

**Public
Interest
Advocacy
Centre**



**Financial
Rights**
LEGAL CENTRE



**Submission to AEMC
Protecting Customers Affected by
Family Violence**

9 March 2022

About ACT Council of Social Service

The ACT Council of Social Service (ACTCOSS) represents not-for-profit community organisations and advocates for social justice in the ACT. ACTCOSS leads the ACT Energised Consumers Project in partnership with Care Financial Counselling, advocating for small energy consumers in the ACT.

About Good Shepherd Australia New Zealand

Good Shepherd Australia New Zealand addresses the critical and contemporary issues facing women, girls and families. Guided by the values of reconciliation, justice, audacity and zeal, for more than 150 years Good Shepherd Australia New Zealand has supported women and their families to be safe, strong and well. Our programs and services help people overcome barriers that lead to hardship and live a safe, full life. We seek positive change in laws, policies, social norms and behaviours through targeted research, policy advocacy and corporate alliances.

About Financial Rights Legal Centre

Financial Rights is a community legal centre that specialises in helping consumers understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies, and the Mob Strong Debt Help services which assist Aboriginal and Torres Strait Islander Peoples with credit, debt and insurance matters.

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC's Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate.

About Queensland Council of Social Service

QCROSS is Queensland's peak body for the social service sector. Our vision is to achieve equality, opportunity and wellbeing for every person, in every community. We create positive social change through our work in advocacy, policy development and engaging with communities and the social service sector. We're committed to self-determination and opportunity for Aboriginal and Torres Strait Islander peoples.

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1. Summary of recommendations

Recommendation 1

Undertake a thorough examination of the experiences of victim-survivors in dealing with energy and incorporate their perspectives into the proposed rule and supporting policies and guidelines.

Recommendation 2

Build industry understanding of DFV and the role of the energy sector in preventing and responding to DFV to achieve long-term cultural change.

Recommendation 3

Develop AER guidance and minimum standards for family violence policies in consultation with the community sector, and require the AER to approve family violence policies.

Recommendation 4

Require reviews of family violence policies by an independent body such as the AER, and establish criteria for assessing and evaluating policies to ensure they reflect evolving best practice.

Recommendation 5

Ensure family violence policies are easy for community members to find and available in accessible formats.

Recommendation 6

Strengthen the account security clause by requiring a victim's preferred communication method to take precedence over other communication entitlements, and develop guidance and minimum standards for account security.

Recommendation 7

Ensure the safety provision of the rule change can be applied objectively, measured and enforced.

Recommendation 8

Make family violence an explicit cause of hardship, ensure victim-survivors have the option of longer-term hardship assistance, and make non-hardship support available (e.g. strong account security).

Recommendation 9

Strengthen the debt management clause so it can be applied objectively, measured and enforced.

Recommendation 10

Specify in the rule (or an AER Guideline) how family violence-related debts are to be treated by retailers, including mandatory consideration of debt waiver and constraints on sale of debt in family violence circumstances.

Recommendation 11

Require energy retailer training on debt management, including the impact of debt on a victim-survivor, how victim-survivors often pay debts they are not responsible for, and how debt can be used to deliberately cause harm.

Recommendation 12

Require energy-related default and consumer credit liability information to be cleared from victim-survivors' credit reports.

Recommendation 13

Ensure debt is not an impediment to accessing essential services in DFV circumstances.

Recommendation 14

Build industry recognition and understanding of common problems with debt build-up in victim-survivors' closed accounts. Apply this understanding to the administration of emergency energy assistance/relief such as NSW's EAPA.

Recommendation 15

Preclude retailers from asking for DFV evidence as a precondition of support, including to prevent disconnection or provide payment help.

Recommendation 16

Consider what aspects of the retail contract or energy rules might be inconsistent with a family violence policy, rather than allowing a retailer's family violence policy to prevail in the event it is inconsistent with a customer's retail contract or the energy rules.

Recommendation 17

Include victim-survivors and advocates in the rule change process to help the AEMC and stakeholders identify other ways they can help victim-survivors who do not disclose DFV or are unaware they are experiencing DFV.

Recommendation 18

Continue disconnection pre-visit programs in conjunction with support information.

Recommendation 19

Explore safe and respectful options for Distribution Network Service Providers to alert retailers to the possible presence of DFV.

Recommendation 20

Prevent remote de-energisation for non-payment.

Recommendation 21

Consider how best to meet the needs of victim-survivors who have disabilities and/or chronic health conditions, and from First Nations, culturally and linguistically diverse, recently arrived migrant and LGBTIQ+ communities.

Recommendation 22

Ensure consideration of non-intimate partner family abuse so it can be recognised, understood and options to address these issues included in the rule change process.

Recommendation 23

Examine the interplay between the rule change and energy rebates and advise on necessary policy reforms.

Recommendation 24

Allow government supports, such as EAPA, to be put towards non-consumption charges in DFV circumstances.

Recommendation 25

Consider recent events in making the rule change, such as the impact of Covid-19 and emerging issues including the future grid, automation and smart appliances and how these impact DFV.

Recommendation 26

Include small business customers in the rule change and investigate whether retailers operating in Victoria have experienced problems with including small businesses.

Recommendation 27

Require energy retailer staff to undertake best practice family violence training. Specialist family violence training is fundamental to ensuring the rule change is successful and that victim survivors get the assistance they need.

Recommendation 28

Include provisions in the rule change that minimise the need for repeated DFV disclosure, including dedicated account support and restraints on sale of debts in DFV circumstances.

Recommendation 29

Require retailers to respectfully provide information about external support services when appropriate, supported by training about how best to do this.

Recommendation 30

Apply civil penalties for breaching these rules, accompanied by robust AER compliance measures.

Recommendation 31

Ensure equivalent family violence protections cover customers in embedded networks.

2. Introduction

ACT Council of Social Service (ACTCOSS), Financial Rights Legal Centre (FRLC), Good Shepherd Australia New Zealand (Good Shepherd), the Public Interest Advocacy Centre (PIAC) and Queensland Council of Social Service (QCOSS) welcome the opportunity to respond to the Australian Energy Market Commission's (AEMC) Consultation Paper *Protecting Customers Affected by Family Violence* ('the Consultation Paper').

We support the aim of the proposed rule to 'place a requirement on energy retailers to provide assistance and support to consumers who are affected by family violence.'¹ We also agree that 'Energy retailers play a crucial role in providing support to customers affected by family violence...family violence is an ongoing societal problem that requires an evolving approach to be regularly maintained to ensure best practice for affected customers.'² Therefore, aspects of this rule change might be best included in enforceable Australian Energy Regulator (AER) Guideline/s which are reviewed regularly, and we comment on this below.

