consumer action law centre

June 2024

Energy Assistance Report

4th Edition

Keeping The Lights On – How Victoria's energy policies are impacting Victorian households

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Acknowledgment

Consumer Action Law Centre is located on the lands of the Wurundjeri peoples of the Kulin Nation. We acknowledge that their sovereignty of their lands was never ceded and pay our respects to their elders past and present. We acknowledge all Traditional Owners of Country throughout Australia and recognise their continuing connection to their lands and waterways.

This report is part of a work program made possible through funding by the Department of Environment, Energy and Climate Action (**DEECA**). The views expressed in this report do not necessarily reflect those of DEECA.

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About

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.

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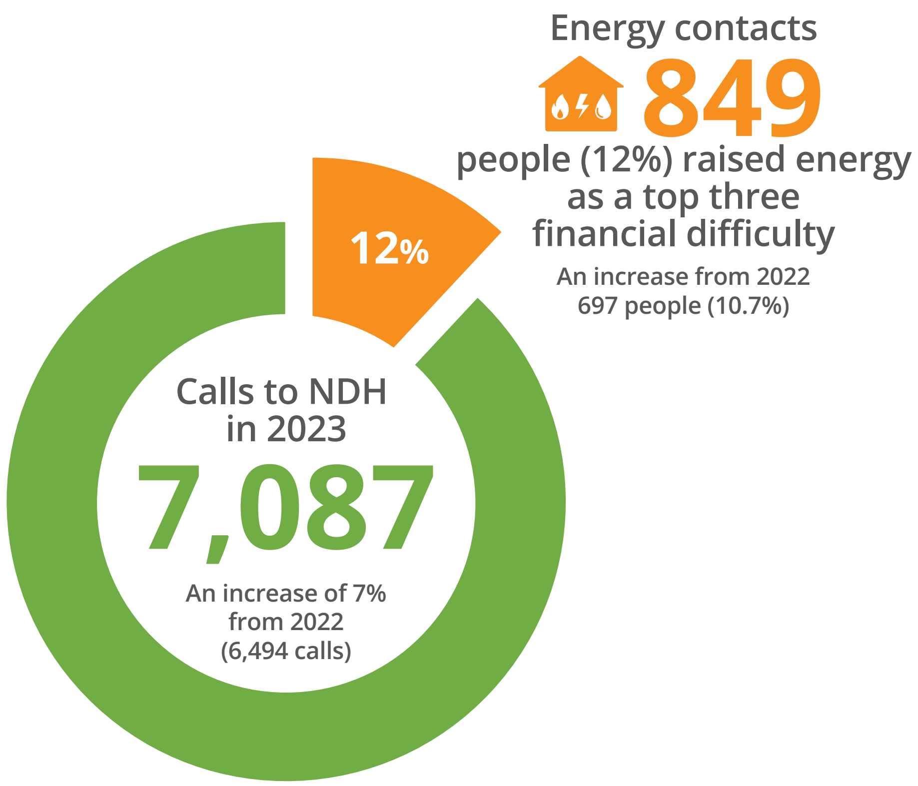
01 KEY FINDINGS

In 2023 Consumer Action Law Centre's Financial Counsellors via the National Debt Helpline (**NDH**) assisted 7,087 people from across Victoria who contacted us for help, an increase of 7% since the previous year (6,494 people). Of these contacts, 849 people (or 12% of all clients) presented with energy bills as one of their top three financial difficulty areas, compared to 10.5% in the previous year.

NATIONAL DEBT HELPLINE
1800 007 007
ndh.org.au



Low-income households are being priced out of an essential service

According to our sample from the NDH, energy hardship is disproportionately impacting single mothers, renters and low-income Victorians. Similar to previous reports, people living alone and in private renters are more likely to struggle to afford energy costs, in addition to compounded strains to afford essentials in the cost-of-living crisis. As we transition to renewables, the Victorian Government should consider reducing energy costs for low-income consumers via targeted programs. Access to an essential service must be protected regardless of income. Increasing Centrelink payments, automating concessions, and reforms in energy pricing could prevent thousands of Victorians from being priced out of an essential service.

RECOMMENDATION 1.

Increase, index, and add flexibility to Utility Relief Grants.

RECOMMENDATION 2.

For Services Australia and the Department of Families, Fairness and Housing to work with relevant government and regulators to automate the application of utilities concessions for eligible consumers.

RECOMMENDATION 3.

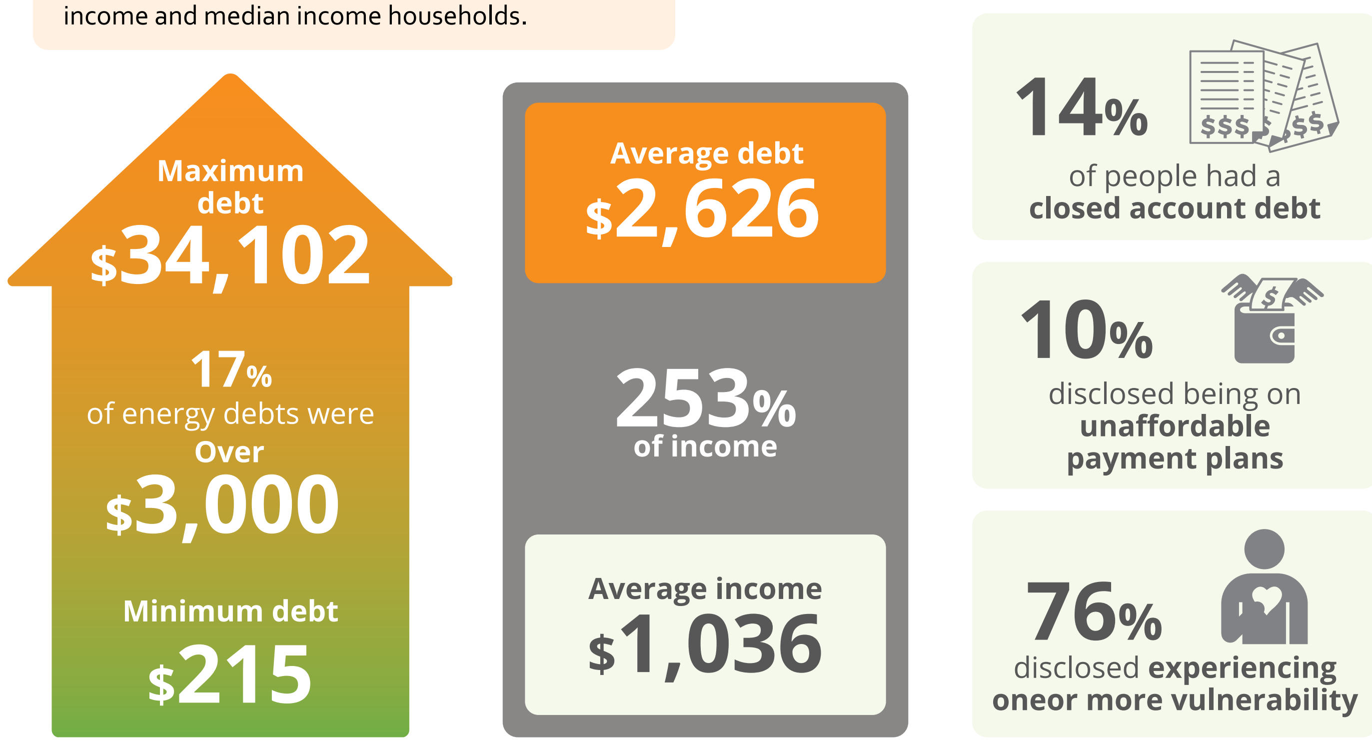
For the Victorian Government and Essential Services Commission to investigate the establishment of a social tariff for electricity, providing a fixed rate cost for concession, low-income and median income households.

Energy retailers are failing to consistently apply the Payment Difficulty Framework

We have found notable increases in retailers failing to provide adequate assistance through the Payment Difficulty Framework (**PDF**), with instances of retailers not offering the Utility Relief Grant increasing to 22% of energy contacts compared to 17% in the previous year, and inconsistent application of supports such as payment matching or pauses. We have found retailers confirming unfair or unreasonable arrangements with their customers, including an increase in unaffordable payment plans. In order to ensure retailers are providing meaningful assistance to Victorians experiencing payment difficulty as they are obligated under the PDF, broad-based and in-depth investigations should be conducted to assess how retailers are implementing their PDF obligations, and the Essential Services Commission (**ESC**) should enforce against breaches where found.

RECOMMENDATION 4.

For the ESC to conduct regular audits into retailers' tailored assistance practices, with a view to taking enforcement action if breaches to retailer obligations are found.



More Victorian households are in energy hardship, and energy debt is increasing and unmanageable

This year's report recorded the highest number of large energy debts over the six years of Consumer Action's Energy Assistance Report, with 639 quantified energy debts recorded from 849 contacts to the NDH. Of all energy contacts, 17% had an energy debt over $3,000, an increase from 11.8% in the previous year. Closed account debt almost doubled to 14% compared to 8.5% in the previous year. These old debts of closed accounts are usually associated with a previous address and we have found these to be correlated with vulnerable consumers. While the PDF has been highly effective in reducing disconnection, one consequence of substantially reduced disconnections appears to be people accruing very large, unaffordable energy debts with no ability to repay. To manage this evolution from disconnection to large-scale debt, we need to trial something different. As a start, retailers need to implement far more generous and sustainable measures for their customers. For very large, unmanageable debt, for example, where consumers are unable to pay arrears and ongoing usage costs, an effective solution would be debt waiver in addition to the preventative measures provided in the PDF.

RECOMMENDATION 5.

For the Victorian Government to establish a cross-sector strategy in partnership with industry and consumer sectors that includes an industry-based voluntary debt forgiveness initiative.

RECOMMENDATION 6.

For retailers to regularly audit their compliance with debt collection guidelines and provide regular compliance reporting to the Essential Services Commission, and in identified systemic cases, to the ACCC.

RECOMMENDATION 7.

Investigate and strengthen protections available in the Energy Retail Code to ensure payment plans are an affordable and sustainable option, and are proportionate to the consumer's income.

Threats of disconnection are coercing people into further financial hardship

Ten percent of all energy contacts recorded an unaffordable payment plan. People often reported their retailer had pressured them to agree to a payment plan or face disconnection. Seventy-two percent of energy contacts presented with other debts, with some people reporting they are resorting to Buy Now Pay Later products to cover essential costs. In practice, this trend signals that retailers might not be providing all assistance options before threatening disconnection. Requiring retailers to refer the customer with their consent to the Energy and Water Ombudsman of Victoria (**EWOV**) before disconnection could provide people with independent support and investigation, broader data to assess the scale of this practice and would provide some protection against people being disconnected from an essential service due to experiencing financial hardship.

RECOMMENDATION 8.

Investigate the potential new process for retailers to refer customers to EWOV, with consent, before disconnection can occur.

RECOMMENDATION 9.

Through the Victorian Government's review of the Energy Retail Code of Practice, insert a new provision in the Code that increases the disconnection threshold amount.

RECOMMENDATION 10

For retailers' wrongful disconnection payment obligations to be expanded to include instances where retailers have wrongfully communicated to customers about imminent disconnection.

Key Findings

59% of contacts identified as women

54% were living in a private tenancy

22% were single parents

63% of contacts were receiving only a Centrelink payment out of those who disclosed their income

Vulnerable consumers are more likely to experience barriers from their retailer in when receiving assistance

Of all energy contacts, 76% disclosed having one or more vulnerabilities, directly or indirectly contributing to their financial hardship. Our data shows that people with compounded vulnerabilities were more likely to experience their retailer fail to identify their vulnerable circumstances. We found that women experiencing family violence (12% of energy contacts) were more likely to face aggressive debt collection practices, and significantly higher energy debts than those not experiencing family violence. We recommend systemic investigation into retailers' adherence to mandatory identification and assistance protections, and importantly, the ESC's compliance and enforcement activities should be examined as to whether they are providing adequate deterrence to retailers found in breach of these protections.

RECOMMENDATION 11.

For the ESC to consider the International Standard on Consumer Vulnerability for the Design and Delivery of Inclusive Services (soon to be adapted for Australia) as part of the Energy Retail Code review, with a view to increasing compliance measures for retailers found in breach of protections for vulnerable consumers, and deterrence of these practices more broadly.

02 EXECUTIVE SUMMARY

Introduction

The fourth edition of Consumer Action's *Energy Assistance Report* outlines the growing trends of people facing energy hardship; barriers to accessing hardship assistance; and priority areas for targeted investigation and reform to assist energy affordability. As identified in previous reports, energy continues to remain one of the top three presenting issues for Victorians contacting the NDH. With projected energy costs being higher than recent preceding years, and a changing landscape in how we use energy, there is urgent need for a sustainable and longer-term solution to energy affordability and growing debt in Victoria.

Background

Following the Thwaites Review in 2017[1], Victoria has continued to lead energy reforms in Australia, including implementing the Victorian Default Offer (**VDO**) and the PDF from 2019. Since its implementation, the PDF has demonstrated broad success in providing options for Victorians experiencing energy hardship through continued reduction in disconnections; increased uptake in government assistance measures and continued increases in consumers accessing payment assistance programs with their energy retailer. The Victorian PDF is a leading framework for consumer protections in energy in Australia.

It should be recognised that these reforms came into force during the largest environmental challenges we have faced in our lifetimes, including ongoing impacts of the COVID19 pandemic, climate change and its consequential extreme weather and disasters, and the cost-of-living crisis. However, these forces will continue to impact how we utilise our homes and magnify the role of energy as a foundational aspect to our everyday lives.

1 Review of the Electricity and Gas Retail Markets in Victoria ('Thwaites Review') and outcomes from the Energy Fairness Plan

Current challenges

The 2023 year saw electricity prices increase by 25% in Victoria[2], one of the many price hikes in the cost-of-living crisis. There is mounting pressure for people in affording their energy bills, and cracks are emerging in retailers' implementing consumer protections. The increasing cost of essentials alongside debt accrued during the pandemic is causing a financial impasse for many. For people we speak to, often with low incomes or in vulnerable circumstances, the ability to resolve arrears and pay for ongoing usage is becoming untenable. For the growing number of Victorians experiencing financial hardship for the first time, relief measures may have filled the financial gap previously, yet people are falling into greater amounts of energy debt with no end in sight.

