

Monday, 25 July 2022

Submitted via Engage Victoria

Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Dear Commissioners

Water Customer Service Codes Review

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide feedback on the Essential Services Commission's (**the ESC**) proposed amendments to the water customer service codes.

Overall, we broadly support the amendments proposed by the ESC. As one of the operators of the National Debt Helpline (**NDH**) in Victoria, Consumer Action is well placed to comment on how the proposed updates to the codes will impact the people who call our service seeking help with their utility bills, particularly people in financial difficulty or other vulnerable circumstances.

We typically receive only a small number of calls each year where people report water-related debt being the primary source of their financial hardship. However, we frequently hear from callers with multiple debts who report overdue water bills as one of the debts they are dealing with. Although water businesses have provided good support to customers in financial hardship over the past two years (as typified by the relatively low number of calls we receive from people to discuss water-related debts) we agree with the ESC that a key outcome of the review should be to embed many of the support measures developed during the pandemic, to ensure these improvements are maintained in the future. This enhanced support is critical given that access to water is a basic human right. All Victorians are entitled to a supply of water necessary for an adequate standard of living.

Furthermore, we note the importance of ensuring consistency in customer protections as another key outcome from this review. This relates both to consistency across water businesses, so that Victorians can expect to receive the same support irrespective of where they live, but also through increased alignment with the Energy Retail Code, so that customers receive consistent protections across all their utilities. Having consistent processes and supports across utilities will both aid people's awareness of the supports available to them, as well as make the processes easier to navigate. This consistency will also aid community support workers who are assisting people to deal with their debts and access hardship arrangements, which is important given the constraints of limited resources and high demand that many of these organisations are working within.

More detailed comments in response to the proposed amendments, as well as several suggested further amendments, are provided below. For ease of explanation, our submission refers to the clauses as numbered in the Draft Water Industry Standard – Urban Customer Service. However, all the changes we recommend be made to the urban code should also be reflected in the Rural Customer Service code.



About Consumer Action Law Centre

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

Response to selected amendments

Identifying hardship

In our experience, people (including those at risk of payment difficulty) are generally not aware of the supports available to them. When speaking to people dealing with utility debts, our financial counsellors will often spend time explaining the supports available and providing that person with enough information that they feel confident to approach the business and self-advocate for support. However, by the time someone contacts our service they are likely to have already accrued significant debts. Improving the degree to which water businesses are proactively identifying customers in potential hardship and engaging with them would result in more people getting earlier assistance. This early engagement is critical—if someone enters a hardship program already owing a sizeable debt, they are unlikely to be able to repay this amount, unless their circumstances change significantly. We know that many people face multiple barriers in seeking assistance—they may not know where to go for help, may feel a sense of shame that precludes them seeking help, or have so much else going on in their life that they do not have the time and energy to navigate the systems required to gain access to the supports available to them. Requiring businesses to have processes to identify and engage with households in financial stress will reduce the burden on households to self-identify. This will also benefit businesses through a likely reduction in overall customer debt, whereby people are identified and assisted under customer support programs before they accrue debt which they may be unable to repay.

For these reasons we support the proposal to insert clause 8 (Proactive customer engagement) into the updated code. Given the customer data businesses hold, we consider that they are well-placed to identify potential hardship, including where people repeatedly pay bills late, submit questions/enquiries, or have large increases in their usage. The latter point will only become more salient as digital meters are increasingly rolled out and businesses can rapidly identify potential leaks which can result in large bills and cause financial hardship.

Flexible payment plans

We support the proposed changes to clause 7.2 to incorporate terminology around modifying payment plans and specifying the minimum information requirements in a schedule of payments provided to customers.

Problems with payment plans are one of, if not the most, frequent issue people report to us in relation to their utility debts. When agreeing a payment plan, it is vital that people are trusted to nominate an amount that is affordable for them, but also to be able to vary it when circumstances necessitate. People's income may fluctuate, or other urgent, unforeseen expenses may result in them being unable to meet the originally agreed amount or the schedule of payments, either temporarily or more long-term. When this happens, people must be



supported to modify their plan. If not, people may be forced to either access credit or forego spending on other essentials to keep up with repayments.