The rule change request by Red/Lumo opens up a very welcome discussion about the abuse perpetrated through energy services, the needs of victim-survivors when using energy and dealing with energy retailers, and the role of retailers in proactively preventing and responding to domestic and family violence (DFV) and supporting victim-survivor recovery. However, the proposed rule is inadequate as it stands. In this submission we discuss key areas of support, major deficiencies and recommended improvements, including in relation to:

- The rule development process and the need to build industry understanding of DFV, including victim-survivor perspectives;
- The need for minimum standards in family violence policies and regulatory approval and oversight of these policies;
- Stronger account security requirements;
- The need for the safety of the victim-survivor to be paramount in all actions/decisions by energy retailers;
- Guidance and enforceable obligations on retailers to appropriately manage DFV-related debt;
- Preventing victim-survivors having to provide evidence of DFV as a precondition of support;
- Requiring best practice, whole-of-business training in DFV for successful implementation of the proposed rule and family violence policies, and to support victim-survivor safety and wellbeing.

Shifting attitudes to domestic and family violence and gendered violence

In recent years, we have seen shifting societal attitudes regarding DFV and gendered violence as the community becomes more aware of research and victim-survivors share their experiences. Governments are starting to respond. The draft *National Plan to End Violence Against Women and Children 2022-32*³ ('National Plan') requires coordinated action by government, industry and the community sector to eliminate family violence. Regulated industry responses to DFV,

¹ Red and Lumo Energy's rule change request cover letter, 1.

² Ibid

³ <https://engage.dss.gov.au/wp-content/uploads/2022/01/Draft-National-Plan-to-End-Violence-against-Women-and-Children-2022-32.pdf>

including in the energy sector, will need to be a key plank of National Plan action. The proposed rule, therefore, aligns with the National Plan and the Australian Government's intention for industry to be closely involved in DFV prevention and recovery.

Various consumer-facing industries have also begun recognising that their customers experiencing DFV need support. In 2021, the Australian Banking Association (ABA) updated its *Financial abuse and family and domestic violence guidelines*, which outline a framework to enable banks to provide consistent arrangements to support their customers who may be affected by DFV.⁴ Also in 2021, the Insurance Council of Australia released a *Guide to helping customers affected by family violence*. The guide is designed to help insurers implement processes that help minimise the risk of harm in their interactions with vulnerable customers, and to help ensure they provide timely, consistent and targeted assistance to those affected by DFV.⁵

This shift in our understanding of DFV has resulted in new approaches to DFV policy and program design, including the importance of:

- Believing victim-survivors and not putting the onus of proof on them.
- Integrating the voices and perspectives of people with lived experiences into policy design.
- Genuine change coming from whole of organisational change.

These approaches should inform the development and implementation of the proposed rule.

Harms caused by energy accounts and services

We know that DFV comes in many forms and affects people in many different ways. Some of the harm in energy accounts and services is deliberately inflicted by perpetrators. Whilst not deliberately used to inflict harm, aspects of the National Energy Customer Framework (NECF) and practices of energy retailers can enable and exacerbate an existing DFV situation. For some victim-survivors, harm is caused directly through energy accounts and services but for others, the abuse is elsewhere but managing their energy service exacerbates their problems.

Economic abuse is one of the main forms of abuse in energy. Economic abuse is a complex issue and 'involves behaviours aimed at manipulating a person's access to finances, assets and decision-making to foster dependence and control'.⁶ Economic abuse can be used to control and disempower people and stop them from leaving an abusive relationship. It can also be a way to continue to inflict harm, even after the relationship has ended, and stop victim-survivors from getting back on their feet financially.

However, there are other forms of abuse used in energy including disconnection and threats of disconnection; forced (and unsafe) rationing of energy; capabilities associated with smart meters and smart appliances and the potential for them to be used for monitoring, stalking and external control of appliances.

Retailers see certain limited aspects of DFV, mostly cases that present directly and overtly to them. For this rule change to properly protect people affected by DFV, we need to understand the

⁴ <https://www.ausbanking.org.au/financial-abuse-and-family-and-domestic-violence-policies/>

⁵ https://insurancecouncil.com.au/wp-content/uploads/2020/01/2021_07_REPORT_Family_Violence.pdf

⁶ Kutin, J, Russell, R and Reid, M, *Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress*, February 2017.

full range of ways that energy is used to inflict harm, and ensure energy retailer staff (including those that design systems and processes) are trained in these issues and can identify emerging issues themselves.

This rule change process must include the lived experiences of victim-survivors and their advocates and hear from them about how energy services were involved and what would have helped their situation. This aligns with one of the four Foundation Principles of the National Plan, which recognises that ‘we need to draw upon the diverse lived experience of victim-survivors to design appropriate and effective policies and solutions’.⁷

There should not just be a gap analysis comparing this rule change proposal to the protections in the Victorian Energy Retail Code (ERC), but also an analysis of what harms people are experiencing (including in the context of the pandemic), what risks arise from energy service policies and processes, and what victim-survivors say would have helped them. From this, it can then be determined which protective measures are missing from this proposal.

Recommendation 1

Undertake a thorough examination of the experiences of victim-survivors in dealing with energy and incorporate their perspectives into the proposed rule and supporting policies and guidelines.

Recommendation 2

Build industry understanding of DFV and the role of the energy sector in preventing and responding to DFV to achieve long-term cultural change.

3. Response to consultation questions

Question 1: Red and Lumo’s rule change request: What are your views on the effectiveness of the changes proposed by Red and Lumo in protecting customers affected by family violence? What improvements and challenges should the Commission consider?

Family violence policy

We support all retailers having a family violence policy. However, there needs to be guidance on minimum standards and principles and a transparent approval process for these policies. Without these measures, it is up to the discretion of individual retailers to choose what they do and do not include in their family violence policy. The failure of this approach has been demonstrated in relation to hardship assistance, necessitating the later implementation of mandatory guidelines.

We support family violence policies being reviewed at least every two years, but again this is meaningless without an independent process to ensure that the policy is fit for purpose. Review and assessment must evaluate policies against clearly established, consistent objectives and principles.

A retailer’s family violence policy must certainly not take priority over a market retail contract if there is no oversight and regulation of what is in the policy.

⁷ DSS (n 3).

Availability of a standard family violence policy would mean retailers could simply adopt the standard policy, ensuring victim-survivors have a 'floor' of adequate protections. This is likely to be particularly useful to the many small retailers. Having guidance and minimum standards would mean that retailers who wish to go above and beyond the minimum standards in fulfilling the principles and objectives could do so.

