer's internal complaints handling process and external dispute resolution schemes, in the event that the customer has a complaint about access to, or participation in, the hardship program
- whether the policy explains how and when customers will be returned to regular billing cycles (and collection) after they have successfully completed the hardship program
- how the retailer promotes and publicises (or intends to promote and publicise) their customer hardship policy. This may include, for example, information on the activities it undertakes to promote the existence of its customer hardship policy to its customers, particularly those from culturally and linguistically diverse backgrounds, the general public, and other third party or welfare agencies.
- how retailers will inform customers of their customer hardship policy, where it appears that non-payment of an energy bill is due to the customer experiencing payment difficulties due to hardship
- how retailers will inform customers, as soon as is practicable after the customer is identified as a hardship program customer, of the existence of the customer hardship policy, including the rights and obligations of both the customer participating in the program and the retailer, and
- whether the policy sets out that the retailer will provide hardship program customers with a copy of the customer hardship policy on request and at no cost.

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