We also regularly hear from people unhappy with their utility provider because there has been disagreement as to the terms of the agreed payment plan. To avoid this, we consider it is important to have clear, plain English explanation of plan that has been agreed, in line with the schedule outlined in the updated clause. Although we note that water businesses are not required to offer these arrangements, we are aware that some businesses offer payment matching or debt waivers as part of payment plans. We have had people call our service due to issues with the application of payment matching or waivers. Where these arrangements are agreed, we recommend they are also included in the payment schedule given to the customer so the terms of these arrangements are clear and can be referred to in the case of disputes around the terms of the plan.

RECOMMENDATION 1. Add a further item under sub-clause 7.2 to require any payment matching arrangement or waiver of debt (where agreed) to be documented in the payment schedule provided to a customer.

Payment difficulties assistance

We strongly support the introduction of clause 10.1 to expand the support options available to people experiencing payment difficulties. As the ESC's own data shows, water customers are continuing to receive hardship assistance in significant numbers. In May 2022, an average of 417 customers were entering hardship programs each week, and there were a weekly average 634 Utility Relief Grant Scheme (URGS) applications submitted.¹ It is essential that the additional customer supports developed in response to the pandemic are retained and become part of business as usual, so that people experiencing financial hardship in the future have access to enhanced support.

In particular, we note the importance of the proposed amendment to require water businesses to help customers apply for bill assistance via URGS. We were supportive of this requirement when it was originally introduced for energy businesses in October 2020, as failure by retailers to make customers aware of URGS, or to assist them to apply for the grant, had long been one of the most common issues noted by our financial counsellors when assisting with utility debt. Although we understand some water businesses are performing better than energy retailers with respect to assisting customers with URGS applications, we still consider it important to introduce this obligation both to ensure consistency in protections across utilities and to ensure as many eligible customers as possible are accessing the scheme. The \$650 available makes a significant contribution to bill affordability, so it is vital to maximise the number of eligible people successfully applying for the grant. The positive impact of this change in the energy sector should be seen as further reason to introduce this obligation for water business. The ESC's findings report on the Payment Difficulty Framework Implementation Review states:

Before these obligations were placed on retailers, around 39 to 40 per cent of requested application forms for utility relief grants were being completed and submitted for approval. Since the introduction of the new obligation, this increased to 77 per cent in the proportion of grant application forms being submitted after being requested (between 2018-19 and 2021-22) (Figure 26). Importantly, 96 per cent of these submitted forms have been approved in 2021-22²

¹ Essential Services Commission (June 2022), [Victorian water businesses – response to coronavirus: Summary report – covering data to 29 May 2022](#), p.2-3

² Essential Services Commission (May 2022), [Payment difficulty framework implementation review 2022](#), p. 80

Even though many water businesses are starting from a more advanced point than energy retailers in terms of assisting customers to apply for the grant, any similar increase in submitted applications because of this change would be of significant benefit to people experiencing financial hardship.

Similarly, we are supportive of the proposed changes to include additional support measures that a business may consider offering to customers experiencing payment difficulties. However, we recommend that two further amendments be made—firstly, that suspension of arrears to allow a usage-only payment plan is offered to all customers unable to pay ongoing usage (as is the case for energy) and, secondly, that payment matching arrangements are included under the measures that a business may consider offering, as this would codify a support option that we understand at least some water businesses are already offering. Both measures can help to significantly reduce debt and manage ongoing affordability among people who may find themselves in more severe or protracted financial difficulty.

RECOMMENDATION 2. The current subclause under 10.1(d) relating to 'suspension of collection of arrears to allow for a usage only payment plan for a period negotiated with the customer' be elevated into clause 10.1(c) as a support that must be offered to customers participating in hardship programs.

RECOMMENDATION 3. Payment matching arrangements be inserted into clause 10.1(d) as an item that a business may offer a customer experiencing payment difficulties.

Customer support policy – residential customer

We are supportive of the proposed amendments to require businesses to have a customer support policy which applies to any customer identified by themselves, the business or an accredited financial counsellor as experiencing payment difficulties. Anything that reduces the burden on customers to self-identify is a positive step. As we noted earlier in this submission, many of our clients face multiple barriers to engagement, so it is critical that accessing support is as easy as possible. In line with this ease of access, we suggest that the ESC consider expanding the relevant clause to allow for a customer's chosen support person or other community workers to register someone for support.