In consultation with the community sector, we recommend the AER develop:

- Principles-based guidance for developing family violence policies (similar to the DFV work undertaken by the Essential Services Commission of Victoria (ESC));
- Minimum standards for family violence policies/a standard family violence policy; and
- A family violence policy approval process.

Of course, many of the retailers operating in the NECF jurisdictions also operate in Victoria where they are already required to have a family violence policy. As long as these policies meet minimum standards developed by the AER, they could be used, or adapted for use, in the NECF jurisdictions.

While we strongly encourage engagement with the community sector before finalising any guidance to retailers, we have suggested some requirements for effective family violence policies.

Each retailer should develop and implement a family violence policy that covers the following areas:

- a. Auditing and assessing processes and services to identify their potential to be a DFV risk, contribute to a perpetrator's ability to inflict harm, or create barriers or further impacts on people experiencing abuse.
- b. Making sure safety is paramount for anyone affected by family violence.
- c. Early recognition of family violence.
- d. Training to improve employees' responses to someone affected by family violence.
- e. Protecting private and confidential information of customers affected by family violence.
- f. Minimising the number of times a customer affected by family violence needs to disclose information about family violence.
- g. Ensuring collection arrangements are handled sensitively.
- h. Arranging access to Financial Hardship assistance.
- i. Informing customers, employees and service suppliers about information and assistance available to people experiencing family violence.
- j. Referring customers and employees to specialist services.
- k. Supporting employees who:
 - are affected by family violence; or
 - experience vicarious trauma after serving affected customers.

Recommendation 3

Develop AER guidance and minimum standards for family violence policies in consultation with the community sector, and require the AER to approve family violence policies.

Independent review and benchmarking of family violence policies

Retailers should be required to have their family violence policies periodically and independently reviewed. These reviews could be undertaken by the AER or a recognised independent family violence expert who also understands energy retailer systems and processes. Without an external approval or oversight process, there is little to encourage a retailer to maintain best practice.

In keeping with the aim to ensure protections and assistance evolves as our understanding of DFV issues evolve, in consultation with the community sector, the AER should review the guidelines and minimum standards/the standard family violence policy every two years to ensure they remain fit for purpose. The AER should establish clear criteria against which policies will be assessed, demonstrating how they have implemented the required principles and the outcomes achieved.

Policies should also be evaluated and benchmarked after they have been made public. This will ensure that these policies are not just a set and forget exercise, but continue to evolve and keep up with best practice. An example of such a benchmarking exercise is the recent desktop audit conducted by FRLC into insurance family violence policies.⁸

Recommendation 4

Require reviews of family violence policies by an independent body such as the AER, and establish criteria for assessing and evaluating policies to ensure they reflect evolving best practice.

Accessibility of family violence policy

Family violence policies must be easy for community members to find and available in accessible formats. Women with disabilities are disproportionately affected by DFV and are at risk of unique forms of DFV such as abuse by carers.⁹ Information about family violence policies should be provided in an inclusive way to all victim-survivors, including information in community languages and multiple accessible formats such as plain language, large print, Easy English and easy-read, audio and video.¹⁰

Recommendation 5

Ensure family violence policies are easy for community members to find and available in accessible formats.

⁸ https://financialrights.org.au/wp-content/uploads/2021/08/210823_FamilyViolenceResearch_FINAL.pdf

⁹ Our Watch and Women with Disabilities Victoria, *Changing the landscape: A national resource to prevent violence against women and girls with disabilities*, 2022.

¹⁰ Yvette Maker, Nina Hudson and Bernadette McSherry for the Essential Services Commission, *Sensitive and appropriate engagement with consumers experiencing vulnerability*, 31 January 2021.

Account security

We support the intent of this proposed clause, requiring that a retailer must not disclose an affected customer's personal information without that customer's consent. This should help protect victim-survivors who are able to disclose DFV to their retailer.

One way to help achieve this is to do as some water businesses do and, once DFV is disclosed, a specialist staff member discusses options with the victim-survivor where the account is only accessible and handled by specialist staff. This could be a DFV team within the hardship team. Then when the person contacts the retailer, their call is transferred directly to the specialist team who can then ensure contact details and other account details are not available to others.

This might not be appropriate in all situations. For example, a locked account might rouse the suspicions of a perpetrator, creating consequences for the victim-survivor.

As we understand it, account breaches seem to be more often unintentional disclosure when there is an update or change of IT systems and security is not maintained properly. There needs to be guidance and minimum standards to ensure account security. These are issues which could be identified and addressed as part of an audit and assessment of retail systems and processes required as part of a retailer's family violence policy.

An AER Guideline could provide guidance on these issues. The consequences of a retailer breaching this provision could be serious for a victim-survivor and include death. Having a civil penalty for breaching this provision could help ensure greater compliance, similar to protections for the registration of people who require life support.

The account security clause could also be strengthened by requiring a customer's preferred communication method to take precedence over any other entitlements the retailer may have to communicate with the customer. Victim-survivors are best placed to judge their safety needs and advise services, like energy retailers, about safe communication methods.

Recommendation 6

Strengthen the account security clause by requiring a victim's preferred communication method to take precedence over other communication entitlements, and develop guidance and minimum standards for account security.

Safety

Safety of the victim-survivor must take priority (energy retailers should not just 'have regard' for safety). We are concerned that, as currently drafted, this clause is open to being subjectively applied, difficult to measure and therefore not enforceable.

This important aspect of the rule change may be more appropriately included as an objective, as is done in the ERC.

Whether safety is covered as an individual clause or as an overarching objective, it must be drafted so that it can be applied objectively, be measured and thus enforced. Enforcement processes should place the burden of proof on the retailer to demonstrate how their processes prioritised the safety of the customer.

Recommendation 7

Ensure the safety provision of the rule change can be applied objectively, measured and enforced.

Family violence as a cause of financial hardship

We welcome the addition to make it explicit that family violence is a cause of hardship, as long as it does not lead to simplifying the support victim-survivors receive or reducing the time they receive support.

Victim-survivors may need assistance from a hardship program, even if they are not currently in debt with their retailer. This may give them some support if they need to relocate, help them manage the additional expenses they are likely to face if they are leaving an abusive relationship and help them manage their energy payments safely if they have debts elsewhere. It could also help people avoid negative ways of managing bills such as energy rationing, going without other essentials such as food and medicine and taking out unregulated or lightly regulated credit products such as payday loans and Buy Now Pay Later (BNPL) products.

Although it's already a requirement of the AER's Hardship Guidelines to acknowledge that family violence can cause hardship, we know that retailers often need to hear 'magic words' for people to get access to hardship programs¹¹ and making this specific, in conjunction with training, could help address this.

