

29<sup>th</sup> November 2021

**Submitted via Engage Victoria**  
Commissioners  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne, VIC 3000

## **Payment difficulty framework implementation review: feedback on key review questions**

Financial Counselling Victoria (FCVic) welcomes the opportunity to contribute to the Essential Services Commission's (ESC) review of the implementation of the energy payment difficulty framework (PDF) since its commencement on 1 January 2019.

This submission responds to a selection of the key review questions the Commission is seeking feedback on. We understand that Consumer Action Law Centre are providing case studies from financial counsellors in their submission to this review. We believe those case studies provide eloquent support for the points made in this submission.

### **About Financial Counselling Victoria**

Financial Counselling Victoria (FCVic) is the peak, professional body for financial counsellors in Victoria. Financial counselling is a regulated profession providing free, confidential and independent advice and advocacy for people in, or at risk of, financial hardship. FCVic advocates on behalf of financial counsellors and their clients on systemic issues that cause and exacerbate poverty and hardship.

## Key review questions

**1. How are the entitlements under the framework communicated to customers (from a single retailer, and across the sector)? From your experience, are the ways they are communicated clear and consistent?**

Communication with customers about their entitlements is unclear and inconsistent both across the sector and within single retailers (that is, communication varies depending on who you speak to at a given retailer). Financial counsellors have little confidence that consumers are receiving consistent and reliable information from retailers about entitlements under the framework.

FCVic members suggest that there should be a requirement for information about entitlements under the PDF to be provided in simple language and large font on all energy bills. This would ensure consistent written messaging across different retailers.

**2. How much do you think customers are aware of, or understand, their entitlements?**

Financial counsellors commonly see clients who, following contact as customers with their retailer, have been given little or no idea of their entitlements, and no meaningful access to them.

Consequently, financial counsellors are concerned that many customers are missing out on their entitlements because they are not aware of them or do not understand how to ask for them. Entitlements under the PDF are not visible or accessible enough for many customers, including the particularly vulnerable cohorts who are engaged with financial counsellors. One financial counsellor we consulted in preparing this submission said, 'hardship is almost like a secret society - you have to know the right words and what you are entitled to'.

It can also be difficult for customers to access information about their entitlements because many retailers have put in place systems that prioritise putting the customer on a payment plan before, or instead of, initiating a Utility Relief Grant (URG) application. The payment plan arrangements are put forward as non-negotiable, due to either inadequate training of call centre workers in matters of financial hardship and vulnerability, or inappropriate scripts and incentives for retail staff. This often puts the customer in a worse position as payment plans are often proposed as non-negotiable and are often unreasonable and unsustainable.

**3. How helpful and practical has the payment difficulty assistance provided to customers been?**

In the experience of financial counsellors, retailer responses to payment difficulty assistance requests from customers are frequently poor.

When customers contact retailers and disclose that they are having difficulty paying bills, they should be offered appropriate payment difficulty assistance. However, it is clear the retailer staff are often so poorly trained and supported that they have no workable understanding of how to apply 'appropriate payment difficulty assistance' to the complex situations that customers seeking that assistance are

living in. Moreover, the staff often seem to be working to scripts that in themselves cannot allow meaningful and appropriate assistance to be provided. Financial counsellors report to us as commonplace retailers responding inappropriately to diverse customer situations – for example, insisting customers negotiate a payment plan while leaving the customer unaware of URGS entitlements, or refusing to set up a Centrepay payment arrangement.

Retailers often refer customers to practical advice about reducing energy usage. While this can be useful in some contexts, it can sometimes appear condescending, reflecting a lack of understanding about the personal circumstances of the customer.

There are occasional examples of individual retailer staff being consistently considerate, supportive and effective in their customer assistance or interactions with financial counsellors, but these are the exceptions to the rule of generally poor retailer systems ensuring compliance with the PDF and providing good quality support for customers experiencing payment difficulties.

#### **4. How confident are you when advocating on behalf of someone to access support under the framework?**

Financial counsellors are well versed in the framework supports and entitlements and their legal standing. However, they lack confidence that retailers will apply or even understand their own obligations under the framework. Retailers consistently fail to recognise financial counsellors as authorised customer representatives (including not accepting third party authorisation) or do not respect their capacity to represent their clients.

This lack of confidence in retailers making appropriate responses to financial counsellors as advocates links to a lack of confidence that unrepresented customers are being responded to appropriately, or that clients who should be able to self-advocate are being undermined and disempowered in those endeavours.

Confidence in the system is also shaken when capable customers who are self-advocating are rejected or ignored, and financial counsellors who ask for the same things on the same basis of arguments are then promptly agreed with by the retailer. Respect for the customer must lie at the core of respect for the advocate, and treating advocates inconsistently fundamentally undermines confidence in the retailer's good offices.

#### **5. Have you observed a change in customer satisfaction of their engagement with retailers about their entitlements? If so, to what extent and why?**

It is difficult to measure change in customer satisfaction of their engagement with retailers about their entitlements as people do not usually report back to advocates if they are able to find the help themselves, or if satisfied will not have needed an advocate in the first place.