RECOMMENDATION 4. Clause 10.2(a) be expanded to permit a customer's chosen support person or other community workers to register a person for customer support.

We also support the intention to retain the requirement that businesses must waive any interest on debts accrued prior to customer's accessing hardship support, as well as exempting these customers from interest being charged on further overdue amounts. Where people are experiencing financial hardship, providers of essential services must not exacerbate financial difficulties through additional charges. In line with this, we also support the proposal to suspend the sale of debt for people participating in customer support programs. It is our view that utility debt should not be sold to external collection agencies, especially so for customers who are in financial hardship. Where debt is sold to external collection agencies, unfair or harsh debt collection practices can have adverse consequences for people, causing them stress and anguish. We commonly see people pressured by debt collectors to make payments they cannot afford, which can also impact their ability to obtain future credit or services.

Furthermore, we are supportive of the change to use 'customer support' rather than 'hardship', aligning with the shift in language in the ESC's Getting to Fair strategy, and noting that many water business are already using this terminology. We consider it important to use inclusive language that people would use themselves. This shift to use 'support' rather than 'hardship' aligns with that approach.



Meeting the communication needs of customers

Improving communication is critical to improving support to customers in financial difficulty. To this end, we consider the proposed updates to require water businesses to use a customer's preferred method of communication, and for communications to be in plain language, to be positive changes. This is also the case for the proposed principle that sensitive and appropriate language must be used in collection notices. We consider that this should be standard practice for businesses which deliver essential services. Many people calling our financial counsellors about utility issues do so after speaking to their provider and having a negative interaction. Improving the quality of communication will go a long way to increasing trust in businesses and prevent customers from disengaging.

As discussed earlier in this submission, many people calling our financial counsellors face multiple barriers in accessing support. For this reason, we support the proposed addition of a new clause that a customer can choose their own support person or representative. We consider that this will facilitate more effective communication between the customer and their water business and enable people to better access the supports available to them, in situations where the customer is unable to engage with the business.

We are also supportive of the proposal for water business to notify customers of proposed variation in charges at least five business days before they take effect, in line with the Energy Retail Code. As we noted at the outset of this submission, it is critical that customers have consistent protections across utilities. Ensuring people receive prompt notice of variation of charges is vital at time of high inflation and rising cost of living pressures. This is especially the case for people who experiencing financial hardship who have the least capacity to absorb price rises. Ensuring these customers receive more timely notice of variation in charges will better allow them to plan for how they will pay for these costs, including reaching out to the water business to discuss support options where people will not be able to afford price increases.

Reflecting contemporary changes to technology and communication methods

Noting the growing prevalence of e-bills, we support the proposal to specify standardised information that should be contained in e-bills. We consider that the current list of minimum requirements (link to the full bill; amount payable and due date; current water usage; information about available support) strikes the appropriate balance between containing enough of the important information, and not being overly complicated or overwhelming for people to read.

We also support the proposal to allow customers to submit self-reads in response to an estimated bill. Given some water businesses already allow this practice, it is important that this is extended to all customers, as well as for consistency with energy. This change will also benefit customers who may feel uncomfortable with someone accessing their property to perform a meter read. We agree with the ESC's proposal that customers should not be charged a fee for a special meter read where they are performing a self-read or their water business is using digital metering. We agree also that customers in hardship programs should not be charged for special meter reads, so that people already facing financial difficulty are not burdened with extra costs.

As mentioned earlier in this submission, we receive only a small number of calls where water bills are the primary reason for someone's financial hardship. The water-related calls we do receive commonly involve unexpected large bills, often related to leaks. People on low or fixed incomes are most exposed to 'bill shock', having the least ability to absorb large, unexpected costs. The proposal to reduce the undercharging period from twelve months down to four months will help to reduce these instances of bill shock, and the associated financial



hardship that can result from someone receiving a sizeable back-bill. Although we acknowledge that water businesses read meters less frequently than energy retailers, we still consider it important that this change is made to both reduce cases of financial hardship linked to sizeable back bills, and to align the protections for water with those for energy. Maintaining the current disparity will undermine customer understanding of protections, as well as damage trust of water businesses in instances where customers receive large back bills. We also note that over time, the rollout of digital meters will also make it easier for water business to meet this standard.