However, if someone discloses they are experiencing DFV or have experienced DFV which is still affecting them, they are likely to need other support beyond hardship assistance, perhaps including account security. In many circumstances it may be better that people who disclose DFV have their account managed by a specialist DFV team who can assist them to get the targeted assistance they need in a safe and respectful way.

In addition, victim-survivors may need support for some time, in some cases over multiple years as they begin to recover from DFV. We are aware that retailers tend to like to keep the number of people in their hardship programs to a minimum and to exit people out of hardship as soon as they can. This would not be appropriate for DFV victim-survivors.

Of course, in order to benefit from this provision, a person must recognise themselves as a victim-survivor and then be able to communicate this, possibly in explicit terms,¹² to their retailers. Self-advocacy will not always be possible, especially when a victim-survivor is at the crisis stage and entirely focused on their own safety and that of any children.

Recommendation 8

Make family violence an explicit cause of hardship, ensure victim-survivors have the option of longer-term hardship assistance, and make non-hardship support available (e.g. strong account security).

¹¹ Nicholls, Larissa and Dahlgren, Kari, 'Consumer Experiences Following Energy Market Reforms in Victoria: Qualitative Research with community Support Workers, Final Report' (2021), 20-21.

¹² Quality training could help remedy this.

Debt management

We support the inclusion of this clause as a concept, in that it requires the retailer to consider the impact of debt recovery action on the affected customer, and whether other people might be jointly responsible for the energy usage/debt. However, the way the proposed clause is drafted is too vague and as such could not be enforced.

It is vitally important that retailers do not cause victim-survivors further harm. Within their capacity, they can help victim-survivors get back on their feet financially. Shouldering a person with debt can be a way for perpetrators to deliberately punish and/or control victim-survivors, even once they have left a relationship. Being harassed by debt collectors can be a traumatic experience, adding to existing trauma.

We are concerned that the proposed requirement for a retailer to simply 'take into account' the impact of debt recovery action and responsibility for the debt means that this rule could be applied weakly and do little to help victim-survivors. For example, it would be easy for a retailer to say they considered the person's circumstances but decided to pursue the debt anyway. The prioritisation of victim-survivor safety in draft clause 76D should be supported in the debt management clause, recognising that debt recovery procedures increase risks to the safety and wellbeing of people experiencing DFV and retailer decisions on debt proceedings must consider and mitigate this potential for harm.

There should also be recognition (included as part of training) that:

- Debt can keep a victim-survivor in a DFV relationship.
- Debt can stop a victim-survivor from getting back on their feet financially.
- DFV can reduce a victim-survivor's ability to afford essentials – eg there may have been years of debt accumulated in their name and they may have had their education and/or career opportunities limited. In addition, moving out of a home quickly with few or no possessions and setting up a new home can be expensive. Other new expenses could include being a single parent and on-going legal fees etc.

Charlotte's story¹³

Charlotte is a young single parent with a baby and her sole source of income is Centrelink. In 2021 Charlotte took out an AVO [Apprehended Violence Order] and separated from her partner of 7 years due to prolonged domestic violence including physical violence and financial abuse. Charlotte and her baby had to move to regional NSW to live with her parents because of her ex-partner's continued threatening behaviour. Charlotte told FRLC that her ex-partner did not contribute to household expenses so she had to manage all the bills herself – often when she was only working part-time.

When Charlotte reached out for help she had a number of unsecured debts which she had defaulted on, she was in arrears on her car loan and her life savings were about \$2,500 (which includes early release of her superannuation). Charlotte had no other assets.

¹³ C201939

Several of the debts Charlotte was being chased for were old energy debts which had been sold to debt collectors. Charlotte had debts to three different energy retailers for \$2300, \$1200 and \$540. The debts were all incurred while she was experiencing physical and economic abuse.

FRLC was able to assist Charlotte resolve these debts and clear the related negative credit reporting information from her credit file. Charlotte's life now seems to be turning around, she seems happy and is back working with the employer she was with before she had to flee her home.

The onus to manage and negotiate repayment of this debt should not be on the victim-survivor.

Once there is disclosure of DFV or there is suspected DFV, the debt should not be sold, and if it was sold before disclosure/suspected DFV, it must be repurchased and managed by the retailer.

Generally, once the account is being managed by a specialist team, then that debt should be waived. In some cases, a victim-survivor may wish to pay their own debts. However, it is likely that the debt was not entirely accumulated by the victim-survivor and the financial cost of exiting an abusive relationship often makes paying back debt near impossible and unlikely to be recoverable without serious long-term harm to the victim-survivor. Often, because of fear, abuse normalisation or because they are unaware of options and supports, victim-survivors pay back money that they are not responsible for. In many cases this involves risky credit arrangements or other arrangements that leave them at much greater long-term risk. This clause (or an AER Guideline) should specify how family violence-related debts are to be treated by retailers.

Victim-survivors should have energy-related default and consumer credit liability information cleared from credit reports, to help reduce impacts as they recover financially. Debt should not be an impediment to accessing essential services.

Emma's story¹⁴

Emma was in an abusive marriage for several years. After separating from her husband Emma had to take out an ADVO; he was later incarcerated for the abuse. During her relationship Emma's husband exerted coercive behaviour over her. He was unemployed and had a very bad credit history and he asked her to take out loans to pay for his addiction.

When Emma reached out to FRLC for help she had no assets apart from a vehicle and she was renting in private accommodation. In late 2021 she became aware of a number of default listings on her credit report by different lenders and debt collectors, including an old energy debt. Emma wanted these defaults removed so she could move on with her life.

Emma did not receive the benefit of these loans and was experiencing domestic violence at the time the loans were issued. Emma says she never held an account with the energy retailer whose default is listed on her credit file and she believes this account relates to a debt owed

¹⁴ C221006

by her ex-husband. FRLC has helped her apply to each of the six creditors to show evidence of the domestic violence, resolve the debts and remove the default listings.

Anecdotally, we hear that banks and even BNPY lenders are more willing to waive debt as soon as they learn there is DFV than energy retailers are.¹⁵ We have also heard of retailers trying to make deals with people who they know are victim-survivors, telling them they have to stick to a payment plan before the retailer will waive any debt,¹⁶ perpetuating a relationship of control that can be seriously detrimental to the victim-survivor's mental health and confidence in recovery, as well as their financial stability. Setting clear guidelines could help retailers respond respectfully to victim-survivors.

Recommendation 9

Strengthen the debt management clause so it can be applied objectively, measured and enforced.

Recommendation 10

Specify in the rule (or an AER Guideline) how family violence-related debts are to be treated by retailers, including mandatory consideration of debt waiver and constraints on sale of debt in family violence circumstances.