Growing financial strain from cost-of-living pressures and environmental changes to how we use energy necessitate an expanded approach to energy reform. While the supports available through the PDF have provided a necessary and strong framework, these emerging issues necessitate an expanded approach to debt resolution, ensuring people have access to meaningful assistance when in crisis, and ensuring all Victorians have access to affordable energy.

Looking ahead

The coming years provide opportunities for systemic reforms to reduce energy hardship, with the ESC's review of the Energy Retail Code, and the Australian Energy Regulator's focus on their Gamechanger strategy and NECF review. These reforms are occurring in parallel to State and Federal governments' investment in the transition to renewable energy, with the National Renewable Energy Strategy and Victorian reforms aimed to strengthen energy upgrades programs.

The ESC is leading the pursuit and enforcement of breaches to consumer protections, going hand-in-hand with leadership by the Victorian Governments PDF reforms. Our findings reveal an opportunity to work in partnership with the ESC to identify new areas for investigation, monitoring and enforcement to ensure that retailers are implementing energy reforms as they have been intended, to ensure that consumer protections remain at the centre of a rapidly changing energy sector.

2 Essential Services Commission, 2023–24 Victorian Default Offer: Final Decision Factsheet (esc.vic.gov.au) May 2023

03 METHODOLOGY

This report examines 12 months of NDH contact data from January to December 2023. This data is collected from all calls made by Victorian consumers experiencing energy hardship, answered by Consumer Action's financial counsellors on the NDH.

Issues Analysis section:

Of all calls made to Consumer Action's financial counsellors, calls where the client or financial counsellor has identified energy as one of three presenting financial difficulties are noted as 'energy contacts'. If there are multiple calls with one person, these calls are noted as separate case notes, and recorded as one single energy contact.

Further information is identified through the case notes taken by the financial counsellor during their appointment with the client. These case notes identify quantified energy debts, retailer information, and systemic issues raised.

Demographic Analysis section:

For each contact to the NDH, we routinely record the person's demographic information including year of birth, gender, postcode, household and housing type, income source and estimated fortnightly income amount. Financial counsellors ask if the person identifies as Aboriginal or Torres Strait Islander, and what language is spoken at home. The demographic information about someone's cultural background is limited, as there may be a large cohort of people who speak English at home but who are from culturally and linguistically diverse communities. Financial counsellors will also ask if the person is experiencing one or more vulnerabilities, including family violence, mental health challenges, limited capabilities or significant life events. This data is recorded in their demographic information.

Lastly, Consumer Action's policy team reviews all energy contacts including case notes and gathers financial counsellors' insights. All this information is drawn together to analyse systemic issues raised and emerging trends to identify issues with hardship assistance, and compounding barriers faced by Victorians experiencing financial difficulty or vulnerability.

04 ISSUES ANALYSIS

This section analyses the most prominent issues raised through Consumer Action's NDH energy contact data from January to December 2023.

These issues are categorised into four key themes:

1. Energy affordability examination.
2. Energy debt is analysed compared to income, and by breakdown of energy type.
3. Retailer breaches to the PDF, such as not offering Utility Relief Grants and initiating consumers into unaffordable payment plans. Additional areas of systemic issues are also examined including debt collection practices and threatening disconnection.
4. Insights into systemic issues with assistance by retailer, by proportion of all energy contacts and retailer market share.

Overview

In 2023, Consumer Action's financial counsellors assisted 7,087 Victorians with financial hardship assistance, an increase of 7% from the previous year's total of 6,494.

Of these contacts, 849 people or 12% of people had energy bills as being one of their top three financial difficulty areas. This was an increase from the previous year of 697 people or 10.7%.

Struggling to afford energy bills can indicate deeper financial hardship. In 2023, 72% of all energy contacts noted at least one other type of financial difficulty.

> *"Because energy is a priority, it will be paid, but this doesn't account for other essentials. People will be going without meals because they need to keep the lights on, and they have that pressure to get the debt down."*
>
> – Shungu, NDH Financial Counsellor

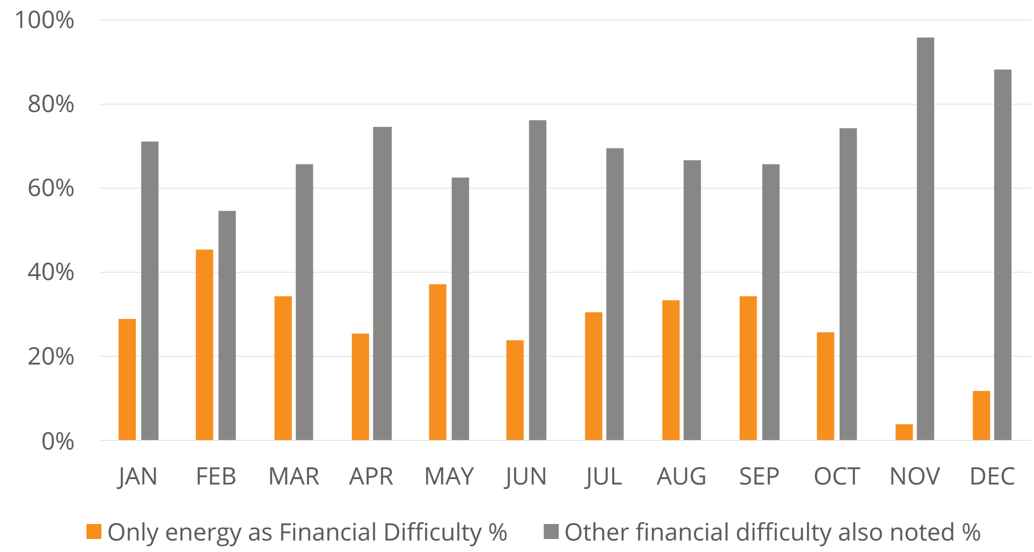


Figure 1. Monthly proportion of contacts where energy is the only presenting issue, compared with contacts where at least one other financial difficulty is recorded.

4.1 Energy Affordability

In 2023 electricity prices increased by 22-27% for people receiving the VDO[3]. Energy price hikes came during a period where living costs almost doubled[4], and government assistance remained fixed. Where relief measures such as the Power Saving Bonus or Utility Relief Grant may have filled the financial gap previously for some low-income Victorians, the findings in consecutive reports have found that it is increasingly common for consumers who have accessed these measures to still have a remaining debt, and for that debt to be considerably higher on average than previous years.

Concessions, rebates and relief

Despite the relief measures provided by the Victorian Government to ease energy bill stress, Victorians continue to experience increased financial difficulty in affording energy bills.

For eligible Victorians with low incomes, the concession scheme applies a 17.5% reduction to their energy bills. Additionally, the Utility Relief Grant applies up to $650 payment to each utility account in arrears once in a two year period. Lastly, the third (and final) instalment of the Power Saving Bonus of $250 was accessible to all Victorians from 2022-23.

While these schemes are integral in providing a meaningful financial buffer for essential services, the energy costs people are incurring are increasing faster than these relief measures can provide reprieve. In 2023 people have reported being unable to pay their energy bills, even after accessing all relief measures available.

The Victorian Utility Relief Grant was last increased in 2019, and at $650 per utility for every two years, and would now only cover 25% of an electricity or gas debt, when compared to this year's reported average energy debt of $2,626.

> *The Utility Relief Grant is inadequate for the current economic context. The relief available is not commensurate to the level of energy debt people are living with. The URG just doesn't cover people's situation anymore.*
>
> – Lisa Michelle, NDH Financial Counsellor

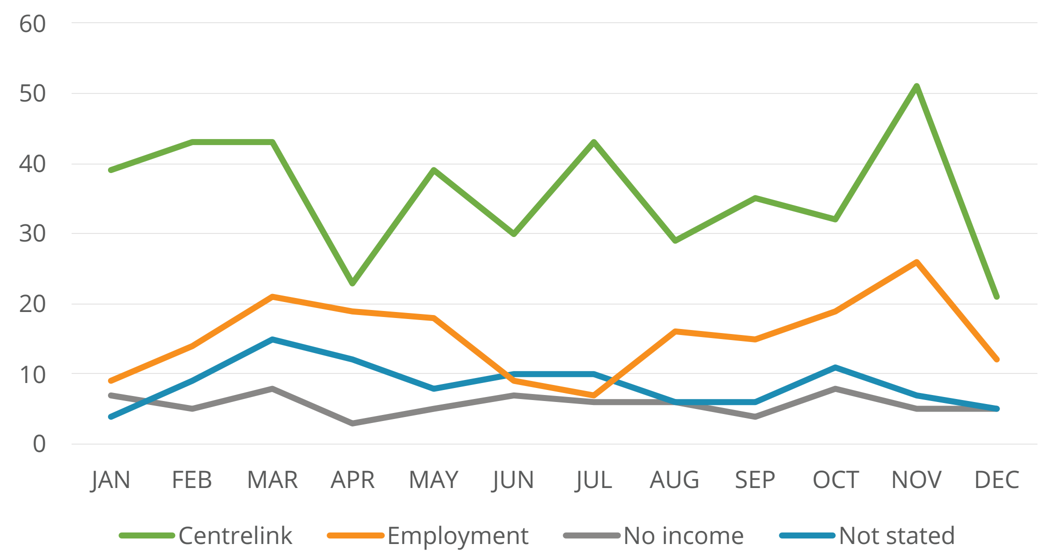


Figure 2: The number of energy contacts to the NDH, sorted by income type.

3 Essential Services Commission Victorian Default Offer price review 2023-24 | Essential Services Commission, May 2023
4 Australian Bureau of Statistics Selected Living Cost Indexes, Australia, June 2023 | Australian Bureau of Statistics (abs.gov.au), June 2023

Victorian households are experiencing higher amounts of energy debt, as energy costs broadly continue to increase. Additionally, as we adapt and transition our energy usage towards electrification, Victorians remaining in dual-fuel households would benefit from flexible relief measures in allocating which energy bill they can contribute these funds towards. Consumer Action continues to recommend the Utility Relief Grant be increased and indexed, in addition to the well documented need for the Federal Government to raise the rate of Centrelink payments, such as outlined in the Economic Inclusion Advisory committee's 2024 primary recommendation[5].

RECOMMENDATION 1.

Increase, index, and add flexibility to Utility Relief Grants

RECOMMENDATION 2.

For Services Australia and the Department of Families, Fairness and Housing to work with relevant government and regulators to automate the application of utilities concessions for eligible consumers.

Social tariff fixed rate charges

While increases to government funded support measures are needed, without methods to stabilise energy prices, our data is showing us that these funds will continue to go to retailers without providing meaningful outcomes to consumers who are unable to afford their ongoing energy usage. In September 2023, only 51% of Victorian residential customers were receiving the best offer price for their electricity[6]. For those who are unable or unwilling to conduct the required research and efforts to switch offers, they are often left languishing on higher prices. For people on low-incomes, these higher utility costs take up a higher amount of a fixed income. Further research must be conducted into whether retailers are providing information about the best offer and VDO as required in the Energy Retail Code.

While usage costs may fluctuate, fixed cost prices of electricity including infrastructure development can be reliably calculated, and more easily accounted and allocated through equity-based principles. One example of this approach is California's recently established three-tier rate setting decision[7], wherein concession card holders automatically pay the lowest discounted fixed amount; customers with low incomes automatically pay a discounted fixed amount; and all other customers pay a standard fixed amount.

As we transition into renewables, an equity-based model could support additional benefits for low-income Victorians to be protected from the risks of bearing a disproportionate cost of electrification, by distributing the costs of infrastructure development by income measurement.

RECOMMENDATION 3.

For the Victorian Government and ESC to investigate the establishment of a social tariff for electricity, providing a fixed rate cost for concession, low-income and median income households.

5 Economic Inclusion Advisory Committee, Economic Inclusion Advisory Committee 2024 Report to Government (dss.gov.au), March 2024
6 Essential Services Commission, Victorian Energy Market Report | Essential Services Commission September 2023
7 State of California Public Utilities Commission, Agenda ID #22469 528422138.PDF (ca.gov) March 2024

4.2 Energy Debt

In this fourth edition of the Energy Assistance Report, we have seen the largest amount of reported energy debt across the last six years. We have recorded increases in the number of debts, the average amount of debt, and the highest maximum debt. Out of 849 people where energy had been a key presenting issue, 55% or 469 people mentioned a specific amount of energy debt during their appointment. In our 2nd edition of the *Energy Assistance Report* (covering 2019-2020 calls to our financial counsellors), we identified average electricity debt as $1,611[8]. This has now increased to $2,048 in 2023, a 27% increase in three years. For an increasing number of Victorians, the ability to pay both ongoing usage and accrued debt has become untenable. With a fixed income, and increasing essential costs, the choice for people is often which cost do I prioritise paying, in lieu of other essential expenses. Anecdotally, people report to NDH financial counsellors they are resorting to Buy Now Pay Later products to cover their energy costs.

In 2023:

- The average energy debt was $2,626, while the average fortnightly income sat at $1,035
- The average debt represented 2.5 times the average fortnightly income
- The highest debt was $34,102 and minimum of $215
- There were 142 large debts recorded (an electricity or gas debt larger than $3,000)

We are forming the view that the growth in energy debt is likely connected to the great success of the PDF in substantially reducing the large numbers of disconnections in Victoria. The resulting debt issues are emerging as a significant challenge to understand and address in the context of an essential service and cost of living crisis.

The increasing issue of energy debt must also be considered alongside the knowledge that retailers are being provided government funds to relieve energy debt. Despite these available schemes, we have found through our casework that incentives aren't resolving the debt for too many.

In Victoria the Power Saving Bonus, concession entitlement and Utility Relief Grant for a dual fuel household can be approximately calculated at $1,200 annually[9] available to eligible consumers. In their 2020 report, EWOV found that retailers were waiving $80 per customer, accounting for only 3.2% of the average debt[10]. While government assistance is significantly important for consumers to access, the amount available to an eligible consumer represents only 6.6% of the average waiver provided by retailers.

Our evidence demonstrates that something different needs to be done and a starting place should be far more generous debt waivers by retailers.

