

Energy retailer family violence support

Response to ESC draft decision on Energy Retail Code changes



The Victorian Council of Social Service (VCOSS) welcomes consultation by the Essential Services Commission (ESC) on Energy Retail Code changes to support customers who have experienced family violence.

In December 2018, VCOSS made a submission on the ESC draft principles and actions for energy retailers' family violence assistance. That submission set out our support for the ESC's family violence work program for energy retailers. Energy retailers can play an important, positive role preventing harm to family violence victim-survivors, and assisting their recovery, by:

- understanding the nature of family violence, including economic abuse
- providing safe, informed and accessible support
- managing energy debts and payment difficulty in a flexible, tailored way
- protecting privacy and confidentiality of account information.

We support the new entitlement to family violence assistance from energy retailers and minimum standards of assistance, and in this response suggest how the proposed standards can be further improved to better support family violence victim-survivors.

Adopt a broad entitlement to family violence assistance

We welcome the proposed new entitlement to safe, supportive and flexible assistance for customers affected by family violence. This is a significant reform requiring energy retailers to provide more than just minimum standards of assistance to customers affected by family violence. Like the payment difficulty framework, energy retailers will need to take a tailored approach to individual customers' circumstances. They will need to consider the nature of their assistance and whether it actually delivers a 'safe, supportive and flexible' service, rather than simply ticking regulatory boxes.

We support this shift to outcomes-based regulation, but recognise it requires significant cultural change in retailer call centres and other parts of the business. We therefore expect the family violence reforms will take time to implement properly, and welcome the ESC's proposed 'Better Practice' guide and community of practice to support retailers' work.

Further define 'customers affected by family violence'

'Affected customers' is currently defined as any customer, including a former customer, who may be affected by family violence. We support the definition including former customers, so that it captures victim-survivors who have been referred to external debt collection services and need the debt recalled to the retailer, those who want to ensure their old account information (including any information provided about family violence) is handled in a confidential manner, and those who want to return to their old retailer after an unsatisfactory experience with their new retailer.

We request the ESC clarifies whether ‘affected customer’ includes third parties who require retailer assistance (e.g. where a grandparent provides housing to a child and grandchildren and needs their privacy protected or faces energy payment difficulty).

Support high-quality family violence policies

We support energy retailers being required to have a family violence policy and update the policy at a minimum every two years. However, these policies require regulatory oversight, informed by consultation with specialist family violence organisations and peak bodies. Like hardship policies, the ESC should have to approve retailers’ family violence policies, to support informed, safe and high-quality customer assistance. This is new territory for energy retailers and policies should be verified to help ensure retailers are following best practice and are not putting victim-survivors at further risk.

When publishing the family violence policy on websites, retailers should ideally embed the policy in other information about customer services, since it can be risky for victim-survivors to access a standalone family violence page or downloadable document (e.g. the perpetrator can identify it in the search history). Retailers should also promote family violence assistance in the same section of bills that notes payment difficulty assistance is available, and in other customer communications.

Strengthen minimum standards

Training

Retailer family violence training will ‘make or break’ customer assistance in this area. Good-quality training is fundamental to implementation of all minimum standards and the wider entitlement to family violence assistance. Poor-quality training will result in little meaningful support and may compound harm or endanger someone’s life.

In addition to the proposed requirements, the ESC should also require:

- training that is appropriate for the role performed by the person (e.g. most staff will need a minimum level of training while others will need more intensive training, such as frontline staff and managers with customer service responsibilities)
- training by appropriately qualified and experienced providers, who can demonstrate experience, skill and knowledge in this area
- ongoing training.

The subjects addressed by training should also include:

- economic and technology-based abuse, as part of training on the nature and consequences of family violence (this should be expressly required, given energy retailers are likely to encounter this type of abuse)
- the importance of confidentiality, privacy and account security in reducing the risk of harm
- safe identification of and engagement with customers affected by family violence, and the risks involved in assisting customers
- the broader family violence system and the role of energy retailer assistance.

Supporting energy customers affected by family violence

Account security

The proposed account security requirements restrict disclosure of confidential information without the affected customer's consent, and set out the steps retailers must take to identify a safe method of communication with customers affected by family violence. It is important energy retailers are also required to change account details (e.g. account holder or address details) in a timely and flexible way. Some VCOSS members report this is one of the major challenges when assisting victim-survivors with energy supply.