Recommendation 11

Require energy retailer training on debt management, including the impact of debt on a victim-survivor, how victim-survivors often pay debts they are not responsible for, and how debt can be used to deliberately cause harm.

Recommendation 12

Require energy-related default and consumer credit liability information to be cleared from victim-survivors' credit reports.

Recommendation 13

Ensure debt is not an impediment to accessing essential services in DFV circumstances.

Closed accounts

We support the proposed definition of 'affected customer' to include a 'former customer' and seek to confirm this means victim-survivors with closed accounts will be protected by the proposed rule.

Financial counsellors report that dealing with closed accounts is common in DFV where victim-survivors move out of a home and sometimes end up in a refuge or sleeping rough, making managing a closed account difficult. Recognition of this common problem should then be applied to emergency energy assistance such as NSW's Energy Accounts Payment Assistance (EAPA) which can only be applied to active accounts.

¹⁵ Interview with a financial counsellor conducted on 9 February 2022.

¹⁶ Ibid.

Shelly's story¹⁷

Shelly is a single parent of four children under the age of 13 and her sole source of income is from Centrelink. Shelly and her four children all live in a rental with her mother. She has no savings or assets of value.

In 2017 Shelly fled with her children from her husband of 13 years due to prolonged DFV including physical, verbal and financial abuse. Shelly was granted an AVO and the Family Court gave her sole parental custody of the children and restricted her ex-husband from coming within 100 meters of her or the children.

Shelly advised us that she hasn't worked since having her first child in 2007 but her ex-husband controlled where any money she did receive went. He made her put all bills in her name and take out loans. There were too many bills for her to pay and she would get behind in payments even with the help from her family.

When Shelly reached out for assistance, she was concerned she still had debts from the time she was still with her ex-husband and she wanted to address them and improve her credit rating. Shelly had no ability to repay any debts.

Shelly's credit report showed three default listings, two of which were for energy debts which had been listed by a debt collector. One of the energy debts was for \$4700 and was from the energy account that was in place when she and her children fled. She didn't think about the energy account at the time as it was incurred during the worst of the DFV and when her ex-husband continued to live in the property.

FRLC assisted Shelly with the old energy debts. One of the energy retailers did not have the smoothest processes when dealing with domestic violence-related requests. The record they had of Shelly was incomplete and the representative could not tell if the debt had been sold or was just out with a debt collection agent. Eventually after about 8 emails back and forth the retailer figured out what had happened with the debt and agreed to resolve it and take any defaults off Shelly's credit file.

Naomi's story¹⁸

Naomi is an Aboriginal woman living in a refuge with her five year old child. She has no car and no other assets. Naomi had to flee her home due to continued beaches of a long term AVO by her child's father including physical violence and financial abuse. Naomi only has 4 weeks left in the refuge and she does not know what to do next. The electricity and gas have been disconnected in her previous home and the arrears on the accounts were about \$4500.

Naomi had been living in this home with her two brothers, but one is now in jail and the other is in a psychiatric facility and neither contributed to payments, nor can contribute to reducing the debt. FRLC reached out to the disconnected retailer to see what assistance was available for Naomi. The retailer said it was unable to apply Victoria's grant of \$650 to reduce the bill because the accounts had been closed. The retailer did offer Naomi password protection on her account because of the DV and agreed to put the account on hold for three months.

¹⁷ C212055

¹⁸ C219474

Naomi was then referred to a face-to-face financial counsellor who would help her apply for a reduction of the debt.¹⁹

Having whole of business DFV training as a way to lead to culture change would improve customer assistance, helping staff understand why a victim-survivor may have failed to make repayments and/or updated a retailer about a new address.

Recommendation 14

Build industry recognition and understanding of common problems with debt build-up in victim-survivors' closed accounts. Apply this understanding to the administration of emergency energy assistance/relief such as NSW's EAPA.

Evidence of DFV

We strongly disagree with any clause enabling retailers to ask for evidence of DFV, including to prevent disconnection. Evidence - or even disclosure - should not be a requirement for support for a person who has indicated they are having difficulty paying their energy bills.

Disconnection or threats of disconnection are often used deliberately by perpetrators to cause harm. Requiring evidence of DFV to prevent disconnection is a hurdle a victim-survivor must jump and a way for perpetrators to easily cause harm and exert control.

As a community, we are hearing consistent calls from victim-survivors that they must be believed. This aspect of the proposed rule is not in keeping with how we as a community need to respond to DFV. The onus should not be on the victim-survivor to prove the DFV.

There is also difficulty in providing evidence of DFV because:

- There is often no evidence of abuse. Often perpetrators are meticulous about ensuring there is no evidence against them.
- DFV could be in the form of verbal put downs, isolation from friends and family and/or controlling movements. It is about patterns of behaviour which are not simple to demonstrate in the form of 'evidence'.
- Abuse may be happening via an account a victim-survivor does not have access to.
- It can be difficult to get an intervention order (a common form of evidence) due to financial abuse on its own, and laws vary between states.
- Not everyone seeks out a community worker who could then provide a letter confirming DFV. Even if a person did seek assistance from a community worker, that may have been in the past, but their financial difficulties (caused by the DFV) have continued long after seeing the community worker.
- Victim-survivors may not have documents, particularly if they have left a situation quickly.
- If there is evidence and the victim-survivor has access to it, it is often very personal and is likely to cause distress to provide this, at the very least, or even put them in danger. It might be distressing for retailer staff to deal with this evidence as well.

¹⁹ Ibid.

Other industries, such as banking, have moved away from requiring evidence of DFV in order to provide assistance.

Policies around disconnection relate to how we respond to payment difficulty more generally. Disconnection is not an effective mechanism to manage payment difficulty. Believing people and helping them manage their debt is the only sustainable and effective means to help them get back on their feet. We see from NSW Social Programs for Energy Code data²⁰ and discussions with NSW Department of Planning, Industry and Environment²¹ that approximately 50% of people who receive rebates (so are on income support) and are disconnected for non-payment, reconnect with a different retailer. Not helping people manage their debt merely shifts them to a new retailer, multiplying debts without addressing the root causes. With tens of thousands of disconnections each year, this cycle accumulates debts for all retailers. Meanwhile, the victim-survivor has to disclose their DFV situation to their new retailer, causing the repeat disclosure issue that must be avoided.

Retailers usually say that disconnection is a last resort and only used when the consumer won't get in contact with them. If a consumer has managed to alert their retailer that they are in a DFV situation, then that is a very good reason why they are not able to maintain contact: they may be busy surviving, keeping themselves and their children safe, managing mental health issues, having their phone or conversations monitored, managing legal issues etc. In addition, disconnection means the internet will not work and mobile phones cannot be charged. These practical harms can also be stresses that drive an escalation in abuse by a perpetrator. This is a serious security issue for victim-survivors. Disconnecting victim-survivors is just going to make a bad situation even worse.