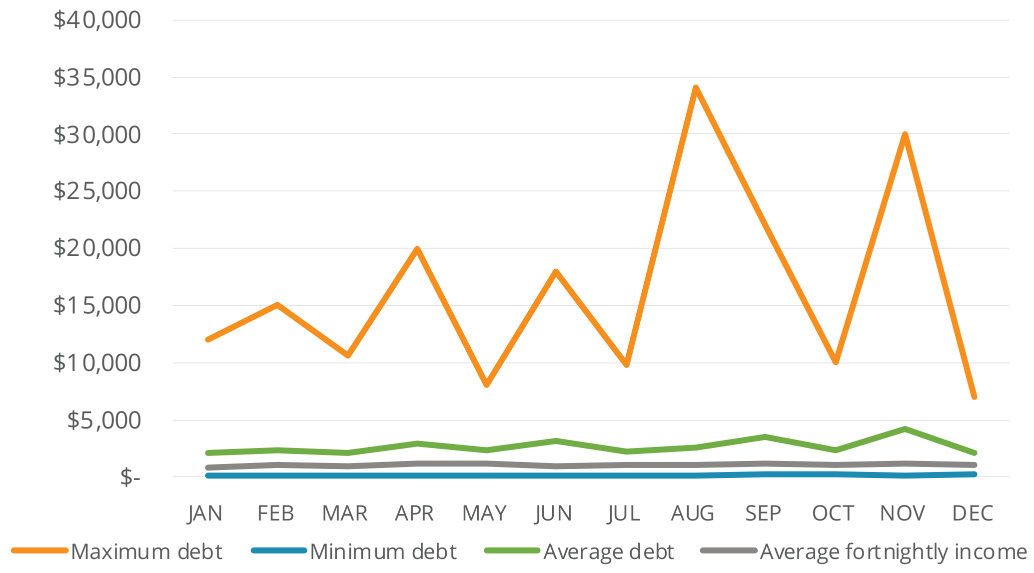


Figure 3.The recorded maximum, minimum and average debts compared to contacts average fortnightly income.

8 Consumer Action Law Centre, Energy Assistance Report: Second Edition - Consumer Action Law Centre, September 2021, p. 19

9 Power Saving Bonus or Commonwealth Energy Supplement $250 p/a; Utility Relief Grant $650 per utility over two years; Concessions at 17.5% p.a as percentage of average annual consumption of dual fuel

10 Energy and Water Ombudsman Victoria *Missing the Mark Report*, December 2020 p.11

Debt vs. Income

Many people stated they had already accessed relief and concessions, however they still weren't able to service both debts and ongoing energy costs. As energy debts have increased, people's average income has only minimally increased since last year from $967 to $1,035 per fortnight, demonstrating that people are expected to repay a higher amount of energy debt, while usage costs continue to increase, and income remains relatively stagnant.

While the PDF provides options aimed at preventing energy debt accruing without assistance being offered, we often hear from people who are falling into debt spirals and financial stress, without assistance arrangements being put in place. The level of energy debt being accrued signals that preventative measures aren't adequately being implemented, and the ability for someone to resolve the debt grows increasingly unlikely with every new energy bill.

We have recorded the average debt people have reported to us via the NDH across 2023 in comparison to their average fortnightly income, demonstrating the significant challenge presented to Victorians in energy hardship who are attempting to pay off their accrued debt, whilst affording ongoing usage.

Figure 4. The recorded average energy debt, compared to the recorded average fortnightly income.

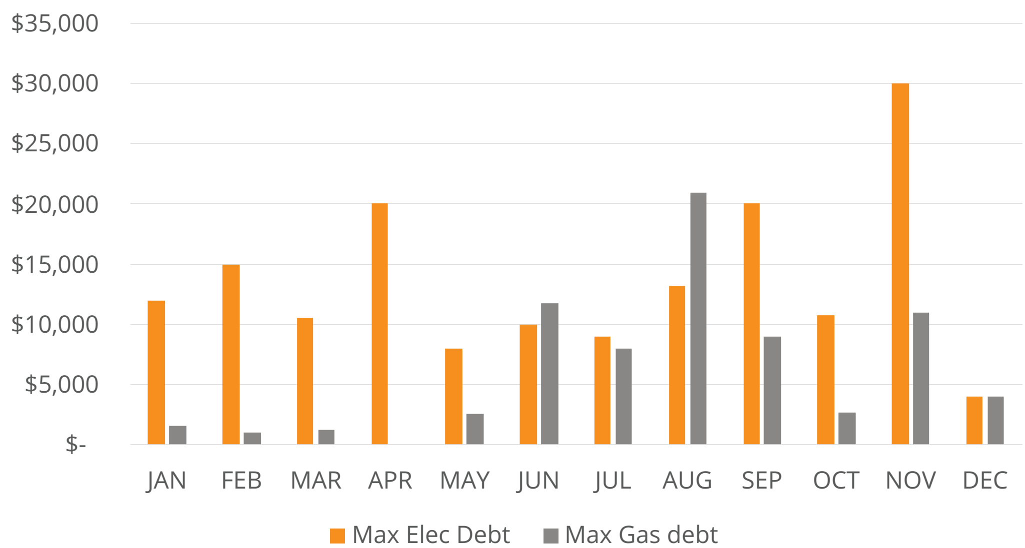


Figure 5. The maximum recorded single debt contact by energy type per month

Open account large debts

In the first few years after the PDF was implemented from 2019, we recorded a decrease in large energy debts, with the 2021 year recording a median electricity debt of between $500-$1500[11]. However, this trend has reversed in the last reporting year. In comparison to the previous year's report, we have seen an increase in the number of energy contacts with large debts (a debt larger than $3,000) to 142 from 82 in the previous year. This marks a 5.2% increase of people who have an energy debt over $3,000.

As part of the PDF, retailers are obligated to engage early with their customers facing accrued energy debt, yet the increase of average energy debt highlights issues in retailers implementing early identification and intervention. This points to a greater need for the ESC to increase monitoring retailers' implementation of early engagement and standard assistance as part of the PDF. Conducting regular audits in these areas could help in ensuring that retailers are providing reasonable and meaningful options to people in hardship to reduce their debt.

RECOMMENDATION 4.

For the ESC to conduct regular audits into retailers' tailored assistance practices, with a view to taking enforcement action if breaches to retailer obligations are found.

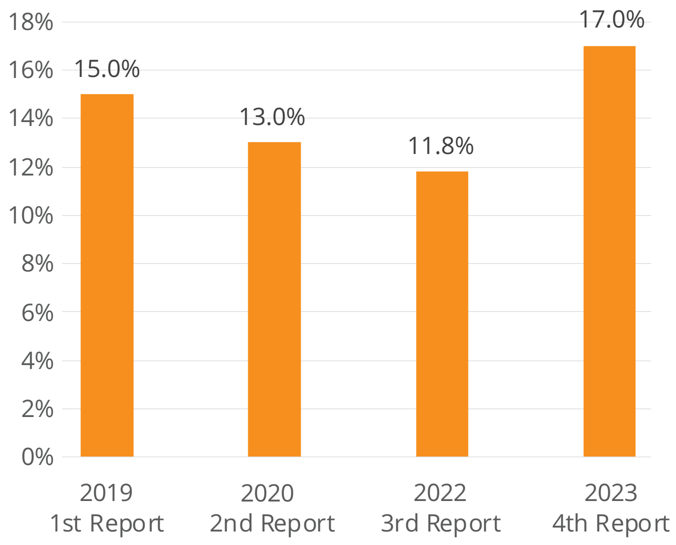


Figure 6. Recorded proportion of energy debts over $3,000 from each Energy Assistance Report (2019-2023)

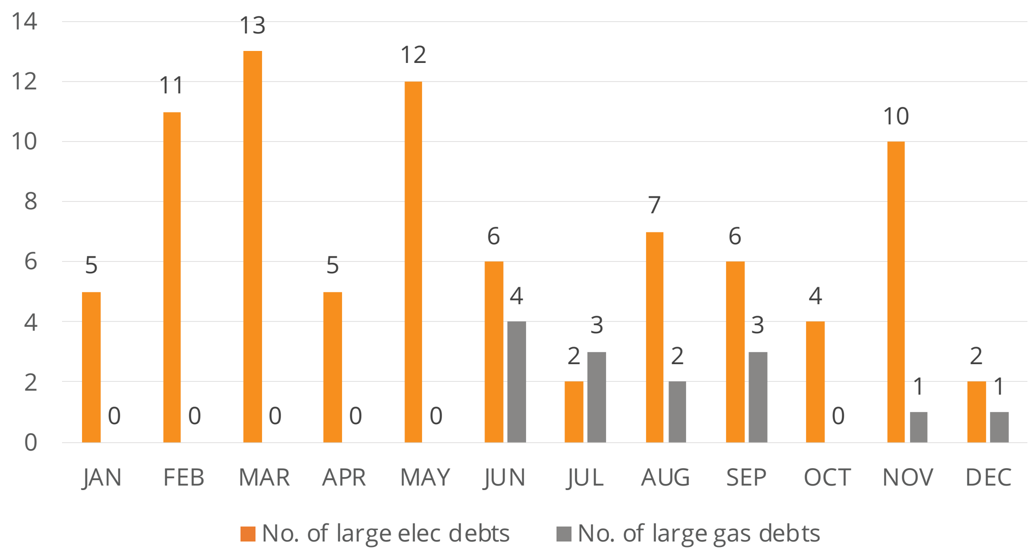


Figure 7. Number of large energy debts (over $3,000) by fuel type per month in 2023

11 Consumer Action Law Centre, Energy Assistance Report 2nd Edition, September 2020

Closed account debt

Of all reported energy debts, 18% (114 of 639) were closed account debts, usually from a previous home. Compared to the previous report, old debt (or closed account debt) has more than doubled – from 8.5% to 18%. Many people reported they were struggling to meet a payment plan for a closed account, whilst also being unable to meet current usage costs. This is an incredibly stressful position for consumers and causes additional financial strain and risks to meeting their ongoing essential costs. There are limited options available to reduce arrears in cases of closed accounts, commonly people reported requesting their retailers to use the Utility Relief Grant to pay for closed account debt. We agree that the Utility Relief Grant is not intended for this purpose, and shouldn't be made available for closed debts. In these instances, serious consideration should be made by retailers to waive these debts.

In many cases, these closed account debts were assigned or sold to debt collectors. People stated that they felt harassed or had been pressured to agree to unaffordable payment plans, by their retailer or by representatives of debt collectors. In cases of closed account debt this can have additional financial impacts on people's ability to pay for their current essential services and create additional barriers to their financial wellbeing, like credit report listings.

These large debts may indicate that there have been failures by retailers to meaningfully engage the consumer with a reasonable option to address their energy debt early, which could have prevented the customer from accessing some relief measures including the Utility Relief Grant.

We are concerned that retailers are not considering or providing information to their customers about waiving debt in cases of financial hardship, particularly in cases of closed account debt. In order to better assess whether this option is being made available, further investigation on how often retailers are providing this information would better identify whether reasonable steps are being taken to assist consumers in financial hardship.

As these closed account debts have increased in amount, and in instances presenting to our frontline, it is apparent that methods to address these debts must be given further priority. In these instances, if the debtor has no capacity to pay a closed debt and the retailer has failed to intervene early, the retailer should be expected to waive the debt if there are no reasonable grounds to state otherwise.

In recent years in the UK, a cross-sector initiated voluntary debt commitment has been successfully established to address the growing debt and financial deficit crisis. Commitments from energy industry are taking additional steps above their obligations to provide financial assistance to those who need it most, including through debt write-off schemes, and hardship funds.[12]

The development of an initiative in the Victorian context would provide significant relief to low-income households who need it most and support existing legislative and regulatory frameworks aimed at ensuring sustainable and affordable access to energy.

RECOMMENDATION 5.

For the Victorian Government to establish a cross-sector strategy in partnership with industry and consumer sectors that includes an industry-based voluntary debt forgiveness initiative.

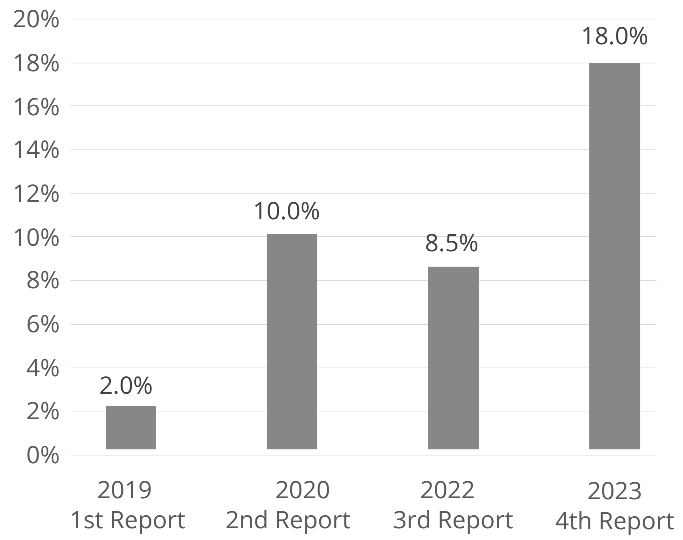


Figure 8. Proportion of closed account debts recorded in each Energy Assistance Report (2019-2023)

12 Energy UK, The Winter 2023 Voluntary Debt Commitment - Energy UK (energy-uk.org.uk) October 2023

Open account debt

A significantly higher proportion of energy contacts reported having open account debt, in comparison to closed accounts. Importantly, there were many energy contacts who reported having both, exposing them to having to engage with multiple retailers for debt resolution options, causing further financial and emotional stress.

As opposed to closed account debts, there is a wider range of options available to resolve arrears for people with open account debts. Investigating the implementation of these options would provide important information to assess whether the PDF is providing adequate options for people to address accrued debt, or whether the issue lies with retailers implementing these options thoroughly, fairly and effectively for people requiring assistance.

During this reporting period, we noted three instances of people stating that their retailer had told them they will waive the debt on the condition they switch retailer. While this may assist someone with immediate relief to their debt, it fails to engage people with sustainable and longer-term solutions to their energy hardship, for example by providing additional tailored assistance measures. It may also result in the customer signing up to a more expensive deal.