The 'Better Practice' guide could identify best practice approaches to account security within energy retailers, to ensure confidential information about family violence is only accessed by a limited number of suitably trained staff.

Customer service

The ESC proposes retailers must provide a secure process to identify affected customers, provide for effective ongoing engagement, and avoid repeated disclosure of family violence, which may further traumatise victim-survivors. There should also be an express requirement for timely and expedited service in this area, given victim-survivors may face immediate risks to their safety, and most will experience many other stresses and have other essential needs to attend to, making prompt assistance particularly important. A slow response could also deter further help-seeking, from energy retailers or others.

The requirement for effective ongoing engagement should also require an appropriate response to *disengagement*. This is likely to be common for customers affected by family violence and should be factored into retailers' customer service. Family violence can involve circumstances making engagement impossible, including when priority has to be given to day-to-day safety, recovery, care of children and legal processes. Financial pressures can prevent engagement, such as no phone access or credit. If a victim-survivor stops engaging, retailers should be required to be flexible and supportive, including avoiding disconnection.

Debt management

The family violence provisions of the Energy Retail Code will operate in tandem with the payment difficulty framework, which provides minimum standards of assistance for customers with arrears who are facing payment difficulties. The ESC proposes retailers recognise family violence as a potential cause of payment difficulty.

If a customer is not receiving payment difficulty support, a retailer can commence action to recover arrears. The ESC proposes retailers take into account the potential impact of debt recovery action on customers affected by family violence, before taking action to recover arrears.

VCOSS is concerned that this requirement will not adequately support customers affected by family violence. Under the Energy Retail Code, debt recovery should be a measure of last resort for customers affected by family violence, and retailers should be required to first consider waiver or suspension of the debt, guided by principles that can be set out in the 'Better Practice' guide being developed by the ESC before Code changes take effect on 1 January 2020.

Debt recovery will have a significant impact on the majority of customers affected by family violence, and does not require individual impact assessments by retailers. Financial abuse is the norm among victim-survivors, with 80-99 per cent of women accessing family violence services reporting financial abuse.¹ Debt recovery action can compound harm and hinder recovery, even when women are not experiencing payment difficulty. This includes where:

- the debt was caused by economic abuse
- debt recovery further weakens the woman's financial confidence
- debt recovery and an impaired credit record make it difficult to improve financial wellbeing
- debt recovery diverts financial resources from more pressing needs during the relationship, the crisis phase and post-separation.

Energy retailers are not well-placed to assess the impact of debt recovery on family violence victim-survivors, including considerations of risk, safety and wellbeing, which require specialist skills and knowledge.

Energy retailers should be required to record the steps taken to assist customers with debt management before proceeding to any debt recovery action as a last resort measure.

External support services

We support retailers being required to provide affected customers with information about external family violence support services. Energy retailers can be an important, positive gateway to specialist family violence service providers.

Evidence

The ESC proposes retailers be able to seek documentary evidence of family violence when considering debt management and recovery or disconnection. This may set up a major roadblock to appropriate debt management and payment difficulty support. Providing evidence of family violence can be difficult or impossible. Not all women report family violence to police. Many victim-survivors are not engaged with services, leaving them unable to 'prove' family violence and vulnerable to debt recovery action and disconnection.

Even where documentary evidence does exist, obtaining this may be unmanageable (e.g. if a woman had to leave documents behind when fleeing violence) or may put the woman in danger, including where the perpetrator learns the woman is seeking help and disclosing violence to others. If a woman has reported to police, providing this evidence is risky, requiring a woman to disclose very personal and detailed information to their energy retailer. Requesting evidence can also deter help-seeking if the victim-survivor is not confident privacy and confidentiality will be maintained.

If the ESC ultimately decides retailers should be able to seek documentary evidence in these circumstances, retailers should be required to be flexible and seek 'informal' evidence wherever possible, including caseworker letters or verbal reports.

¹ Nilmini Fernando, *When's the right time to talk about money? Financial teachable moments for women affected by family violence*, WIRE, 2018, 10, 22.