



Queensland Council
of Social Service

*Australian Energy Regulator
Customer Hardship Policy
Guidelines*

QCOSS response to Version 1

March 2019

About QCOSS

The Queensland Council of Social Service (QCOSS) is the state-wide peak body representing the interests of individuals experiencing or at risk of experiencing poverty and disadvantage, and organisations working in the social and community service sector.

For 60 years, QCOSS has been a leading force for social change to build social and economic wellbeing for all. With members across the state, QCOSS supports a strong community service sector.

QCOSS, together with our members continues to play a crucial lobbying and advocacy role in a broad number of areas including:

- place-based activities
- citizen-led policy development
- cost-of-living advocacy
- sector capacity and capability building.

QCOSS is part of the national network of Councils of Social Service lending support and gaining essential insight to national and other state issues.

QCOSS is supported by the vice-regal patronage of His Excellency the Honourable Paul de Jersey AC, Governor of Queensland.

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Introduction

QCOSS welcomes this opportunity to continue to engage with the Australian Energy Regulator (AER) in developing its *Customer Hardship Policy Guidelines*. This submission should be considered in conjunction with our earlier submissions to this consultation as provided to the AER previously, including *Standardised Statements for use in customer hardship policies: QCOSS submission to the Australian Energy Regulator* (December 2018).

QCOSS key position

It is our view that the overall customer framework is not fit for purpose and remains in need of major overhaul. This submission is provided to contribute to this consultation, noting that our view is that these guidelines are a temporary fix to a system in urgent need of rethinking.

As per earlier submissions, our key position remains that:

- **access to hardship support is a priority** and the key effect of the new guidelines and standardised statements should be to 'widen the door and lower the bar' for customers who need hardship support;
- there is often no discernible difference between a customer experiencing payment difficulty due to hardship and a customer having difficulty paying for any other reason, and attempts by retailers to distinguish between them are undermining the intent of hardship policies;
- the broader guidelines (not just the standard statements) are crucial and it will be important to include strong general principles and specific outcomes in both the guidelines and the statements designed to give effect to them;
- the AER should interpret the rule as enabling them to include specific action statements in their guidelines to improve outcomes for customers experiencing payment difficulties due to hardship.

QCOSS believes that electricity is an essential service and as such, disconnection should never be an option for customers who are unable to pay. Retailers should take all steps necessary to ensure consumers are provided with all assistance necessary to help manage their financial difficulties including forgiveness of debt that is clearly unable to be repaid.

We have concerns about the draft guidelines, namely:

1. Unstated objective
2. Definitions
3. Identification of customers and information provided to customers
4. Retailer training requirements
5. Steps used to identify customers experiencing payment difficulty due to hardship
6. Consumer Rights
7. Wording of Statements
8. General Statement
9. Flexible Payment Options
10. Any other matters required by the rules

We provide Case studies to support our arguments in **Appendix A**.

1. Unstated Objective

While the guidelines are clearly designed to provide guidance to retailers as to the information they must provide and how they are required to interact with their customers, the guidelines document does not include the overall objective of those requirements – which is to protect consumers from disconnection due to hardship. We believe the guidelines document should include an objective that clearly states the intention of the Retailer's Customer Hardship Policy. This could include objectives such as:

- no consumer is disconnected from supply due to inability to pay their energy bill,
- all consumers who need assistance from their retailer will receive it, and
- all consumers are aware of their entitlement to access supply of an essential service.

2. Definitions

The AER indicates there are limitations to language used within the National Energy Retail Rules (NERR) and the National Energy Retail Law (NERL). However, we believe better clarity could be provided by changing some of the definitions and language used, as follows:

- *“Due to hardship”*: We strongly recommend removing this phrase wherever it occurs and instead refer simply to “customers experiencing payment difficulties”. This description more fully encompasses the broader spectrum of consumers experiencing payment difficulties – from those giving the earliest indications of vulnerability to payment difficulties, through to those who are already experiencing severe financial circumstances and other payment difficulties. These guidelines should aim to assist all consumers on the spectrum – whether they be at risk or already experiencing payment difficulties – as early as possible to avoid their disconnection from an essential service.
- *“Eligibility”*: Our position is that all consumers have entitlement to access an essential service and that the term “eligibility” questions this entitlement.
- *“Reasonably”*: We note that the parameters of acting “reasonably” are not described in regard to retailers’ responsibilities. The parameters of reasonability need to be clearly laid out in this document for transparency and certainty for both retailers and consumers. These parameters need to consider the perspective of what could be considered reasonable from the perspective of the consumer as well as from the retailer. Alternatively, or in addition, retailers’ decision-making processes that lead to disconnections could be put to a “Citizens Jury” or similar panel to be assessed for reasonability as viewed from the consumer perspective.
- *“In a timely manner”*: We find a similar lack of clarity around the provision of information to the customer “in a timely manner” and suggest instead providing information “within the timeframe indicated in the retailer policy”. This would require the retailer to specify that timeframe (maximum days) in their hardship policy for AER approval. This would make compliance easier and would provide measurable timeframes and realistic expectations for consumers.