Debt by energy type

Similar to previous reports, there is a much larger number of recorded electricity debts compared to gas debts over the 2023 year, averaging a higher amount of debt.

It must be considered when analysing this data that consumers often have one retailer providing both electricity and gas, and when discussing their debts during their appointment with a financial counsellor, state the total debt owed to the retailer, rather than separating debts by energy type.

Nonetheless, there is a marked increase in gas debts recorded over the second half of the year, which corresponds to the increase in financial difficulty experienced by people overall on the NDH, as measured in the overview of this report. Additionally, this corresponds to the price of gas increasing by 15% in July 2023, compared the previous year, and further increasing in August 2023[13].

While we can't evidence a causational relationship, it seems likely that the increase in gas costs likely have contributed to the increase in gas debts over the second half of the year. This points to the financial precarity of people contacting the NDH, where an increase in energy costs can have a considerable impact on their ability to meet ongoing costs or avoid accruing energy debt. This highlights the importance of providing stable energy prices, as one of the many methods to prevent consumers from absorbing the financial costs of volatile energy markets.

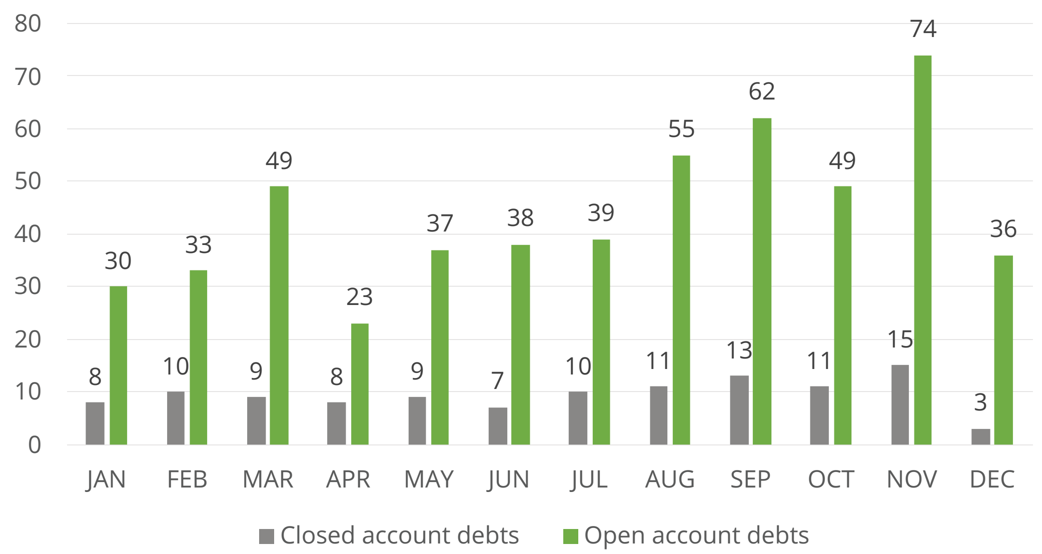


Figure 9. Recorded number of closed and open account energy debts per month in 2023

13 Essential Services Commission, Victorian Energy Market Report, September 2023 p.17

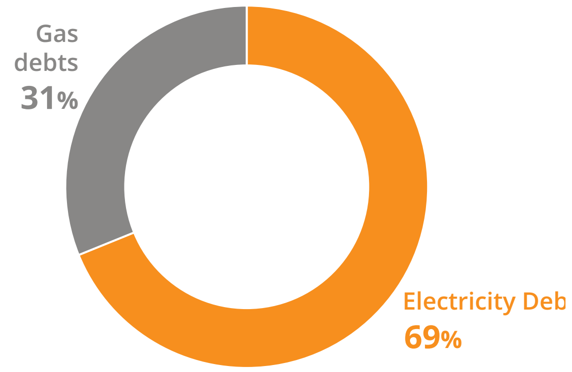


Figure 10. Percentage of energy debt types

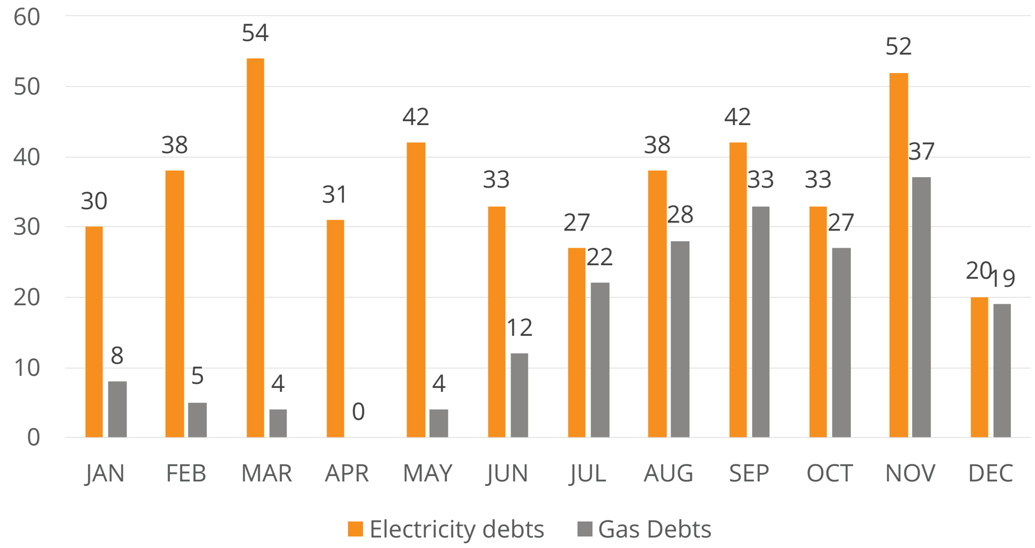


Figure 11. Number of recorded debts by energy type, per month.

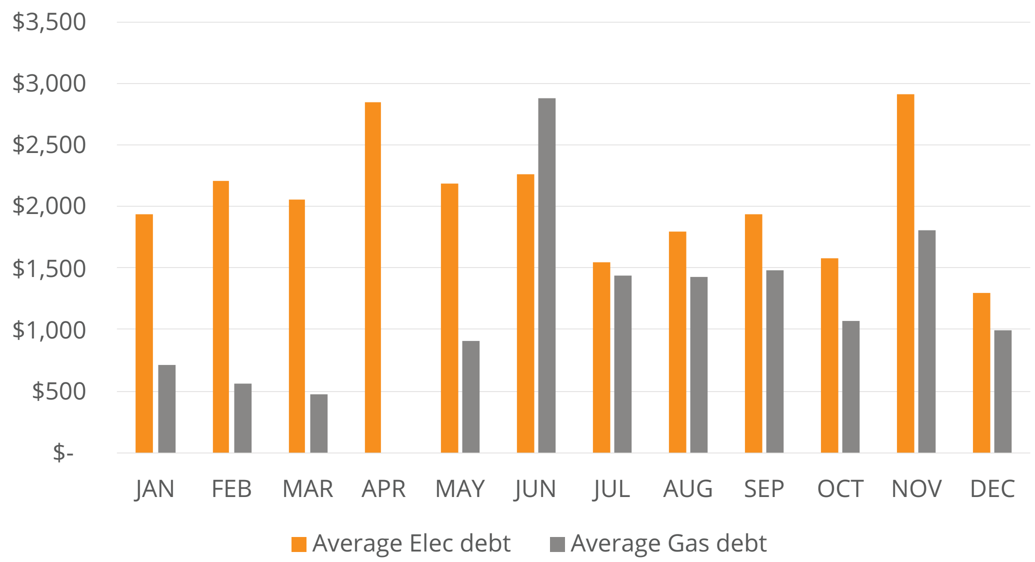


Figure 12. Average recorded debt amount per energy type

Debt collection

As a proportion of all energy contacts, a relatively high percentage of people disclosed feeling harassed or experiencing aggressive debt enforcement by their retailer, or debt collector on behalf of their energy retailer.

> **Debt collection**
>
> **Out of the 40 people who disclosed feeling harassed about their energy debt:**
>
> - 28% disclosed experiencing Family Violence
> - 65% were receiving a type of Centrelink income
> - In four cases, the person disclosed having a default listing or being threatened with a default listing by their energy retailer
> - In one case, the person estimated she had paid over $40,000 in energy bills, and when she contacted her retailer to ask why her bills were so high, they stated there was nothing they could do.
> - In one case, the person stated they had been threatened with a credit default by their retailer, and they were two months behind in their rent.

In addition to the systemic issues identified as breaches to the PDF, our data has shown instances of retailer practices that may be in breach of in debt collection guidelines[14] and the ESC's guidance on vulnerable consumers.

The Retail Code restricts retailers from proceeding with debt recovery if a customer is receiving assistance under the PDF[15]. However, we have found too many instances where people who should be receiving assistance are instead being pursued for debt, whether by the retailer or a third-party debt collector. The failure of a retailer to have conducted their obligations to provide tailored assistance to their customers experiencing payment difficulty should not result in additional detriments to the person experiencing payment difficulty. The reformed debt collection guidelines adopted by the Australian Banking Authority in 2020[16] have been largely successful in preventing people in financial hardship and vulnerable circumstances from being unfairly pursued and improves the likelihood to access assistance for those who need it. The application of these principles can be adopted in the energy sector. Regardless of the assignment or sale of these debts, any representative pursuing energy debts must be doing so in accordance with lawful debt collection practices. Further, before pursuing debt collection, any representative must consult with the retailer to identify if the debtor is vulnerable. In these cases, the matter should be referred back to the retailer.

In order to improve identifying implementation and adherence of family violence policies and debt collection practices, retailers must be auditing their compliance with debt collection guidelines, and should be providing regular compliance reporting to the Essential Services Commission and in identified systemic cases, to the ACCC.

> **RECOMMENDATION 6.**
>
> For retailers to regularly audit their compliance with debt collection guidelines and provide regular compliance reporting to the ESC and in identified systemic cases, to the ACCC.

14 Australian Competition and Consumer Commission Debt collection guideline: for collectors and creditors (accc.gov.au) April 2021
15 Essential Services Commission Energy Retail Code of Practice | Essential Services Commission clause 144 (2) (a)
16 Australian Banking Association Industry Guideline: Sale of unsecured debt November 2019

4.3 Breaches of the Payment Difficulty Framework

The PDF has been in place since 2019, providing a framework for a minimum standard of assistance for people experiencing hardship. Since its implementation, the framework has had measurable success in reducing the number of disconnections and increasing the number of Victorians accessing some type of payment arrangement with their retailer. Despite this, our data outlined below suggests that there is an increase in retailers meeting standard assistance measures and inconsistently applying the PDF. This inconsistency is measurable both within retailers' practices to individual consumers, and comparatively by retailer.

The PDF outlines standard and tailored assistance, which intends to provide a framework of available support for the variety of circumstances of consumers. The unfortunate consequence of this case-by-case basis approach can result in a wide differentiation of retailers' assistance practices. Additionally, it could have the unintended consequence that consumers who are more able to self-advocate receive better assistance than those who are more vulnerable, or less able to communicate their needs.

This year's report identified an increase to 19% (as compared to 12% in the previous year) of all energy contacts to our financial counsellors where retailers have not provided adequate or consistent assistance available through the PDF.

Callers commonly stated their retailer did not assist them to apply for the Utility Relief Grant, provide information about or assistance with switching to better offers, or in many cases, the caller felt coerced to agree to an unaffordable payment plan to pay their arrears without additional assistance. Inconsistent application of the PDF is causing further harm to consumers in financial difficulty, including the large number of Victorians languishing on energy prices not fit for their needs, with limited access to information about the VDO or alternative offers.

> *"Lots of people call us thinking they're not eligible for the Utility Relief Grant because they don't have a healthcare card, yet they meet the eligibility criteria. Most commonly, people just have no idea that it exists, or that it's an option available to them."*
>
> – Kane, NDH Financial Counsellor

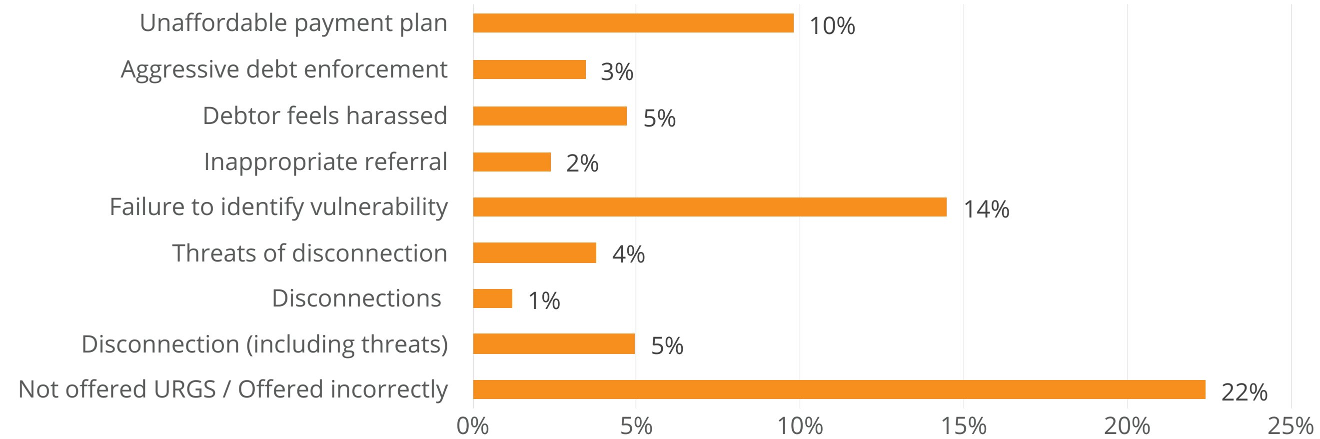


Figure 13. Percentage of energy contacts across 2023 who reported experiencing one or more types of retailer breach to consumer protections, including the PDF.

Utility Relief Grants

As part of their obligations in the PDF, retailers must provide proactive assistance to their customers experiencing payment difficulty, including in facilitating Utility Relief Grant applications.