In the time since the ESC made its decision to enable retailers to ask for evidence, our understanding - and community expectations - about gendered violence and DFV have come a long way.

During this time, a clear message from victim-survivors has been the importance of believing them, not placing onerous requirements on them to prove they have been abused. Allowing retailers to request evidence from victim-survivors just to avoid a disconnection would be out of step with this societal shift.

In their Final Decision on ERC changes, the ESC wrote that '...water businesses [are] already providing family violence assistance without requiring documentary evidence and are yet to encounter false claims in this area.'²²

Any false claims would be likely to be a tiny number of people, compared to the number of people whose safety and/or welfare would be genuinely compromised. Properly trained staff are likely to identify where there is fraud with little difficulty. Consistent with good regulatory practice, regulation should not be designed around a small number of people who might look for loopholes,

²⁰ <https://www.energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/social-programs-energy-code>

²¹ As it was called when we had the discussion.

²² Essential Services Commission (Victoria), *Energy Retail Code Changes to Support Family Violence Provisions for Retailers*, Final Decision, 22 May 2019, 27.

but should be designed to protect the vast majority of people who genuinely need protection and support.

Recommendation 15

Preclude retailers from asking for DFV evidence as a precondition of support, including to prevent disconnection or provide payment help.

Family violence policy prevails in the event it is inconsistent with a customer's retail contract or the energy rules

We share the AEMC's concerns that this clause could weaken retailers' accountability, particularly because it could be subjective.

We suggest consideration about what aspects of the retail contract or energy rules might be inconsistent. For example, if it is just regarding communication, then a specific clause around communication could be included.

This should only be possible if there is a process to oversee what is in the retailer's family violence policy.

Recommendation 16

Consider what aspects of the retail contract or energy rules might be inconsistent with a family violence policy, rather than allowing a retailer's family violence policy to prevail in the event it is inconsistent with a customer's retail contract or the energy rules.

Question 2: Additional matters: Are there matters you would like to see addressed in the National Energy Retail Rules beyond those considered in the proposed rule? These could be issues, protections or requirements. For instance, regarding the Victorian approach, compliance and enforcement, or ways to minimise implementation costs?

Additional matters

Helping people who cannot or do not disclose

A fundamental issue of this rule change is that in order to access assistance, a victim-survivor needs to:

1. have self-awareness that they are in a DFV situation and that they are the victim-survivor;
2. have the capacity disclose this;
3. have a safe opportunity to disclose this; and
4. have some understanding and/or willingness that they could get assistance if they disclose their situation to their retailer. Without effective retailer training, they will likely need to use explicit language to access this assistance.

However, this leaves a large number of other victim-survivors who:

- Are not aware they are in a DFV situation and/or that they are the victim-survivor.
- Are unable to disclose their situation to someone who can directly help them or assist them to get help.

- Find it difficult to reach out for assistance safely.
- Are unaware assistance is available in the community (where they could get supported to approach their energy retailer) and/or from their retailer.

This rule change process must consider ways to help victim-survivors who are not in a position to self-advocate. This can be achieved by involving victim-survivors and community workers who work with victim-survivors in this process, and mandating family violence training for energy retailers so frontline, credit and specialist hardship staff can pick up on 'red flags', and products and services can be designed with family violence prevention and recovery in mind.

Distribution Network Service Providers also have a role to play as the parties responsible for meter reads and disconnection and whose field staff (or contractors) may witness DFV. Safe and respectful options for DNSPs to alert retailers to the possible presence of DFV should be explored.

Disconnection pre-visits (also known as 'knock before disconnection') have been shown to avoid current and future disconnections²³ and can act as an intervention to avoid disconnection in the case of DFV.

The success of this initiative must not be undermined by allowing remote disconnection in circumstances of non-payment. For safety and compassionate reasons and as tool to reduce disconnection of victim-survivors, pre-visit programs in conjunction with support information must continue and become standard practice for all disconnections related to debt and account management.

We also encourage the AEMC to speak with victim-survivors and their advocates to help them identify other ways they can help victim-survivors who do not disclose their DFV or are unaware they are experiencing DFV.

Recommendation 17

Include victim-survivors and advocates in the rule change process to help the AEMC and stakeholders identify other ways they can help victim-survivors who do not disclose DFV or are unaware they are experiencing DFV.

Recommendation 18

Continue disconnection pre-visit programs in conjunction with support information.

Recommendation 19

Explore safe and respectful options for Distribution Network Service Providers to alert retailers to the possible presence of DFV.

²³ Essential Energy reported their trial resulted in 70% of disconnection notices being cancelled; Endeavour Energy reported their trial resulted in 45-47% of disconnection notices being cancelled.

Recommendation 20

Prevent remote de-energisation for non-payment.

Helping victim-survivors from diverse backgrounds

We know that DFV can affect anyone but that certain groups are over-represented and some communities' needs are not as well met through mainstream services.

Special consideration must be given to people with disabilities and chronic health conditions. They are both over-represented as victim-survivors but can also be especially reliant on energy for assistive & medical devices, health-related cooling needs etc. Any energy-related abuse can have dire consequences, and they can have additional needs when communicating with retailers.

This rule change process must also give special consideration to how best meet the needs of people who are from:

- First Nations communities;
- culturally and linguistically diverse backgrounds;
- recently arrived migrant communities, including people on temporary visas; and
- LGBTIQ+ communities.

DFV does not only occur in intimate partner relationships and this rule change process must also consider how DFV manifests in other familial relationships. We are aware of instances where adult children put energy accounts in the name of their parent. For example, the Energy and Water Ombudsman Victoria (EWOV) documented an occurrence of elder abuse where a daughter-in-law put her energy bills in her elderly mother-in-law's account to access concessions and then left her with debt to pay.²⁴ We have also heard of cases where a parent puts bills in their young adult child's name because the parent has a poor credit record.²⁵ These issues manifest differently to intimate partner relationships because they cannot necessarily leave the relationship. In addition, with many areas experiencing a tight housing market, moving out may not be an option.

Recommendation 21

Consider how best to meet the needs of victim-survivors who have disabilities and/or chronic health conditions, and from First Nations, culturally and linguistically diverse, recently arrived migrant and LGBTIQ+ communities.

Recommendation 22

Ensure consideration of non-intimate partner family abuse so it can be recognised, understood and options to address these issues included in the rule change process.

