

## VEU code of conduct workshop for scheme participants – 18 August 2022

### Presenters' key points

#### Commissioner's welcome

- Thank you for attending today's 'Know your obligations' code of conduct workshop. This workshop's purpose is to inform scheme participants about the obligations that scheme participants have under the code when engaging with consumers about the Victorian Energy Upgrades program, and consolidates the information provided at the previous three workshops held on 14 July 2022, 2 August 2022 and 11 August 2022.
- The code of conduct requires a 'consumer first' approach from accredited persons and scheme participants to ensure compliance with the program. A consumer first approach builds consumer trust in the program, across all aspects – providers, products, and services – and is critical to the program's ongoing success.
- The commission acknowledges the issues raised at previous workshops about some of the challenges and opportunities they were seeing in implementing the code, and the changes different business models are having to make to comply with the code.
- Like other sectors however, every business and every industry must find ways to make sure that they, and their suppliers, operate in a manner that meets their obligations under their respective regulatory frameworks and have regard to customer and community needs, and expectations of that industry or sector. The Victorian Energy Upgrades program is no different.
- The code also promotes a fairer playing field for all industry participants involved in delivering the program. It does this by encouraging an industry-wide effort to stamp out unacceptable conduct and practices by organisations that benefit from the program while breaching important consumer protections or risking the intended outcomes of the program – that is, reducing greenhouse gas emissions and achieving energy savings for all Victorians.
- For the 2021-22 financial year, the commission received **over 200 complaints** in relation to telemarketing of the program. Some of these complaints related to consumers having experienced or perceived to have experienced high pressure tactics, such as bullying, manipulation, aggression, or coercion, and contacting consumers who have registered their number on the 'Do Not Call Register' to generate a lead.

- Scheme participants have a responsibility, on behalf of the accredited persons they represent or have arrangements with, to ensure their staff are trained to understand and comply with the code, in all activities that they undertake within the VEU program.
- Scheme participants and accredited persons must follow the rules about telemarketing in the code of conduct.
- The commission takes its responsibilities as the regulator of this program very seriously. Full compliance with the code from industry is expected and action will be taken if there is evidence to suggest that businesses are not meeting their obligations, however the commission is also focused on helping industry achieve compliance.

## Code overview

- In its broadest sense, the code outlines the requirements of accredited persons and scheme participants that must be complied with to enable a certificate to be created. It applied before, during and after installation and certification creation and:
  - **regulates** how accredited persons and scheme participants carry out activities under the program
  - ensures accredited persons and scheme participants **provide sufficient information** to consumers
  - ensures accredited persons have **processes** in place to handle **consumers' complaints**.
- A **scheme participant** is any person (other than an accredited person) who undertakes, or claims to undertake, any prescribed activity, or part thereof, on behalf of an accredited person. Put simply, it is anyone that undertakes any regulated action that contributes to an upgrade.
- An **accredited person** refers to the person, or organisation, approved by the commission to create certificates for upgrades undertaken as part of the VEU program.
- **Prescribed activities** are the energy efficiency upgrades recognised under the VEU program to reduce greenhouse gas emissions and for which a certificate is created.
- In completing the upgrade and ultimately creating the certificate, the different activities, or stages, undertaken under the program are known as **regulated actions**. These are:
  - lead generation
  - marketing
  - entering into a contract for the sale or supply of the product or service
  - undertaking, in part or in full, the installation, repair or replacement of the product or service
  - undertaking any follow-up action that relates to the installation, repair or replacement of the product or service.
- While accredited persons are responsible for ensuring certificates created comply with the code of conduct, it is critical for scheme participants and accredited persons to work together in the context of an accredited persons' obligations. Scheme participants that undertake the different activities and directly deal with the consumers are required to comply with the code. It is

important to be able to demonstrate to the accredited person that the activities undertaken have complied with the code.

- Non-compliance, or being unable to demonstrate compliance to the accredited person, means that certificates cannot be created for the upgrade that has occurred or may be subject to surrender. This will have a financial impact – for the accredited person and, potentially, the scheme participant depending on the contractual arrangement between them, including whether the accredited person undertakes business with you.

### Working together for compliance

- Compliance has a greater chance of success when there is a shared purpose to create common goals and objectives that will result in mutually beneficial outcomes. Confidence and trust between accredited persons and scheme participants can be achieved by working together through collaboration to comply with the code. It also establishes confidence and trust between accredited persons and scheme participants. Some of the steps towards compliance may include:
  - having a clear understanding of each of your compliance obligations
  - sharing a consumer-first approach to undertaking the activities related to an upgrade and the creation of certificates
  - working together to create the required systems, processes, procedures and record keeping to support and demonstrate your compliance
  - knowledge and understanding of the accredited person's dispute resolution process and making every effort to put the consumer first in resolving complaints.