Our financial counsellors have noted an increase in instances of retailers not providing information about the Utility Relief Grant or assisting customers who have contacted them requesting help with the grant application process. In many instances, the financial counsellor is the first person to have informed a client about the Utility Relief Grant, often when the caller is already in significant energy debt. These instances remain unfortunately common, causing additional strain on community sector resources, and demonstrating that retailers are still not proactively providing minimum assistance to people in financial hardship.

Case study: Thomas

Thomas* left employment a few years ago to become a full time carer for his wife and her disabled sibling, with whom he shares a home. Since then, his application to Centrelink for the Carer Payment has been slow to process, and he has resorted to using credit cards and BNPL to meet their regular household costs. incurring over $10,000 in debt.

When he contacted the NDH, Thomas outlined that despite having applied for all energy concessions, his costs had "still gone up due to the cost-of-living crisis." Thomas stated that he was frequently late with his energy bill payments and had repeatedly contacted his retailer to request payment extensions. However, he said he had never been offered the URG and hadn't been asked about payment assistance.

How did NDH help?

The NDH financial counsellor provided Thomas with information about the Utility Relief Grant and his rights under the PDF, including to negotiate a payment plan he can afford, even if it doesn't meet ongoing usage charges. The financial counsellor also provided information about requesting debt waivers on financial hardship and compassionate grounds.

*name changed

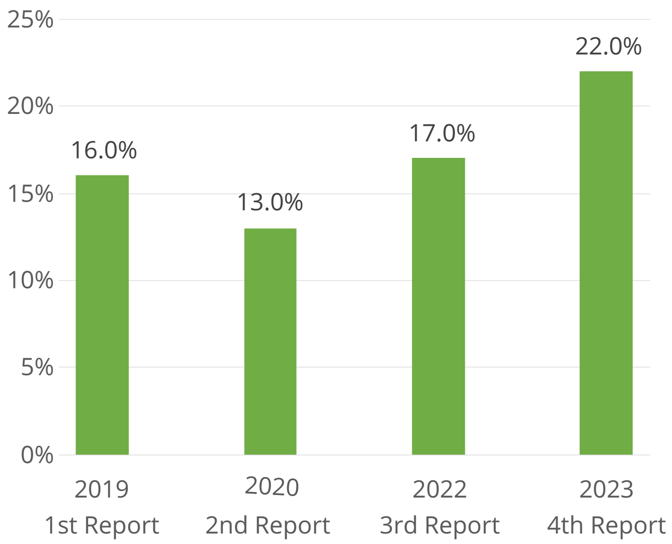


Figure 14. Proportion of energy contacts where Utility Relief Grant was not offered, or offered incorrectly by retailer, recorded in each Energy Assistance Report (2019-2023)

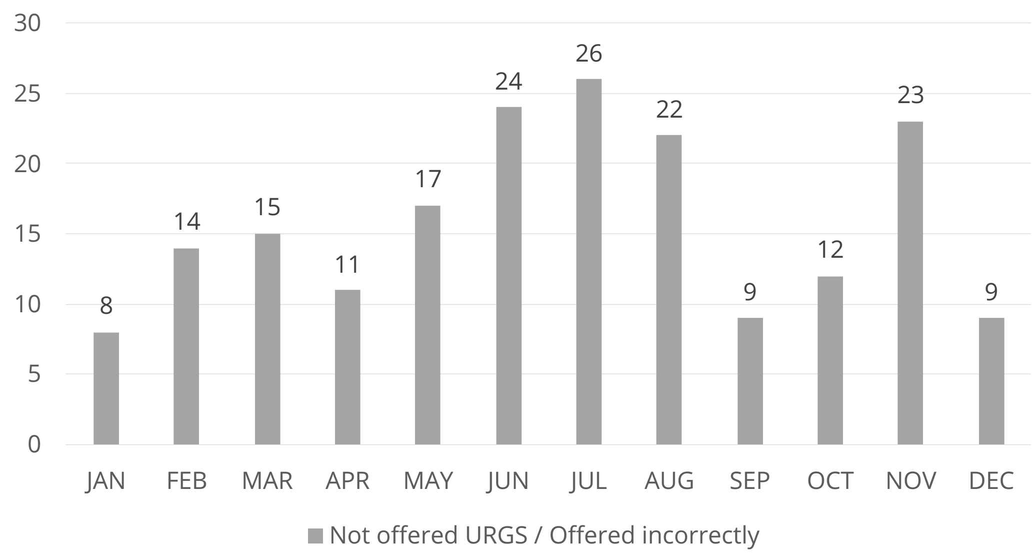


Figure 15. Number of contacts by month in 2023 where Utility Relief Grant not offered, or offered incorrectly.

Unaffordable payment plans

The PDF provides consumers the option of notifying their retailer of a payment plan they can afford, as one of many options available to assist when they are experiencing financial difficulty meeting their energy bills. However, in practice, financial counsellors on the NDH have noted that often people are placed on unaffordable payment plans by their retailers, which are inevitably broken.

In the 2023 energy data, most people who stated an energy payment plan had described them as being initiated, suggested or proposed in amount by the retailer.

There have been many instances of unacceptable practices by retailers, including people reporting

- Being coerced to agree to unaffordable payment plans, without other options being explored or utilised, including the URG, eligible concessions or switching to better energy price offers.
- Retailers informing them they must agree to a payment plan or they will face disconnection.
- A payment plan being calculated by the accrued debt being paid within a two-year period yet is unaffordable on an ongoing basis.

Through energy case notes, we have found that energy providers have regularly misinformed or coerced people with low incomes into agreeing to unaffordable payment plans, in some cases as high as $300 per fortnight.

> *"People who are set up on unaffordable payment plans often feel pressured to agree to them. They tell the retailer it's affordable because they feel they don't have any other option. The onus should be on the retailer to make sure it's affordable to them."*
>
> – Kane, NDH Financial Counsellor

Concerningly in many cases, these payment plans were for closed account debts, where people had also raised additional financial hardship and arrears on open accounts, or ongoing secured loans such as mortgage or car repayments.

- 10% of all energy contacts recorded an unaffordable payment plan
- Where payment plans were initiated or suggested by the retailer, the average amount was $150 per fortnight
- Where payment plans were initiated by the consumer, the average amount was $63 per fortnight
- When measured against each person's fortnightly income, in most cases payment plans were not proportionate to their financial circumstances.

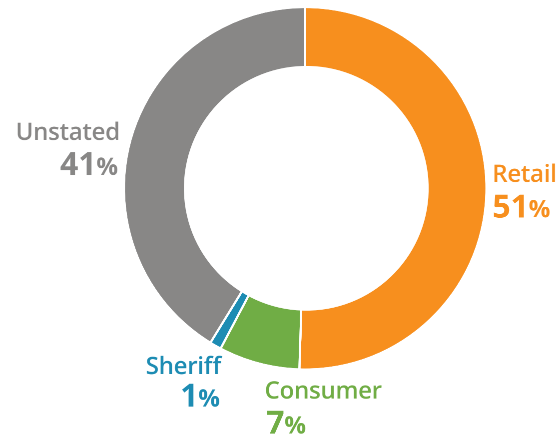


Figure 16. Proportion of all recorded payment plans set up by

In Figure 17, we have recorded each person's reported fortnightly payment plan against their fortnightly income. We have included the Household Expenses Measurement (HEM) benchmark as recorded for the 2023 financial year. We have sorted all fortnightly income by amount. By viewing these figures together, we are able to note that people's fortnightly payment plan is not correlated to their fortnightly income. Significantly, this also demonstrates the number of people calling the NDH whose incomes are significantly unable to meet average household expenses, yet their energy payment plan is taking up a considerable proportion of their fortnightly income.

Case study: John

John* is an older aged resident living in a retirement village, whose sole income is a Centrelink payment of approximately $700 per fortnight. His support worker contacted the NDH on his behalf, as he had requested assistance with accessing the Power Saving Bonus.

When John and his support worker contacted the NDH, he outlined that he owed over $5000 in utility debt. The retailer had put John on a payment plan of $240 per fortnight, which when added to his rent payments of $220 per fortnight was leaving him with approximately $240 for his remaining bills and food costs.

John said that he was hardly eating because he was prioritising his utilities and rent payments, and that the retailer hadn't helped him. He stated that the retailer often called him and threatened disconnection, and he hadn't been offered the Utility Relief Grant, or other utility assistance entitlements.

When John spoke with the NDH, he was extremely worried about lowering his payment plan, as he didn't want to risk being disconnected.

*name changed

The option for consumers to nominate an amount they can afford to pay regularly is an important aspect of the PDF, however our data shows this entitlement is not being adequately communicated by retailers.

Against growing energy debt and increases in some breaches of the PDF by retailers, additional consumer protections could be added to the PDF in relation to payment plan arrangements. Amendments could allow consumers to continue meeting energy payments consistently without falling into additional financial hardship, for example a requirement to assess what is fair and reasonable for the consumer to pay, having regard to:

- a payment plan calculated with regard to benchmark income and expenditures[17] and consumers' average fortnightly income;
- other measures of assistance having been investigated and implemented where possible before a payment plan is confirmed;
- if the accrued energy debt is not able to be paid off within the two-year period, the remaining balance is waived.

RECOMMENDATION 7.

Investigate and strengthen protections available in the Energy Retail Code to ensure payment plans are an affordable and sustainable option that are proportionate to the consumer's income.

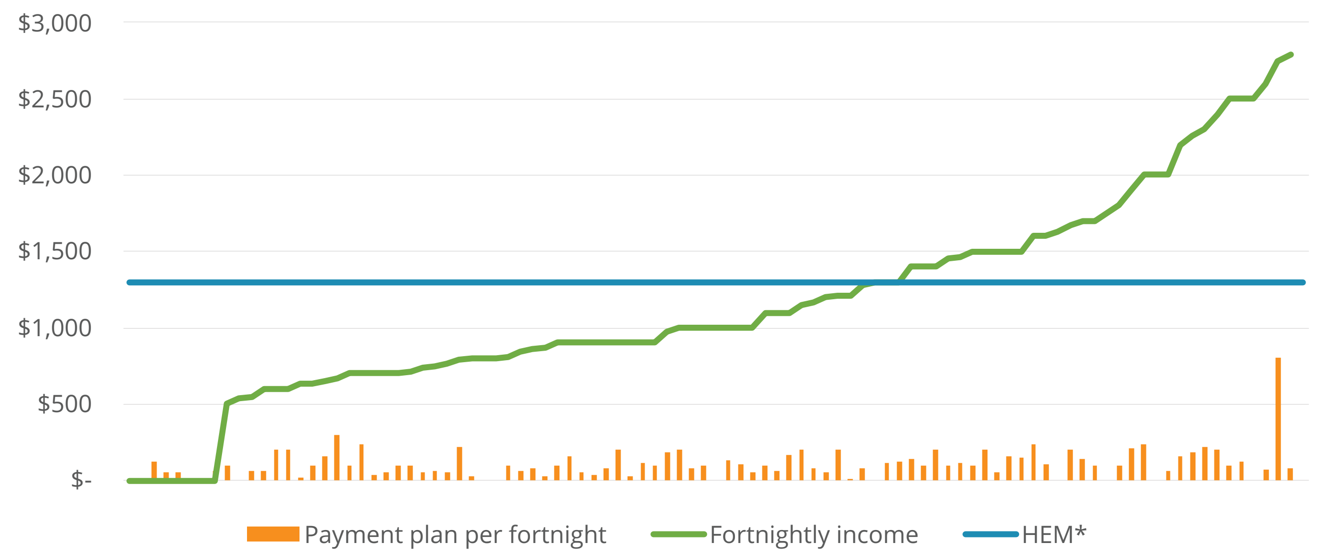


*Figure 17. All contacts in 2023 where fortnightly income and fortnightly payment plan is recorded. This is measured against the *Household Expenses Measurement (HEM) benchmark at $1,300, as calculated for the 2023 financial year.*

17 Australian Bureau of Statistics, Price indexes and inflation | Australian Bureau of Statistics (abs.gov.au) Household Expenses Measurement; Consumer Price Index and Wage Price Index

Disconnections and threats of disconnection

This year, 5% of all energy contacts reported a disconnection or threat of disconnection, showing no significant change since last year's findings. Since the introduction of the PDF, there has been overall success in the decrease of reported disconnections due to non-payment. While this downward trend has generally continued in this year's report, there has been an increase in the number of instances where disconnection has occurred where the consumer has been unable to pay, and an increase in instances where disconnection is threatened by the retailer.

This corresponds to the ESC's reported instances of disconnection for non-payment, where a spike in disconnections were recorded in January and June of 2023[18].

Disconnections

Out of the ten recorded disconnections:

- One person had been disconnected on two separate occasions. She arranged payment plans for both utility accounts and had taken out a loan to pay her daughter's school fees that were being pursued by a debt collector.
- One person was disconnected while they were struggling with serious mental health issues and chronic pain and receiving the Disability Support Pension.
- Two people were disconnected after not being able to meet an unaffordable payment plan. In one of these cases, the payment plan was $200 per fortnight. The second person requested the retailer send someone to check their connection had been restored and was refused by the retailer.
- One person was experiencing family violence and was unaware of multiple debts that her ex-partner had accrued. After disclosing her circumstances to the retailer, she was told she would 'have to pay something', despite her disclosing to the retailer she had no income.
- One person disclosed having a severe gambling problem that had caused their financial issues and was two years into bankruptcy.
- One person had their gas disconnected for over one month, and their electricity for a week before contacting the NDH.

People being disconnected from an essential service due to an inability to pay is unacceptable, and in breach of the PDF. As these instances continue into the fifth year of the PDF's establishment, there is the basis for greater regulator intervention. Retailers could be restricted from disconnecting people without the case going through a regulator investigation, if the person facing disconnection chooses to engage in external dispute resolution. As it stands currently, retailers are required to provide EWOV's contact information to customers before disconnection, yet retailers' engagement with the customer is sometimes not established. A minimum requirement of discursive engagement with the customer in order to ask them if they would consent to a referral to EWOV would provide the person the opportunity to receive external and independent information and support from the Ombudsman, and time, before disconnection could proceed.