Broader issues

Concessions and other government supports also need to be considered. As outlined above in the case from EWOV, it can be a motivation for perpetrators to put bills in the name of victim-

²⁴ <https://www.ewov.com.au/uploads/main/Reports/Other-reports/Connect/connect-spring-2019.pdf>

²⁵ Interview with a financial counsellor conducted on 9 February 2022.

survivors who are eligible for a concession. Generally, the person in a household who is eligible for a concession (such as a person on the Age Pension, the Disability Support Pension or the Parenting Payment) is likely to be the person least able to afford to pay the bill (or any debt accumulated). We have also heard of problems receiving concessions where a victim-survivor lives in a safe house and uses a refuge for her postal address to protect her security.²⁶

As outlined above, emergency energy payments, such as EAPA, cannot be applied to closed accounts. They also cannot be used to cover disconnection or reconnection fees, or late fees, yet sometimes these are tools deliberately used by perpetrators to cause harm. If not done deliberately, they still cause harm for victim-survivors trying to manage their finances.

Since the ESC's DFV work, COVID-19 and the accompanying lockdowns, increased household energy expenditure and economic recession have had an impact on victim-survivors, and the AEMC should examine these issues. In addition, since issues of family violence were examined in Victoria, much progress has been made on the future grid and the role of automation and smart appliances. How these changes already are, and could impact on family violence, should also be considered when drafting the rule.

Recommendation 23

Examine the interplay between the rule change and energy rebates and advise on necessary policy reforms.

Recommendation 24

Allow government supports, such as EAPA, to be put towards non-consumption charges in DFV circumstances.

Recommendation 25

Consider recent events in making the rule change, such as the impact of COVID-19 and emerging issues including the future grid, automation and smart appliances and how these impact DFV.

Matters included in the Victorian ERC, but not included in Red/Lumo's proposal

Small businesses

Small businesses are often family run and, just like residential consumers, significant numbers of small business consumers are likely to experience DFV.

We recognise there may be some concerns about including small business customers in aspects of security of the account/access to information when, for example, a registered business owner is prevented from receiving their energy bill.

However, these issues are likely to be surmountable, and it is vitally important to protect victim-survivors as much as possible, and not exclude people just because it is complicated.

We support the AEMC's proposal to investigate whether retailers operating in Victoria have experienced problems with including small businesses.

²⁶ Ibid.

Recommendation 26

Include small business customers in the rule change and investigate whether retailers operating in Victoria have experienced problems with including small businesses.

Specialist family violence training for retailers' staff

The National Plan states that service systems and policies are evolving in responding to family violence and that professional training is critical for an effective response. A focus area is to 'ensure a resourced service system with an appropriately skilled and qualified workforce is available to support all victim-survivors.'²⁷ Over the next 10 years we need to 'support workforces to access training and information to build capability to deliver evidence based and trauma informed services to victim-survivors.'²⁸

Specialist family violence training is fundamental to ensuring this rule change is successful and that victim survivors get the assistance they need. Being able to appropriately respond to victim-survivors and perpetrators has little to do with having energy expertise and knowing the energy rules. It is a complex issue requiring specialist knowledge and as such, retailer training must be a requirement of this rule change. It will not only help victim-survivors, but also help staff know their limitations and how they can manage their own responses and reactions. The consequences of not properly training staff could lead to significant harm, including death.

As a result of changes made to address family violence in the ERC in Victoria, some community workers in Victoria are seeing more responsiveness from retailers in dealing with DFV. However, they also report that DFV responses are inconsistent or non-compliant, pointing to the need for strong training. For example, Good Shepherd provided assistance in a DFV case involving very poor communication from the retailer, long delays, and the retailer chasing the victim-survivor for the debt despite solid supporting documentation of DFV. This case was ultimately escalated to EWOV. In another case, a retailer refused to waive the debt despite clear evidence of hardship due to DFV and showed a significant lack of knowledge regarding DFV situations. Again, this indicates the need for strong training.

Considering there is no uniform legislative definition of DFV across Australian jurisdictions, the energy sector's understanding of what DFV is needs to be explained and regularly updated.

Training should be:

- Whole-of-business (including parts of the business which are outsourced) to help facilitate cultural change. Managers and systems designers need to understand this issue, not just staff with customer facing roles.
- Developed to help staff understand DFV, identify and respond appropriately to victim-survivors and perpetrators and help understand ongoing trauma and how people cope with this.
- Designed to respectfully include the voices and experiences of people with lived experience.
- Designed to overcome the issue of self-identification and disclosure so that trained staff can recognise DFV flags and those designing products can design around this issue.

²⁷ DSS (n 3).

²⁸ Ibid.

- On-going and updated in line with evolving research and practice.
- Integrated with Victorian requirements where possible, to avoid duplication where it exists.
- Be delivered by experts, not done in-house.

The training should include:

- The gendered nature of DFV, the gendered nature of energy use and how energy rationing can be used to inflict harm.
- Intersectional experiences of DFV, shaped by culture, race, disability, gender identity, sexuality and age.
- An understanding that DFV does not always result in financial hardship issues, and that energy retailers may need to provide assistance in other ways, e.g. account security.
- Support for staff who may be dealing with their own DFV situation or past trauma and ongoing support for staff experiencing vicarious trauma or other impacts resulting from work with victim survivors.

Training is essential for implementation of, and compliance with, family violence policies.

Providing DFV training requires expertise. People perceive training in DFV different ways. It can take people time to understand this complex issue and for it to be meaningful and lead to cultural change. We suggest the AER help retailers identify appropriate training providers. This would be particularly beneficial for smaller retailers.

Community workers in Victoria report that despite mandatory training in DFV, they still encounter many retailer call centre staff who 'don't have a clue' about DFV. This indicates that DFV training must be not only mandatory but enforced as well.

Mindi's story²⁹

Mindi is an Aboriginal single mum with 5 dependent children. She fled a domestic violence situation after many years of financial abuse and physical violence. When fleeing with her children Mindi spent a period of time experiencing temporary homelessness living in shelters with her children, but through it all she proudly maintained her job with a big bank as a cultural worker. Mindi is finally settled and wants to address the debts she has. One of her debts is with an energy retailer from the address she fled. Mindi fled in January and notified the retailer immediately. The retailer then called her five times between January and June before acting on the account. Now she has a debt of \$600.

Training case study

Good Shepherd was engaged by a major organisation to provide family violence awareness training to staff. Between May 2020 and October 2021, almost 700 employees completed the training. Participants included people from across the organisation, including the executive; the leadership group; people, culture & safety; managers; customer-facing staff; and

²⁹ C220526

infrastructure personnel. A co-design methodology ensured alignment of the training to the people being trained in each session.