Actions for non-payment

We are supportive of the proposal to update minimum requirements for reminder and warning notices so that all water customers receive consistent protections. Given the need for clear communication with customers, we agree with the proposed update to replace the term 'warning' with 'final' and for businesses to explain what a person must do to avoid further action, albeit noting that this information must be provided to customers in a sensitive and appropriate fashion.

However, we recommend the ESC consider extending the six-business day 'due date' for people to respond to the reminder and final notices. Many of the people we speak to are dealing with multiple barriers, such as mental health challenges, caring responsibilities, or other debt issues, which can make taking timely action difficult. While acknowledging the intention of this change to prompt timely engagement, it is critical that the timing of the process does not add to the stress people may be experiencing. We consider that extending this due date would give people breathing room to assess their situation and act. This may include people seeking assistance from services such as ours in instances where customers are unable to self-advocate and need support to engage with their water business.

RECOMMENDATION 5. That Clause 15.2(b) is updated to extend the 'due date' before a business can commence to further action from 6 to 11 days, providing people an additional business week to respond.

We also support the proposed updates to restriction action, including that restriction be a measure of last resort, that customers receiving any form of assistance for payment difficulties cannot have their supply restricted; and that water businesses have processes in place to identify if a person at a property is on life support and that these households are not subject to restriction. While we agree with the need to update the threshold for restriction, we recommend that the ESC consider lifting the proposed threshold to \$600 (i.e. equivalent to 6 months of an average bill). Given that many customers still receive a quarterly bill, people should not be at risk of restriction after a single unpaid billing cycle, especially for a service as essential to human wellbeing as water.

RECOMMENDATION 6. Clause 16.2(c) be updated to set the amount at \$600 before a water business can commence legal action or take steps to restrict a customer's service.

Hardship related Guaranteed Service Level (reasonable endeavours) checklist

Finally, we are also supportive of the proposal to update the hardship related GSL checklist to introduce a list of methods that water businesses can use to contact a customer prior to restricting supply.

We originally provided feedback to this effect in the workshops held as part of this review, noting that registered post may not always be the most appropriate communication method and that businesses should seek to use a customer's preferred communication method (where this information is available). In line with this feedback, we



consider that the proposed update to communication requirements will permit water businesses to employ a wider range of communications when contacting their customers.

However, we raise two points with regards to the proposed updates. Firstly, with respect to the inclusion of 'other forms of digital communication' on the checklist we query what this would involve. While appreciative of the attempt to capture emerging communications methods, we consider that it may be preferable to remove this item so there is clarity around the specific communication methods which can be used in customer communications. If certain future digital communication methods gain enough prominence to be an appropriate channel for customer communications, we consider that these specific methods could be added during future updates to the code.

Secondly, we also question whether the list may be further strengthened by specifying if at least one form of contact must be a phone call or site visit. While we are supportive of broadening the checklist to include more modern communication methods, we also note that as currently written a business would be compliant if it contacted a customer through two emails, an SMS, and a letter. While these types of asynchronous communication can be beneficial in allowing customers time to absorb the information provided and contact their water business at their own convenience, we consider that it is critical that people can speak to someone in real-time. This is critical so people can ask questions and have the process explained to them by a representative of their water business. We consider that the communication process will function most effectively via a combination of synchronous and asynchronous communication. Although there will be a small minority of people who may prefer not to speak to someone directly, we note that additional changes proposed under this review to require water business to take reasonable steps to meet their customer's communication preferences and to allow a customer to choose a support person or representative, will offer protections for these people.

RECOMMENDATION 7. Item 'VII. other forms of digital communication' under Clause 15.4(c)i) be removed.

RECOMMENDATION 8. Clause 15.4 (c) be updated to require one of the four communication attempts to be a phone call or site visit.

Thank you again for the opportunity to provide feedback on the proposed updates to the codes. If you would like to discuss any issues raised in this submission in more detail, please do not hesitate to contact Luke Lovell, Senior Policy Officer (Energy and Water) on 03 9670 5088 or at luke@consumeraction.org.au.

Yours faithfully,

CONSUMER ACTION LAW CENTRE



Gerard Brody

Chief Executive Officer