As the Electricity and Gas Industry Acts outline, retailers can initiate disconnection proceedings if the customer is owing no less than $300, or a higher amount if this is specified in an applicable Code[19]. Our evidence shows the average energy debt has grown significantly higher in recent years. The upcoming Code review[20] is a good opportunity to increase this threshold. Increasing the disconnection threshold would better-reflect the current, growing, average energy debt, and provide additional protections against disconnection for non-payment.

RECOMMENDATION 8.

Investigate a new process for retailers to refer customers to EWOV, with consent, before disconnection can occur.

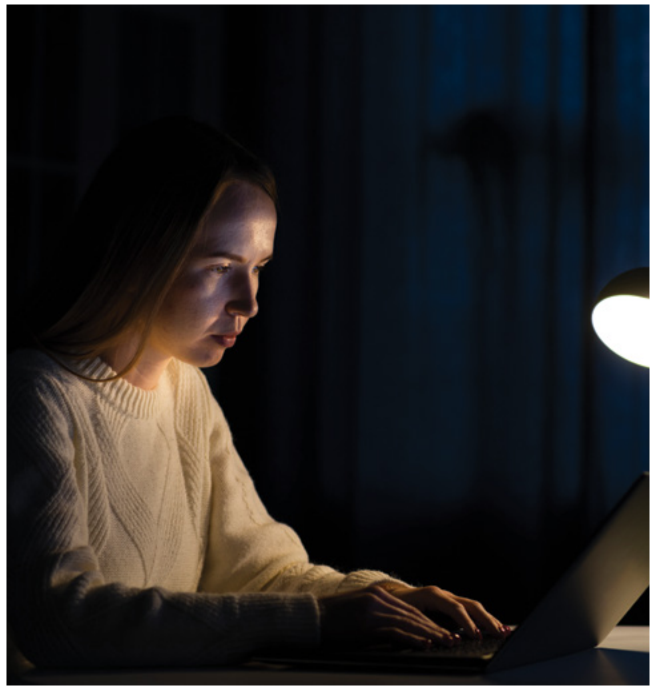
RECOMMENDATION 9.

Through the Victorian Government's review of the Energy Retail Code of Practice, insert a new provision in the Code that increases the disconnection threshold amount.

18 Essential Services Commission, Victorian Energy Market Report September 2023, p.32

19 Electricity Industry Act (Vic) 2000, Section 40SM (1)(b)(i) & Gas Industry Act (Vic) 2001, Section 48DO (1)(b)(i)

20 Energy Retail Code of Practice review | Engage Victoria



Case study: Simone

Simone* is a single mum who rents her home with her daughter studying Year 12. Following an incident at her workplace, Simone was forced to leave her employment and was unable to return to the workforce for 12 months. After the incident, there was a delay in receiving her employment entitlements, and Simone was relying solely on Centrelink payments.

As a result of this Simone found herself in a position where she was unable to afford her daughter's school fees and day to day expenses, including food.

Simone resorted to taking out BNPL and payday loans in order to cover essential costs and a debt relating to her daughter's school fees, which had been sold to a debt collector.

Simone fell behind on her utility bills with her retailer, and they quickly rose to over $4,000 each for gas and electricity.

When Simone called the NDH, she told us she had been disconnected by her retailer on two occasions before, and she was concerned she would be disconnected again. She had set up affordable payment arrangements for both accounts, however she expressed she didn't have capacity to self-advocate, and needed someone to work with her. She accepted a referral to her local financial counselling agency for ongoing support and advocacy.

*name changed

> *"When people call us at the stage of hardship where their retailer is threatening a disconnection, some people have been told by their retailer that their payment plan must be a certain amount. People attempt to engage with this payment plan, but end up having to break the arrangement to cover other essential costs."*
>
> – Ally, NDH Financial Counsellor

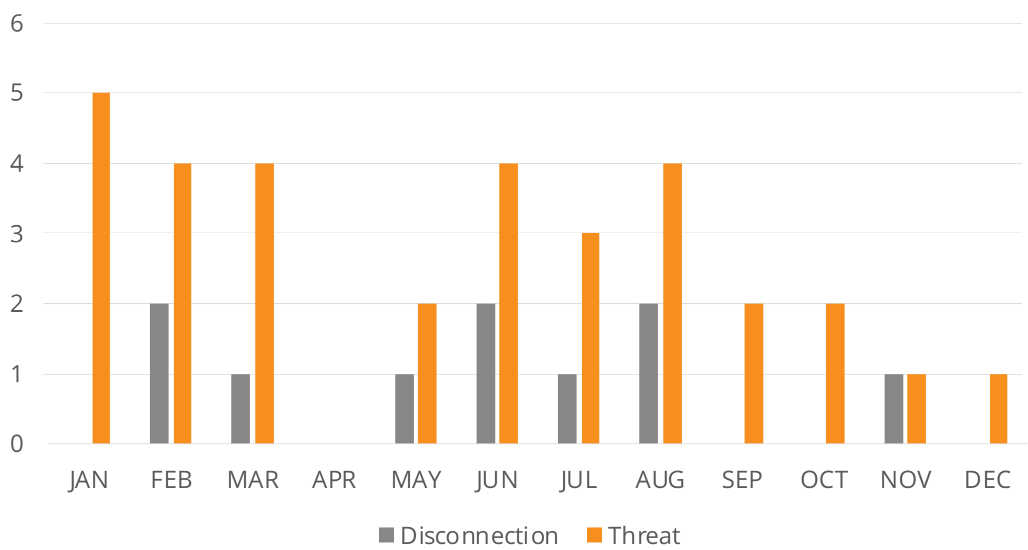


Figure 18. Number of recorded disconnections and threats of disconnection per month in 2023

Threats of disconnection

Concerningly, in some cases, people shared that they had received disconnection notices without having been contacted for hardship assistance. In one particularly egregious case (identified in section 4.3 of this report), the disconnection threat was sent via text message outside of business hours, without the name of the retailer being provided. When the person tried to contact the retailer on the number provided, the phone number provided wasn't connected.

Protections should prevent retailers' ability to threaten disconnection. Our data identifies that retailers are using disconnection threats as a tool to coerce people unable to afford their energy bill into agreeing to unaffordable payment plans. Expanding retailers' wrongful disconnection payment obligations to include instances where retailers have wrongfully communicated a potential disconnection would provide preventative protections to consumers facing risk of disconnection for non-payment. Expanding the application of this payment could also provide some level of deterrence of this approach to debt collection, to reduce the number of Victorians being set up to fail on unaffordable payment plans.

RECOMMENDATION 10.

For retailers' wrongful disconnection payment obligations to be expanded to include instances where retailers have wrongfully communicated to customers about imminent disconnection.

4.4 Systemic Issues by retailer

When analysing retailers' failure to meet minimum requirements outlined in the PDF, the proportion of NDH contacts without a retailer noted must be taken into account. There are many instances where the retailer is not noted, and consequently retailer practices might not be reflected entirely accurately. Nonetheless, when accounting for retailers' proportion of all noted contacts, and their market share, there seems to be a consistency in retailers failing to meet adequate hardship practices in implementing minimum standards of assistance outlined in the PDF.

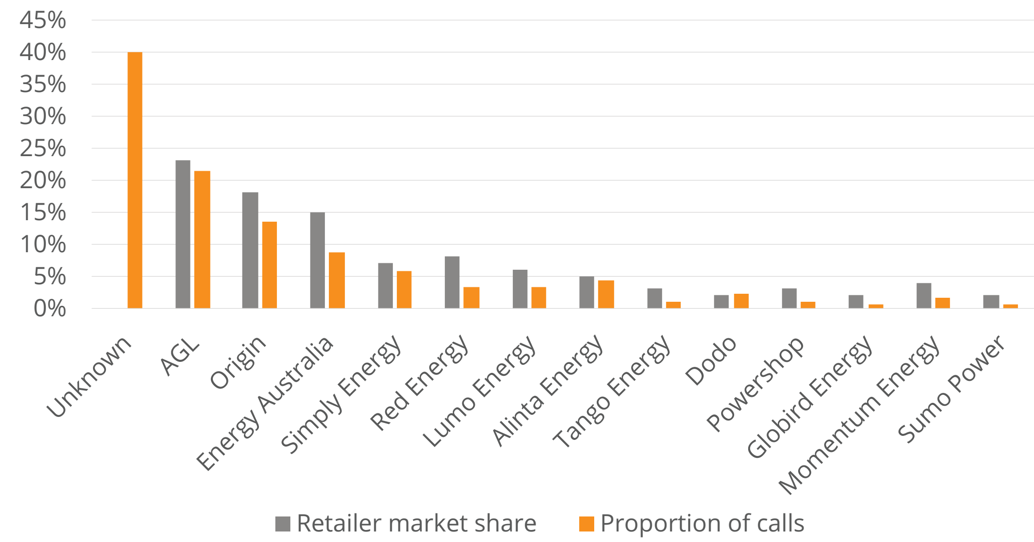
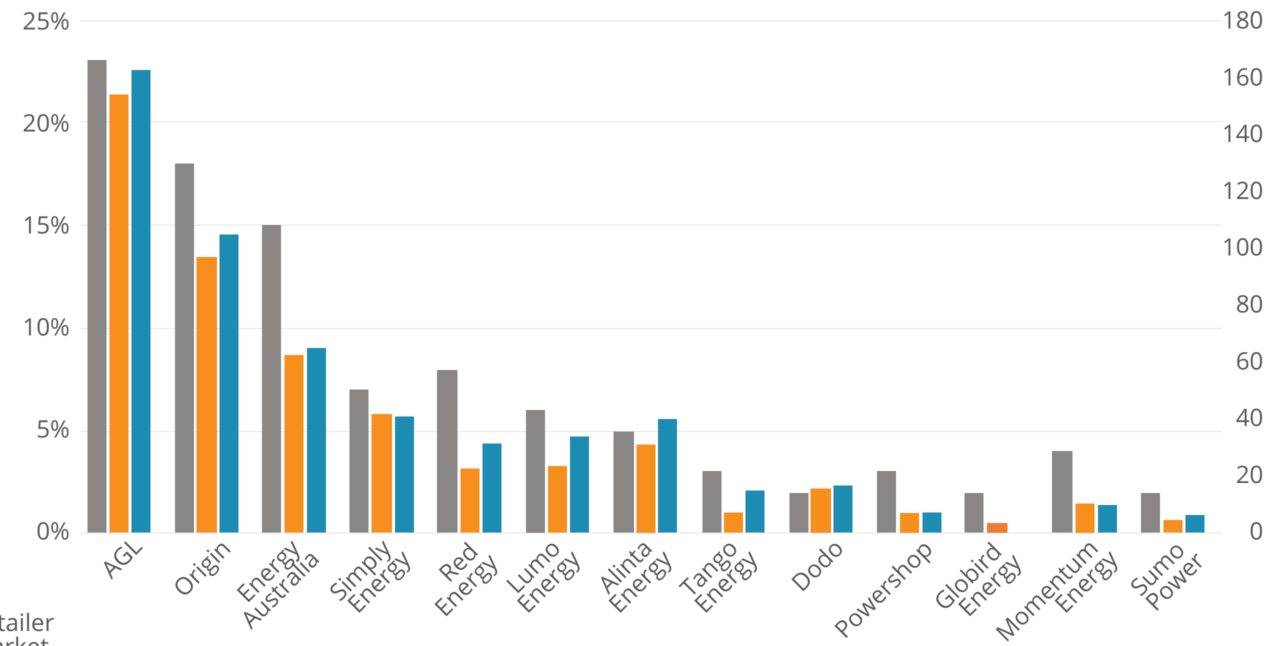


Figure 19. Energy contacts in 2023 where retailer is recorded, as compared to retailer's market share.



	AGL	Origin	Energy Australia	Simply Energy	Red Energy	Lumo Energy	Alinta Energy	Tango Energy	Dodo	Powershop	Globird Energy	Momentum Energy	Sumo Power
Retailer market share	23%	18%	15%	7%	8%	6%	5%	3%	2%	3%	2%	4%	2%
Proportion of calls	21%	13%	9%	6%	3%	3%	4%	1%	2%	1%	0%	2%	1%
No. of systemic issues	162	105	65	41	31	34	40	15	17	7	0	10	6

Figure 20. Proportion of contacts by retailer, compared to retailer's market share and number of systemic issues noted in 2023.

Figure 20 assesses the number of systemic issues raised in each contact or limited advocacy case through the NDH. For example, if a person identifies that they have not been offered the Utility Relief Grant, and they have been threatened with a disconnection, this would be noted as two separate instances of a systemic issue. Secondly, the graph outlines the proportion of market share and proportion of all energy contacts where they are listed as the person's retailer.

With these three data sets, we can identify that the instances of systemic issues are relatively proportionate to both the market share and proportion of energy contacts noted in the 2023 year.

The ESC's priority on enforcement action has been a positive development in recent years, with enforceable undertakings and penalties being applied to retailers for failing to provide adequate assistance under the PDF, and wrongful disconnection[21].

While these are positive steps towards addressing retailer misconduct, this year's report records the highest increase in retailers breaching their obligations since the establishment of the PDF. If retailers are continuing to breach their obligations, the deterrence affect in compliance measures may be required to be drawn on further.

21 Essential Services Commission, Energy Compliance and Enforcement priorities 2022-2023, July 2023, pp 3-4

05 DEMOGRAPHIC ANALYSIS

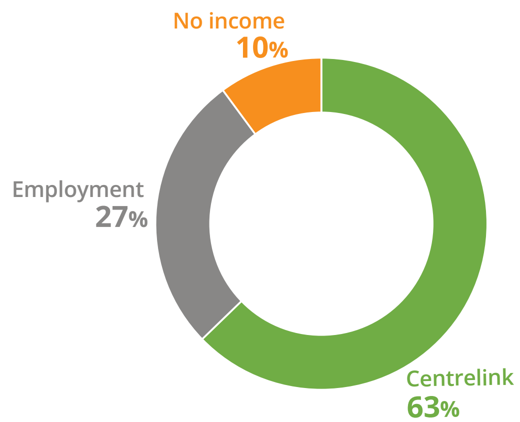


Figure 21. Income type (disclosed)

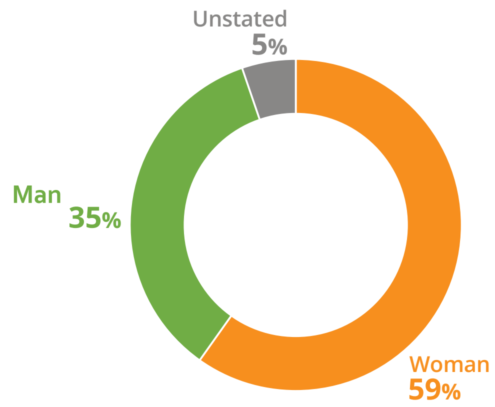


Figure 22. Gender

This section analyses the demographic information recorded from all energy contacts to the NDH, to identify the impacts of energy hardship when intersected with demographic disadvantages or vulnerabilities. This section identifies issues found in other forms of inadequate hardship assistance, including retailers' failure to identify vulnerabilities such as family violence, or relevant support for people with limited capabilities.