The training produced very positive outcomes for participants. Overall, participants indicated knowledge shifts in definitions of family violence; family violence prevalence, costs and drivers; and impacts and myths surrounding family violence. Post-training follow-up revealed common actions such as sharing of information with colleagues, family members and/or friends. Importantly, staff reported knowing where to go and what to do should a disclosure of family violence occur.

The training supported the systems change sought by the organisation, by raising awareness of and reinforcing the organisation's newly developed Family Violence Policy and Family Violence Practice Guide and providing information on internal supports and referrals available. This will ensure sustainability beyond the life of the training project.

Recommendation 27

Require energy retailer staff to undertake best practice family violence training. Specialist family violence training is fundamental to ensuring the rule change is successful and that victim survivors get the assistance they need.

Minimising repeated disclosure

Minimising the need for repeated disclosure is important to reduce a victim survivor's trauma. This requires robust processes to record appropriate information (ensuring consent is given) but also to ensure retailer staff read this information before communicating with the victim-survivor or perpetrator.

Similar to keeping accounts secure, one way to achieve this could be to do what a number of water businesses do and, once DFV is disclosed, a specialist staff member discusses options of handling the account including only allowing access to the account to specialist staff. Ideally, this would be a DFV team within hardship. Then, when the person contacts the retailer, their call is transferred directly to the specialist team who can then handle the call respectfully and avoid the need for repeat disclosure.

This might not be appropriate in all situations, for example, a locked account might rouse the suspicions of a perpetrator, creating consequences for the victim-survivor.

One commitment which retailers could make which would be guaranteed to minimise repeated disclosure for victim survivors is to not sell a debt after DFV has been disclosed. Selling a debt (even for closed accounts) forces a DFV victim-survivor to re-explain their personal circumstances to an entirely new company which may or may not have a DFV policy in place.

The ABA's financial abuse and family and domestic violence guidelines make the following recommendations:

Where a bank is made aware that a customer's debt involves family and domestic violence:

- The debt should not be sold onto a third-party debt collection agency.

- If the debt has already been sold to a third-party collection agency, and the bank becomes aware of the family and domestic violence, banks should work with the collections agency to provide the best outcome for the customer (which may include repurchasing the debt) assessed on a case-by-case basis.³⁰

A similar commitment should be made by energy retailers.

Recommendation 28

Include provisions in the rule change that minimise the need for repeated DFV disclosure, including dedicated account support and restraints on sale of debts in DFV circumstances.

Further minimising repeat disclosure

It can be a safety issue and impose an emotional toll on victim-survivors, to contact all service providers and to repeat the disclosure to them. Integrating this aspect of the rule into 'Thriving Communities Partnership's One Stop One Story Hub' could be a way to help people safely manage their other essential services and avoiding repeat disclosure.

Actively referring a customer to an external support service

Respectfully providing information about an external support service can lead to better outcomes and support for some people. This must be accompanied by quality training so that it is provided respectfully and appropriately, and people do not feel obliged to contact the support agency. The Economic Abuse Reference Group has developed a guide with referral options to assist industry³¹ which we suggest the AEMC consider.

To respond to the diversity in our community, contact details for specialist services should also be available for people who are from First Nations communities, CALD communities (particularly where a person has low English skills) and for people from the LGBTIQ+ community.

A clear and mandated referral pathway is also important to guard against potentially dangerous over-reach by energy retailer staff, who may provide customers with inaccurate or harmful information about where and how to seek family violence support.

Recommendation 29

Require retailers to respectfully provide information about external support services when appropriate, supported by training about how best to do this.

Compliance and enforcement

This is an important rule change process and the consequences of getting it wrong could be catastrophic. We support a civil penalty for breaching it. We would also support robust compliance measures from the AER.

We oppose any form of self-regulated family violence measures, such as an industry code, that would likely lead to inconsistent standards of support among energy retailers. The gravity of this issue requires consistent, regulated and enforceable protections.

³⁰ <https://www.ausbanking.org.au/financial-abuse-and-family-and-domestic-violence-policies/>

³¹ <https://eargorgau.files.wordpress.com/2017/03/referrals-good-practice-190917.pdf>

Whilst we see a role for a model family violence policy, this policy should be developed by the AER in consultation with the community sector. We do not support the Energy Charter, which is industry led, developing a model family violence policy.

Recommendation 30

Apply civil penalties for breaching these rules, accompanied by robust AER compliance measures.

Embedded networks

Equivalent family violence protections should cover people in embedded networks. People should have the same protections regardless of where they live or their retail arrangement. Many people in embedded networks, particularly residential parks, nursing and retirement homes and social housing developments, are likely to have lower incomes and be in vulnerable situations. The potential for harmful impacts of DFV can be significantly higher for residents in embedded networks, both because of their personal circumstances and because their access to supports and protections are still to be implemented.

Recommendation 31

Ensure equivalent family violence protections cover customers in embedded networks.

Implementation costs

Whilst there will be implementation costs of this rule change for many businesses, it is important to also look at the cost (not just financial) to individuals, families and communities in failing to implement a robust and effective rule. The long term social, psychological and health effects of DFV, can be debilitating for the individual and their family, as well as having a significant cost on our community. One report estimates the total cost of violence against women and their children in Australia in 2015-16 was \$22 billion.³² The report continues: 'Underrepresentation of Aboriginal and Torres Strait Islander women, pregnant women, women with disability, and women who are homeless within national prevalence estimates may add a further \$4 billion to the cost of violence against women and their children in Australia in 2015-16'.³³

All organisations, but particularly those providing essential services, should have policies to protect victim-survivors of family violence, both their customers and their staff. This should be a standard cost of business like any other occupational health and safety requirement.

If the AER provided a standard family violence policy, it would help smaller retailers to comply with the family violence policy requirement.

³² KPMG, *The Cost of Violence Against Women and their Children in Australia*, 4. <https://www.dss.gov.au/women/publications-articles/reducing-violence/the-cost-of-violence-against-women-and-their-children-in-australia-may-2016>

³³ Ibid, introductory summary.

Question 3: Alternative approaches: What regulatory approaches from other sectors should the Commission consider, to complement, amend or replace Red and Lumo’s proposal? Please explain why that regulatory approach is being used and provide the evidence of its effectiveness in protecting consumers from family violence. Could a broader cross-sector approach effectively address family violence in the energy sector? What would be its key aspects? What existing jurisdictional provisions should the Commission take into account for this rule change?

We encourage the AEMC to look at how other sectors deal with DFV. However, it is important to be mindful that energy has its own unique circumstances in its role as an essential service and its particular regulatory framework. We would not support an approach that is vague, not enforceable and not enforced.

4. Continued engagement

We would welcome the opportunity to meet with the AEMC and other stakeholders to discuss these issues in more depth.