### Lead generation and marketing

- **Lead generation** is any activity carried out for the purposes of identifying, attracting or engaging with a consumer who may enter into a contract under the VEU program. It includes telemarketing, doorknocking, approaching someone in person, contacting someone online or via email, promoting the VEU program as you're delivering another service to a consumer and following up with someone after an initial approach.
- **Marketing** includes any activity relating to the promotion, sale or supply of upgrades made in-person, online or over the phone – it is not dependent on direct interactions with the consumer. In addition to scheme participants working on behalf of an accredited person, it can also include product manufacturers that conduct lead generation and marketing activities by promoting the VEU program for approved products on a company website.
- Scheme participants that undertake lead generation and marketing activities are required to:
  - provide the consumer with the required information about your activities
  - leave/hang up immediately if asked
  - not generate leads or market if 'No door-knocking' signs are displayed

- wear identification at all times, including details of who they work for and the relevant accredited person
- leave residential premises immediately on establishing no one 18 or older is present
- not engage in high pressure tactics such as bullying, inappropriate questions or calling a number registered on the 'Do Not Call' Register
- give the required information about the Victorian Energy Upgrade program to all consumers
- provide all other necessary and appropriate information to consumers.

## Entering into a contract

- Scheme participants must ensure that consumers have a full understanding of, and provide clear consent for, the upgrade they are signing up for **before** carrying out the upgrade itself OR entering into a contract with the consumer, whichever is sooner.
- When undertaking upgrades at a residential address, it is required for the consumer to be provided with a statement of their rights and obligations in relation to the contract, preferably in written form. It needs to account for any rights and obligations that apply to the consumer and are outlined in the [Victorian Energy Efficiency Target Act](#), the [Victorian Energy Efficiency Target Regulations](#), the [code itself](#) and Australian Consumer Law.
- Additionally, residential consumers must be provided with written terms and conditions in relation to the contract that are clear and accurate. As a minimum, they must include:
  - standard fees and charges
  - payment terms that are required to be met
  - in the event of not meeting the payment terms, any consequences for the consumer
  - cooling off periods that could apply which must be provided in a manner required under Australian Consumer Law.
- Once the above requirements have been met and you can demonstrate that the consumer has not only been informed of, but fully understands the upgrade to be carried out, a consumer provides their consent and the required work can be undertaken.
- In developing a contract, a schedule including details covering the timing for installation, replacement and decommissioning of any old equipment, must be provided to customers as part of the contract.
- The contract also needs to include the details for all scheme participants that will complete the upgrade, either in part or in full, specifically:
  - each person's full name
  - each person's business telephone number
  - each person's business email address
  - where a scheme participant undertaking the upgrade on behalf of an accredited person, the name of the accredited person they are working on behalf of.

## Installation

- Scheme participants must:
  - leave immediately when it is established that no-one aged 18 or over is at a residential premises
  - take all reasonable steps to make sure upgrades are undertaken and completed at times agreed with the consumer
  - provide notice as soon as possible if these timeframes can't be met
  - undertake upgrades in a manner consistent with the [Victorian Energy Efficiency Target Regulations](#) and [VEU specifications](#)
  - provide consumers with all the information outlined in the code about the upgrade when it's completed.

## Post completion

- Scheme participants are required to undertake all activities in accordance with the [Victorian Energy Efficiency Target Regulations](#) and the [Secretary's specifications](#). Doing this, in addition to keeping accurate records, ensures that the likelihood of providing consumers with non-complying products and services, is significantly reduced.
- Accredited persons are required to ensure they have an effective consumer complaints resolution framework that includes conduct of scheme participants acting on their behalf and covers:
  - any of the activities outlined in this summary
  - scheduling of the upgrade
  - the creation of certificates based on the completed upgrade.
- Scheme participants must be aware of the dispute or complaints resolution framework and process for the accredited person or persons you represent. As part of both lead generation and marketing activities and on completing the upgrade, it is the scheme participant's responsibility to provide the consumer with details of that process.
- In the event of a complaint is raised, it is important to address that complaint in accordance with the framework. It is recommended to work with the accredited person that a scheme participant represents, and the consumer, to ensure upgrades are compliant and that expectations are met.
- Be responsive, supportive, and able to demonstrate that the parts of the upgrade chain undertaken by scheme participants comply with the code and put the consumer first.

We strongly encourage you read the [code](#) and the [commission's guideline](#) to fully understand and be able to undertake your obligations.