3. Identification of customers and information provided to customers

We would agree that *“a retailer does not have to provide, within its hardship policy, a list of its criteria for working out a customer’s eligibility for its hardship program”* if there are none required. As previously stated, we believe the sole criterion for entry to a retailer hardship program should be that a customer is experiencing payment difficulties. We do not support a checklist of conditions that must be met in order to ‘qualify’ for assistance. Instead we recommend that any customer experiencing payment difficulty should receive information about assistance offered in order for them to be aware of their options and receive the most

appropriate support. This assistance need to be clearly described in retailer's hardship policy.

Leaving these options unspecified would create a gap in consumer information and retailer accountability. Consumers' entry into hardship programs would effectively remain at the discretion of retailers who have thus far demonstrated unreliability and inconsistency in their assessments of customers' levels of vulnerability and capacity to sustain payment plans.

Utilities industry research tells us that at any point in time around 10 per cent of Australians are in serious financial hardship and are unable to pay their bills (Thriving Communities Partnership, *Vulnerability Roundtable*, 2018). Yet only 1.1 per cent of electricity customers are on a retailer hardship program (*AER's Annual Report on compliance and performance of the retail energy market 2017-18*, 2018). If these numbers are to improve, identification and access to hardship programs must be made easier and earlier. Retailers can already address this voluntarily by:

- broadening entry eligibility criteria,
- promoting a range of hardship options to customers,
- allowing customers to self-identify the assistance required and
- supporting them to move across assistance measures without fear of disconnection.

There has been no barrier for retailers to undertake any of these hardship measures voluntarily or introduce more innovative approaches to date, yet they have not done so. Many excuses can be found for not offering an accessible hardship program, so we believe that the AER should open the hardship eligibility completely by giving entitlement and protection to any customer who asks for assistance and requiring the retailer instead to make a case why a customer should not receive the assistance requested.

A simple clear statement to that effect would communicate to consumers that they are entitled to access electricity supply as an essential service and that retailers can offer a range of assistance to the consumer to help them maintain connection to that supply when they experience payment difficulties.

If they are unclear on what assistance to expect from their retailer, consumers are unlikely to make any complaint when they are excluded or unsuccessfully exit from a hardship program. They simply become part of the unexamined 8.9 per cent of Australians caught in the gap between those struggling to pay household bills and the 1.1 per cent accepted into hardship programs.

4. Retailer training requirements

QCOSS welcomes the retailer staff training requirements laid out in the guidelines, however we would recommend that the AER sets a clear training standard for accreditation in the document. Similarly, a review process and timeframe should be attached to this requirement. Without stipulation, these processes are left to the retailer's discretion and may receive minimal attention as a result.

The case studies attached in Appendix A indicate the poor outcomes for consumers experiencing payment difficulties when the retailer staff they encounter are not adequately trained. Retailer staff who are unfamiliar with different jurisdictional issues may provide incorrect or incomplete information to customers, resulting in them missing out on crucial State-based support.

5. Steps used to identify customers experiencing payment difficulty due to hardship

We find this statement to be a curious inclusion and recommend it be made a Note to the topic rather than part of the Guidelines. In relation to quantifying a debt trigger, we encourage the AER to consider harmonising with the Victorian Payment Difficulty Framework which sets a nominal figure of \$55, subject to review after a 12-month trial period.

6. Consumer Rights

We note the Standardised Statements do not require the retailer to list the rights of the consumer. These include access Ombudsman schemes in the relevant jurisdictions, complaint management processes and contact details for the AER in the event of a retailer not fulfilling their part of hardship agreement. A customer is unlikely to complain about a retailer not fulfilling their promise if they do not know who to complain to. A simple flowchart could be included to indicate where a consumer can access further assistance or advocacy to avoid disconnection.

7. Wording of statements

Throughout this section as with other sections, we recommend removing the phrase 'due to hardship' and instead refer simply to 'customers experiencing payment difficulty'.

8. General statement

When a consumer experiencing payment difficulties mentions personal circumstances to the retailer, they should be offered assistance by the retailer without having to explicitly name the circumstances. As previously stated, we do not think that customers should have to 'apply' for entry into a retailer hardship program but should be automatically entered when they request assistance and be supported to access the most appropriate assistance.