The observations above point to a risk that apparent 'customer satisfaction' may be driven by customer lack of awareness of their entitlements and the extent to which they are being denied access to them.

Given customers dealing with payment difficulties are affected by complex dynamics of shame and stigma, it is important to be careful in assessing apparent customer satisfaction levels.

For the customers financial counsellors work with, the issue is typically not engagement but rather the visibility and accessibility of entitlements, clarity of communication about how to contact retailers, and behaviour of retailers once contact has been made. One bad experience with a retailer contact can poison the engagement well for a long time.

### **7. What aspects of the framework have been working well?**

The PDF has improved awareness of vulnerability. Notwithstanding the inconsistencies we note, retailers' sense of an obligation to assist customers in financial difficulty is generally better than it was prior to the implementation of the PDF.

The framework is useful to the extent that financial counsellors can refer to it and ensure better and fairer outcomes for their clients, with support from EWOV and the ESC. The requirement regarding the obligation of retailers to help consumers has been helpful in terms of assisting some clients, who have disengaged from their retailers out of fear of disconnection, to re-engage with the support of a financial counsellor.

Use of disconnection – both as a threat and as an actuality – seems to have decreased, which is very encouraging. However it is difficult to say how much this relates to the implementation of the PDF versus the impacts of additional regulatory responses to the COVID-19 pandemic.

As financial counsellors represent a small part of the consumer population, it is difficult to assess the success of the PDF implementation without access to wider data. Ongoing forums of advocates, retailers and customers could be helpful in both gathering feedback and suggesting how to design appropriate data collection on this.

### **8. Have you, as a consumer representative, energy retailer, or other stakeholder, encountered any barriers or difficulties during the implementation of the framework?**

Victim survivors of family violence, as well as people in custody, face additional barriers which have not been adequately addressed in the implementation of the framework:

#### **Family Violence (FV)**

- Customers impacted by FV are being pursued for debts relating to old properties that they've fled.
- Payment plans are unrealistic and unfeasible for a lot of customers impacted by FV, especially those on Centrelink payments who have both ongoing accounts and old accounts.
- Lack of compassion shown by retailers. Some financial counsellors have commented that in their experience debt collectors can be more compassionate in relation to FV debts than energy retailers.

- When debts from multiple previous properties are consolidated it is difficult to understand which debt is which – especially when customer has had to flee because of FV.
- Some retailers are still asking for (often substantial) evidence of FV in relation to URGS applications.

#### **Prisoners**

- 50% of the prison population are currently on remand, and without certainty as to the length of their incarceration. Many of these people need to maintain service connections but have no income to pay the service fees.

### **9. Are there areas of the framework that you found confusing or unclear?**

Some financial counsellors have suggested the terminology 'Payment Difficulty Framework' is too cumbersome and confusing, and the language used to communicate with customers about entitlements could be clearer and simpler.

### **11. Are there other problems faced by energy customers that may not be covered by the payment difficulty framework?**

- The framework does not adequately address the reality that some cohorts cannot afford to pay for their ongoing energy consumption. There is a need to better address situations where significant debt has been allowed to accrue that goes way beyond the capacity of a customer to pay. We support Consumer Action Law Centre's submission on the need for the PDF to address large energy debt and debts on closed accounts.
- The PDF's 2-year time frame for repayments has led to retailers adopting rigid time limits on payment plans that are unaffordable. Fee waivers need to be provided for certain types of debt situations that cannot be resolved through payment plans and URGs.
- First Nations customers need specific supports that are culturally safe; for example, a requirement that they be contacted by a liaison officer prior to disconnection.
- The PDF should specifically prohibit the offering of 'Buy Now Pay Later' (Afterpay, Klarna, Zip Pay etc.) as a payment method. It is dangerous and destructive to invite people experiencing payment difficulties to use unregulated lending products, effectively outsourcing utility debt collection process into the financial services sector.
- The PDF should be amended to prevent disconnections where a customer is making payments.
- Enforcement and compliance activities to support the PDF in the face of the systemic problems we identify in this feedback need to be considered in more detail, including auditing for compliance.

- The PDF should require that reviews of payment plans occur at an appropriate frequency. Many retailers have review periods of only 3 or 6 months for payment plans, irrespective of the customer's circumstances. This means the retailer will attempt to contact the customer to review the plan after only 3 or 6 months and will cancel the plan if, for some reason, they are unable to contact the customer. This then forces the financial counsellor to become engaged with the retailer again to re-establish an affordable plan, which is almost always the same plan the customer was on previously. It is unnecessary and frustrating for customers and financial counsellors to go through this process so frequently when the circumstances for these customers have usually not changed and a 12-month review period, for example, would be more appropriate.

Thank you for the opportunity to provide feedback on the Commission's key review questions as part of the review of the implementation of the PDF. Please contact Georgia Robenstone on 0482 688 793 or at [grobenstone@fcvic.org.au](mailto:grobenstone@fcvic.org.au) if you have any questions about this submission.

Yours Sincerely,



Sandy Ross, Executive Officer  
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