Overview

Of all energy contacts to the NDH, people were most likely to be single women with children, renting their home. A higher proportion of people experiencing energy hardship were living alone, or in a home with a single income, showing that single income families are more likely to struggle to afford energy costs.

People contacting the NDH were more likely to receive a Centrelink pension as their single source of income. With Centrelink pensions remaining below the Henderson Poverty Line while the price of essentials continue to increase[22], a significant proportion of Victorians are being exposed to additional financial stress in order to meet essential costs.

22 Wilkins, R and Varshney, S. (2023), *Poverty Lines: Australia, June Quarter 2023*, November 2023, Melbourne Institute Applied Economic & Social Research, p.4

For people with these circumstances, there are additional factors that compound their energy hardship. Single income families are reporting to us they are increasingly struggling to meet essential costs. For the majority of people contacting the NDH, this single income is more likely to be a Centrelink pension which is unlikely to meet ongoing costs.

Most people contacting the NDH were living in a private rental, and research has consistently shown renters experience an increased likelihood of higher energy costs than non-renters[23].

Whilst some of these factors are outside the scope of energy regulation, the impacts compound for our clients. Further focus on automating concession entitlements, and prioritising the access to best offers and payment assistance measures would be the first step in preventing longer term hardship for clients in these circumstances.

Key Findings

59% of contacts identified as women

54% were living in a private tenancy

22% were single parents

63% of contacts were receiving only a Centrelink payment out of those who disclosed their income

5.1 Retailers failing to provide adequate assistance to vulnerable consumers

Compared to the broader group of energy contacts to the NDH, vulnerable consumers were found to be disproportionately likely to experience their retailer causing barriers in them accessing hardship assistance.

Seventy-six percent of energy contacts disclosed having one or more vulnerabilities, directly or indirectly contributing to their financial hardship. More than half of people contacting the NDH disclosed a life event significant enough to have impacted their financial circumstances. These life events range from personal or employment injuries, or sudden or emergency events impacting their day to day lives, including themselves or immediate family members requiring care.

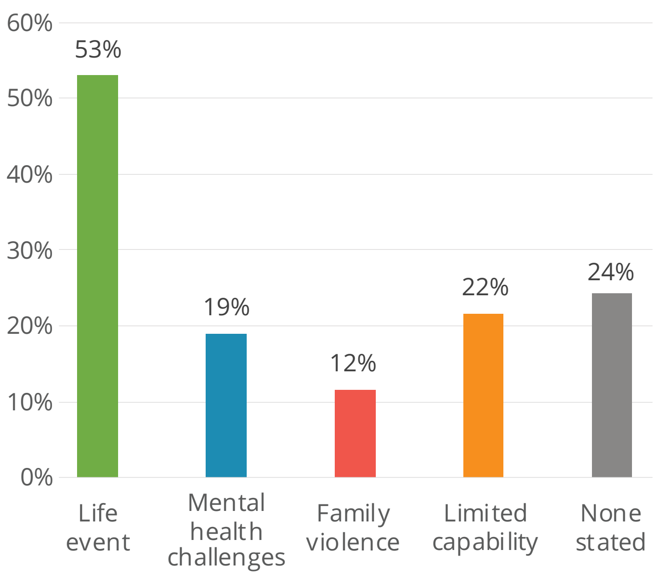


Figure 23. Proportion of people contacting NDH with energy as a presenting issue, who have disclosed a vulnerability in 2023.

23 Best, R. and Burke, P.J. (2022), Effects of renting on household energy expenditure: Evidence from Australia, CCEP Working Paper 2202, May 2022. Crawford School of Public Policy, The Australian National University.

Case study: Jane

Jane* was diagnosed with terminal cancer a few years ago, and her adult children and her grandchildren moved in with her. Jane lives with the Disability Support Pension as her sole income, and has had to undergo extensive surgery and cancer treatment, whilst also arranging her finances for her end of life.

Jane informed the retailer of her terminal illness at the time she was first diagnosed. She also informed them that she would be out of reach, as she was in hospital undergoing treatment. She further informed them of her vulnerabilities and difficult circumstances, yet her bills continued to accrue without any arrangement in place. Jane applied for concession entitlements and Power Saver Bonuses herself, however despite all her efforts, her energy debts accrued to over $10,000.

When Jane spoke with the NDH, she stated she required assistance applying for the URG, negotiating an affordable payment plan and assistance with checking she is on the cheapest rates for electricity and gas. Jane had not been provided these by the retailer, nor had been able to arrange payment matching, even though she had been able to successfully arrange this with her water provider.

How did NDH help?

NDH Financial Counsellors worked closely with Jane to provide her information on her rights and protections, including information about the PDF. Jane requested further support and advocacy with the retailer for a suitable hardship arrangement, and the NDH provided a warm referral to a Financial Counselling service local to Jane for ongoing support.

*name changed

It is all too common for people to report to our financial counsellors that they have disclosed their circumstances to their retailer yet haven't been provided assistance that reasonably accounts for their situation. Retailers are required to identify and provide relevant assistance to vulnerable consumers, as outlined in the ESC's 'Getting to fair' strategy, aimed at providing more equitable access to hardship support for consumers experiencing vulnerability[24].

A retailer's failure to identify someone's vulnerabilities during their interactions can have compounding impacts on people with pre-existing barriers and can result in additional barriers to accessing crucial resolutions including hardship programs, payment assistance or debt waivers.

Our data reveals the need for further investigation into how widespread these issues are in retailers' practices, including the monitoring of retailers' standard customer service lines. If retailers are found breaching required identification obligations, penalties must provide adequate deterrence to ensure retailers are prioritising resolving these issues.

RECOMMENDATION 11.

For the ESC to consider the International Standard on Consumer Vulnerability for the Design and Delivery of Inclusive Services (soon to be adapted for Australia) as part of the Energy Retail Code review, with a view to increasing compliance measures for retailers found in breach of protections for vulnerable consumers, and deterrence of these practices more broadly.

24 Essential Services Commission 2021, Getting to fair: Breaking down barriers to essential services, 12 August 2021

5.2 People impacted by Family Violence

This year's report recorded 12% of energy contacts disclosing experiencing family violence. This marks the highest number recorded of the four energy reports. This could be positively attributed to growing cultural and environmental awareness and responses to family violence, which in turn provides people with greater assurance that their disclosure will be provided adequate support, resulting in more disclosures when contacting to the NDH.

Of the people who disclosed experiencing family violence:

- **90% identify as women**
- **47% are single parents**
- **64% are renting their home**

Our data found that there is a much higher likelihood of people experiencing family violence to also experience poor hardship practices by their retailers, compared to people who didn't disclose experiencing family violence.

> *I am needing to speak with someone about my debt options. I have been on hardship with some of my debts but still cannot meet payments. I think I may need to look at bankruptcy. Unfortunately, some of these debts were taken out by an ex-partner without my knowledge.*
>
> – Person contacting the National Debt Helpline

Key Findings

People impacted by Family Violence are:

28% more likely to experience their retailer failing to identify their vulnerability

13% more likely to have closed account debt ("old debt")

11% more likely to not be offered Utility Relief Grants

5% more likely to feel harassed or experience aggressive debt enforcement practices by their retailer

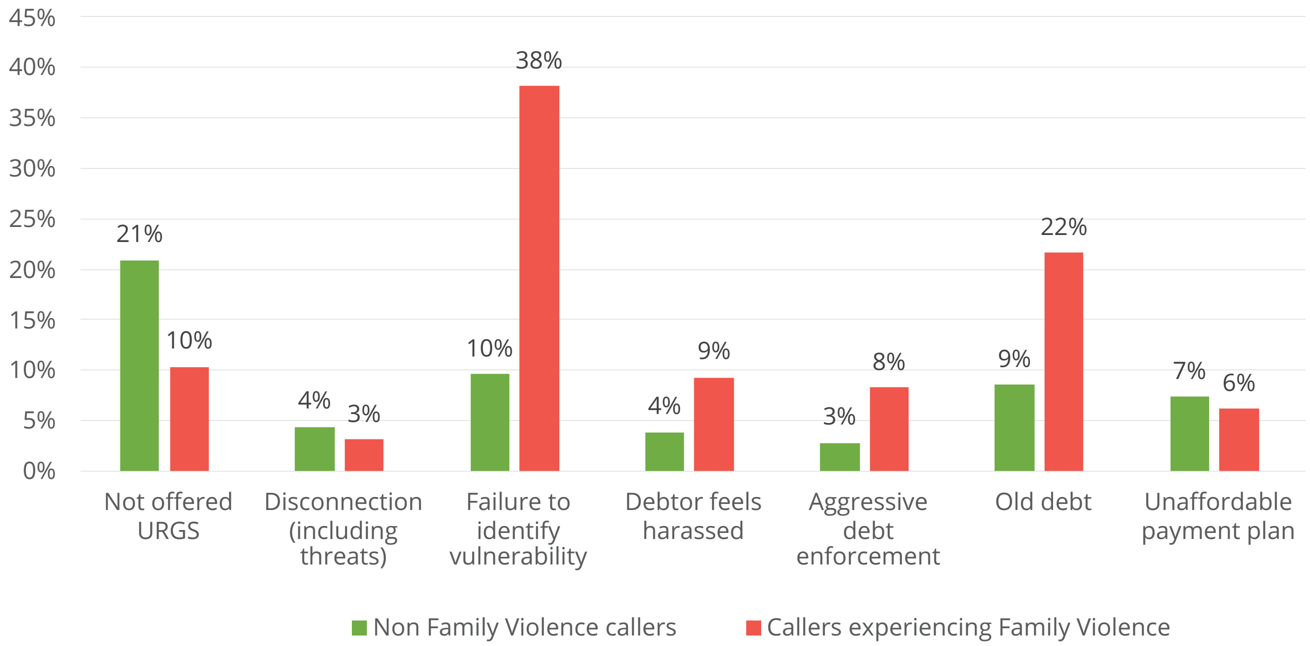


Figure 24. Proportion of people contacting NDH with energy as a presenting issue, who have disclosed a vulnerability in 2023.

The following contact notes have been written by financial counsellors during their appointments, and represent common experiences of people who have disclosed family violence during their contact with the NDH:

- Victim survivor who disclosed to her retailer she is homeless after escaping family violence. Energy debt related to an old account from a previous property shared with the perpetrator. The retailer stated she has to pay debt by end of week.
- Victim survivor who contacted her retailer after being disconnected. She was unaware that the ex-partner hadn't paid the utilities for 6 months. When she disclosed family violence to her retailer, they said that she had to pay something, despite her stating she had no income currently.
- Victim survivor with an energy debt incurred due to Family Violence from 10 years ago. Debt collectors continue calling including her new number. Currently paying $115 per fortnight.
- Victim survivor and single parent to four children. Retailer has demanded a payment plan before lodging an application for the remainder of the Utility Relief Grant
- Victim survivor currently hospitalised, feeling very distressed by the constant contact about old debts.
- Client unsure why their retailer referred her to NDH, after they declined her waiver request made through a Family Violence channel. Multiple debts have been incurred due to Family Violence.
- Victim survivor who has been alerted to an old energy bill from a property shared with an ex-partner. Finding out about the bill has triggered PTSD due to extreme violence that occurred at the property in question.

Failing to identify and engage appropriately with people experiencing family violence

Our data found that people who disclosed experiencing family violence were 28% more likely to have their retailer fail to identify their vulnerability, in comparison to all other energy contacts with other types of vulnerabilities.

Instead of being provided specialised assistance, women in these circumstances reported incurring additional barriers from their retailer when they disclosed experiencing family violence, for example, in insisting the person must pay something, or agree to a specific and unaffordable payment plan.

Anyone experiencing family violence should receive timely, specialised, and sensitive support by their retailer. For example, where contact has been made, this triggers preliminary safety checks by the retailer, and if family violence is disclosed, the option of connection to specialist family violence services should be made.

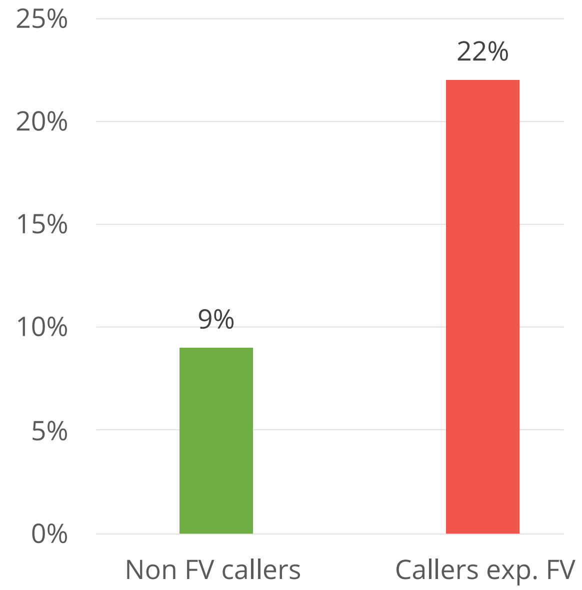


Figure 25. Proportion of contacts who reported a closed account debt, by contacts who disclosed experiencing family violence compared to contacts who haven't disclosed experiencing family violence.