9. Flexible Payment Options

We highly recommend that retailers include incentives such as matched payments in Table 1: Item 3 where flexible payment options are explained. Retailers might find that communications from customers are more forthcoming if there were some positive consequences for making payments as per agreement. Instead of listing the negative outcomes of failing to meet payment schedules, including 'risk of disconnection', retailers should be encouraged to include some form of recognition when a customer completes various stages of their agreement. Reinforcement of positive behaviour with rewards is well-recognised as a successful motivator in education and training programs and in loyalty programs across other retail sectors.

10. Any other matters required by the Rules

Under the Rules, late payment fees for hardship customers and security deposits generally are disallowed so it is superfluous telling customers that the retailer will not do either of these. However, if a retailer chooses to waive any late payment fees that were incurred before a customer receives assistance through a hardship program, that information should be provided in the flexible payments section. To mention not putting a consumer on 'a shortened collection cycle' is confusing and may cause unnecessary concern for consumers who may be unaware that such a thing is possible without their consent.

Appendix A

Case study 1: Bob – failure to identify and respond to customers in hardship

Bob is 49 years old. He has worked in the building industry most of his life. He lost his casual employment when he broke his ankle outside of work hours last October and went onto Centrelink payments 6 weeks later. His sickness allowance is \$610 per fortnight. He also receives \$150 per fortnight to care for his son. His rent is \$660 per fortnight, leaving the father and son \$100 for food, electricity, transport, telecommunications, medications and other living expenses. Bob had never been on Centrelink payments before and did not realise he could get an electricity rebate now with his Health Care Card just by telling the retailer his card details.

The first electricity bill after his accident was due in November. Bob realised he would not be able to pay it and contacted the retailer before the due date. He explained that he was unable to pay it because he had lost his job. This did not trigger access to the retailer's hardship program. Instead he was offered a payment plan of \$60 per fortnight. At that time he didn't know exactly how much his Centrelink payments would be or when he would receive the first payment. He asked for a smaller payment amount of \$20 but was told that he had to cover his usage so that he wouldn't fall behind. He agreed even though he knew he wouldn't be able to sustain it, as he was worried that he would be disconnected if he didn't.

By the time the second bill arrived in January, he had only paid two of the payments and now owed his retailer \$450. He contacted the energy retailer again, but they said because he had already broken his first payment agreement, they wanted him to pay them \$80 immediately to avoid disconnection. He did not have \$80 in his bank account. He told them his Centrelink income and the amount left after rent and food. They advised him to contact QCOSS for information on where he could get further assistance. It is unclear to QCOSS why the referral was made to us as we do not provide financial counselling or other direct services to customers. At no time did the retailer mention their own retailer hardship program or the Queensland Government's Home Energy Emergency Assistance Scheme (HEEAS) which would have paid the entire \$450 bill. It was only at this point that they asked him if he had a concession card and applied the concession from that date onwards but said they could not backdate it to the start date on the card or the date he first called them.

QCOSS advised him to call the retailer again, tell them that he was still experiencing financial hardship and ask to go on their hardship program. He was told to insist that they generate a HEEAS application and provide the application number to him over the phone. Once a HEEAS application is generated, a customer cannot be disconnected until the outcome is known. Bob was angry that his retailer had not told him this and instead forced him to ring and tell his story to even more people. He said his situation was humiliating enough without having to call retailers and beg for consideration. He said he had never missed paying an electricity bill with that retailer before his accident and thought they should have taken that into account.

This case study was shared with retailers at the meeting hosted by the AER on 25 February 2019. QCOSS did not (and will not) reveal the retailer depicted in this case study. However we note that the retailer in question was very clear in the meeting that this circumstance would never happen to one of their customers. This highlights the disconnect between the position of retailers in this consultation as compared to the real experiences of their customers.

Case study 2: John – no access to hardship programs or best deal available

John is 32 years old and lives alone in a rental property in the Logan area since his mother, who John had been caring for, passed away about 18 months earlier. John had been struggling to pay his electricity bills during this time and had accumulated a debt of \$6,000. He was on a Pay On Time discount (which he never received) and was receiving the Queensland government's electricity rebate. His only income is Newstart Allowance - about \$450 per fortnight.

When John engaged with his retailer, they asked him to pay \$300 per fortnight to cover the expected usage and accumulated debt. He was obviously unable to sustain this amount on Newstart Allowance and kept missing payments. When he tried to talk to his retailer, he was not offered any assistance beyond the payment plan and he was not able to negotiate a more sustainable amount. He would often get frustrated that the retailer was not listening to him. After 18 months of this, and numerous periods of being without power, John sought help from a community organisation called Multilink.

John had been without power for five days when he came to Multilink. The retailer was asking John for an upfront payment of \$1,500 to be reconnected. Multilink spent almost an hour on the phone to the retailer to get John reconnected before the weekend. It was around 4pm on a Friday afternoon and the retailer was insisting that they could not do it as it was past 5pm – they were in a state that had daylight savings. Multilink renegotiated the payment plan and the retailer eventually offered \$50 per fortnight, an amount that would leave John in debt indefinitely. John was never offered a cheaper deal (he was left on the Pay On Time discount which he never received), no-one ever spoke to him about the Home Energy Emergency Assistance Scheme, and he was never offered any other assistance to try to get his bills down or address the large accumulated debt. The retailer would not let John switch retailers until the debt was repaid.

After three months of persistent contact by Multilink, the retailer offered John a payment a payout figure of \$1,500. He was able to borrow this money from his dad, paid out the amount and immediately switched to another retailer.

John was never offered any hardship assistance from his retailer. A payment plan was not enough.

Case Study 3: BC – systemic issues revealed in retailer response

BC was unable to pay his most recent electricity bill which was \$679, and much higher than the usual bill of around \$350. His call history to Retailer B is as follows:

- 23 August – BC spoke to his retailer and was told that they would send him an application form to the Home Energy Emergency Assistance Scheme (HEEAS) in the post.
- 31 August – BC followed up and was told that it would be there by following Tuesday
- 4 September – BC referred to resolutions department who told him that the form had been sent but that it would be sent again
- 11 September – BC spoke to resolutions department again who provided him with the grant number XXX XXXX
- 18 September – BC spoke to the resolutions department again and was given the QCOSS phone number. BC is also annoyed that Retailer B has put the onus back on him to resolve by giving him the QCOSS number. BC does not have access to internet, email or printer so cannot access the form himself on QCOSS website.

Case Study 4: Retailer not meeting obligations under NERR - Sc 33 (3)

Client M contacted me (community worker) for assistance with her electricity bill. M meets the eligibility for HEEAS grant as she has a Health Care Card, spent \$550 on a new fridge last month and does not believe she has received HEEAS in the past. She has been a customer of her retailer for less than a year. Client M contacted her retailer on Thursday 4/10 to request HEEAS application form. Client M's first language is not English, so the retailer provided an interpreter, who happened to be the same interpreter that had been used in my initial conversation with M, so the interpreter had good understanding of the purpose of the call.

We spoke to retailer staff member "J" and explained that we wanted to apply for HEEAS. J directed us to the QCOSS website to obtain the application form, and said it is not available from the retailer. I asked if we could get the application number and due date to enter into the form. J said these were only available from Dept Communities Concession Services.

Client M also offered to set up \$40/fortnight payment plan. J attempted to transfer our call to credit management team but as soon as J left the conversation we heard the end of call survey and then the phone disconnected. No payment plan had been set up, but I encouraged M to make small payments fortnightly at the post office.

We then called Concession Services, and a staff member there confirmed that the application number and due date must be generated by the retailer and that the application will not be accepted by Dept Communities without this. They suggested we call the retailer again and ask to speak to a manager. We called the retailer again, this time without the interpreter (as we were running out of time). We spoke to a different staff member "B" who tried to tell us that the account number and payment due date were the same as the application number and application due date. I asked to speak to a manager, was put on hold and then staff member B returned to tell me he would get somebody from their hardship team to call back with the details. I clarified that this information would be released to me (Community Worker) if M was not present, staff member B said it would be.

There was no response from the retailer for two days so I called the retailer again on 8/10, and spoke to Staff member "C". I explained that I need an application number and due date to progress a HEEAS application. C accessed M's file and read notes from phone calls last week. I acknowledged that I had obtained the HEEAS form from QCOSS website but required the application number and due date. C said that she could see that a message had been sent to their hardship team but that the application can take 8-10 week and that the retailer has no control over the outcome of the HEEAS application. I agreed with this but explained that I need the application number in order to lodge the form before the 8-10 weeks will start. C again told me that Dept Communities Concession Services supply this number. I stated that I had contacted them last week and that they had advised that the retailer must generate the number. C said there is nothing that the retailer could do at this time and we need to wait the 8-10 weeks before we can expect to hear from the hardship team. Each of the 3 retailer staff members I spoke to put me on hold at least once to check details.

I contacted Concession Services on 9/10 to inform them of the barrier to accessing HEEAS. They offered to follow up with the retailer and arranged for a form to be sent to M. M came to (Community Organisation) on 22/10. Client M above was offered a \$208 discount if she paid the bill on time but unfortunately did not have the funds available.

I have concerns about how the retailer is responding to customers experiencing hardship. A number of our clients have switched to them because of their advertised discounts but if they experience financial hardship they lose the discounts anyway, and from the above experience are also being kept out of accessing government hardship provisions. This is something that clients should be able to do on their own.