People experiencing Family Violence and closed account debt

A high correlation was found with closed account debt, with 22% of people who disclosed experiencing family violence, reported having a closed account debt. Whereas only 10% of people who didn't disclose experiencing family violence were recorded as having a closed account debt.

This correlation can be attributed to this cohort often being left with accrued debts in their name when they have escaped the shared home or finding that their ex-partner has opened accounts in their name without their knowledge. The correlation between closed account debt and family violence is significant, and if not addressed reasonably by their retailer, is likely to cause additional detriment to their safety, health and financial stability. In cases of closed account debt, retailers should be waiving these energy debts under the reasonable grounds of the person experiencing exceptional circumstances.

The Energy Retail Code outlines that retailers must take into account the impact of debt recovery action on customers affected by family violence[25]. A significant proportion of contacts reported experiencing additional stress caused by their retailer's pursuit of energy debt, even in instances where they have been made aware of the debt being incurred during family violence. We believe that these examples demonstrate ineffective and inappropriate engagement as outlined in the Energy Retail Code, and failures to meet debt collection guidelines, with particular reference to vulnerable consumers.

The Retail Code requires records be retained when the affected customer has made a complaint or referred a dispute to the EWOV[26]. The volume of complaints recorded with EWOV by affected customers may only represent a small proportion of the instances of retailers' failure to comply with relevant practices in family violence and debt collection, and may not adequately measure the volume of instances where unlawful debt collection has been engaged against people experiencing family violence. In cases where retailers and their representatives have been found to be engaging in unlawful debt collection practices against vulnerable consumers, enforcement measures including those referring to unconscionable conduct[27] must be considered.

Case study: Lisa

Lisa* is a single woman living on the Youth Allowance payment, who had been living in a rental with her partner. She had to move out of the home to escape from her partner, who was perpetrating family violence against her. While they were living together, all the utility bills were in her name.

Since escaping her now ex-partner, Lisa moved in with a friend, and was struggling to meet essential costs. She resorted to using BNPL and pawning her belongings to buy food.

When Lisa called the NDH, she stated she had been "hounded" by her retailer about an electricity bill from her previous address. She said the debt was now with a debt collector and she was trying to pay at least $20 per fortnight.

Lisa said she had disclosed to the retailer that she was experiencing family violence and had to leave the home due to the risks to her safety. She said that the retailer responded by asking her for a police report.

How did NDH help?

The NDH financial counsellor explained to Lisa that there are rules prohibiting debtor harassment and sent her a copy of the Debt Collection Guideline. The financial counsellor encouraged her to keep a record of the contacts she received. She also explained that Lisa could complain to EWOV about the retailer's poor handling of her family violence disclosure and failure to provide assistance.

She offered, and Lisa accepted, a referral to a local financial counselling service for help negotiating with her energy retailer and other creditors.

*name changed

25 Essential Services Commission Energy Retail Code of Practice | Essential Services Commission clause 152
26 Essential Services Commission Energy Retail Code of Practice | Essential Services Commission clause 160
27 Australian Competition and Consumer Commission Debt collection guideline: for collectors and creditors (accc.gov.au) April 2021

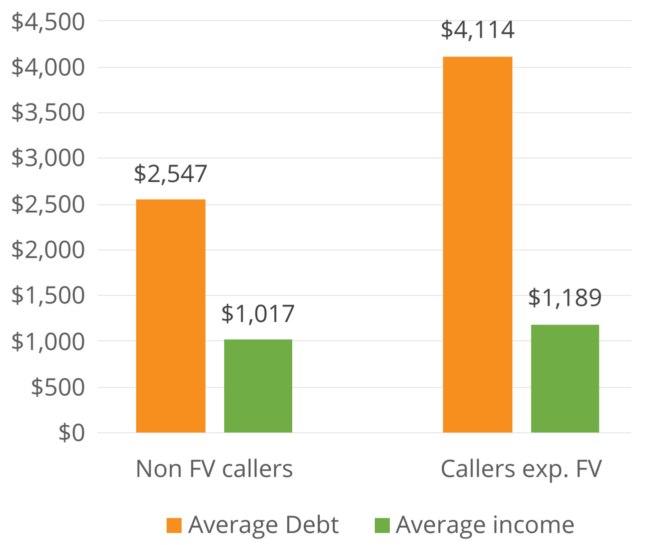


Figure 26. The average energy debt and fortnightly income recorded in 2023 for contacts who disclosed experiencing family violence, compared to contacts who didn't disclose experiencing family violence.

Retailers providing essential services can often be the first point of contact that someone makes if they're in financial hardship. For people experiencing family violence, this first contact can also be a point of first disclosure of economic abuse or other forms of family violence. In recent research, support workers acknowledged improved understanding and retailer practices for people affected by family violence, yet they reported that inconsistencies of support, onerous evidence requirements and refusal to waive any debt remain persistent issues when dealing with energy retailers[28].

Under the Energy Retail Code, retailers are required to provide training that addresses how to identify, engage appropriately and effectively with affected customers. We have found that in the recorded examples provided by contacts to the NDH, retailers have failed to meet minimum standards of appropriate and effective engagement when communicating with people experiencing family violence.

While we support the growing cultural change that has successfully developed family violence policy requirements for retailers, the implementation and compliance of these policies may require deeper investigation, with particular attention to the correlation of financial hardship responses for people experiencing family violence.

5.3 Aboriginal and Torres Strait Islander peoples

Despite the small number of people who disclosed identifying as Aboriginal and or Torres Strait Islander, when compared with the broader population, Aboriginal and Torres Strait Islander peoples continue to be disproportionately experiencing financial difficulty in Victoria. As of 2021 Census data, Aboriginal and Torres Strait Islanders make up 1% of the Victorian population[29], yet account for 3% of all energy contacts to the NDH in 2023.

In addition to being overrepresented in facing energy hardship, our data suggests that First Nations people who contacted the NDH were also likely to experience higher levels of systemic issues when contacting their retailer for assistance, when compared to people who did not disclose or did not identify as First Nations.

Key Findings

First Nations people were :

11% **more likely to have closed account debt**

7% **more likely to experience a type of Payment Difficulty Framework breach by their retailer**

28 Nicholls, L., & Dahlgren, K. (2021). Consumer Experiences Following Energy Market Reforms in Victoria: Qualitative Research With Community Support Workers. Monash University. https://www.monash.edu/__data/assets/pdf_file/0007/2830993/Q4-ConsumerExperiencesEnergyMarketReforms-22062021-1.pdf
29 Australian Bureau of Statistics, Victoria: Aboriginal and Torres Strait Islander population summary | Australian Bureau of Statistics (abs.gov.au), July 2022

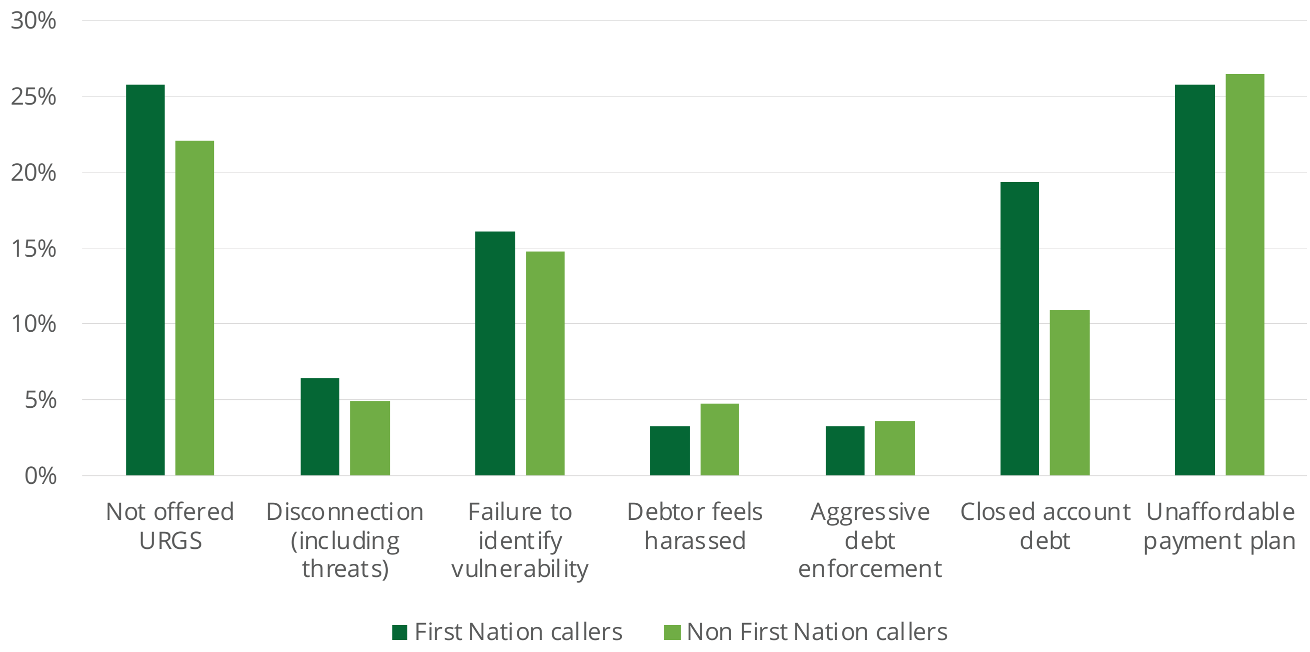


Figure 27. Proportion of First Nations contacts where a retailer systemic issue is recorded, compared to contacts who didn't disclose or did not identify as First Nations.

Case study: Sharon

Sharon* is an Aboriginal single mum, who works in laundry services, and is saving for a deposit for a car so she can keep her job. Consequently, Sharon is having to take taxis to work. Due to her changing work hours both her work income and Centrelink payments have been reduced in recent months.

After recently completing studies, Sharon has incurred a student and Centrelink debt, which she had been paying through Centrepay. Sharon has struggled to meet the payment plans and afford essential expenses including her electricity bill which has fallen into arrears.

Sharon and her children live in an all-electric home and had recently attempted to manage her electricity account with her Concession entitlement, URG and using energy efficient changes to her usage. Her retailer had also arranged for a payment plan of $130 per fortnight. Despite these changes, her debt grew over time as Sharon received unexpectedly high bills.

Sharon had been told by her friend of the retailers' bill assist payment matching program, however, was told by her retailer that the program was unavailable.

Sharon received a text message at 11pm threatening disconnection for the outstanding balance on her electricity account. She called the number in the text message, and it went straight to voicemail. Sharon complained to NDH that her retailer did not identify themselves in the text notification.

How did NDH help?

The NDH Financial Counsellor immediately facilitated a conference call to EWOV with Sharon. EWOV confirmed it will send a request to the retailer to stop the disconnection.

EWOV further confirmed it will ask the retailer to facilitate an Utility Relief Grant application within three days with Sharon at a time she is available. Sharon expressed her relief once the complaint was made, and disconnection prevented.

*name changed

5.4 People who speak a language other than English at home

Close to a quarter of people contacting the NDH speak a language other than English at home, slightly lower than is represented in the wider Victorian population at over 27%[30]. The identifier of speaking a language other than English is not an adequate measure of the total proportion of ethnically, culturally or linguistically diverse people contacting the NDH, as it is generally defined[31]. There are a significant proportion of Victorians of culturally diverse backgrounds who speak multiple languages at home including English, who may use English when communicating with their retailer or community sector services instead of advocating for a translation service.

Recent research has demonstrated the importance in relevant and specialised translation services for culturally and linguistically diverse communities, particularly during emergency and crisis[32].

Unfortunately, this report doesn't collect data from culturally and linguistically diverse people about their experience of service provided by their retailer, with regard to interpreter services, or accessibility of assistance. Due to this, we are unable to determine whether there have been correlated failures by retailers' to meet their obligations in providing translation services, or similar assistance. We would like to conduct more detailed analysis in future reports to this end.

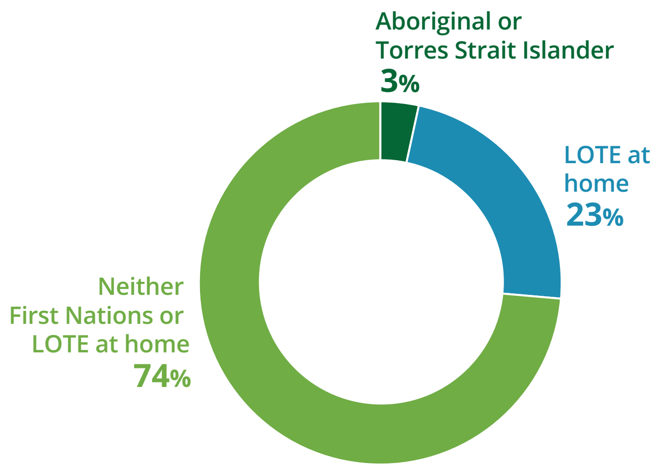


Figure 28. Percentage of energy contacts by cultural or language indicators

Case study: Amal

Amal* is a single mum with three children living at home. Amal speaks Arabic and requires an interpreter for all phone calls. Her sole income source is a Centrelink Carer's payment of $1,500 per fortnight. Amal is in no other debt, but had been struggling to afford the payment plan for her utilities. She had been attempting to meet fortnightly payments of over $150 (10% of her income) but couldn't maintain them. She had contacted her retailer for support, and the retailer referred her to the NDH.

Amal stated she had agreed to increase her payments to $150 after the retailer threatened to disconnect her. She hoped agreeing to the increase would prevent this from happening.

Amal stated that she believed she had applied for URGs in the past but couldn't remember how long ago that was.

How did the NDH help?

The financial counsellor assisting Amal provided her with information about the PDF, including her rights to agree to a payment plan that is affordable for her, and her entitlement to access the URG.

Due to the ongoing issues Amal was experiencing with the retailer, she requested ongoing assistance from a local financial counsellor to negotiate with the retailer and was provided with a warm referral to her local financial counselling service.

*name changed

30 Australian Bureau of Statistics, Cultural diversity of Australia | Australian Bureau of Statistics (abs.gov.au), September 2022; Victorian Department of Health, Multicultural Health Action Plan Victoria's cultural diversity | lithographically, 2023

31 Jupp, K. M. (1976). The Borrie Report: Background, Findings, Recommendations. Population and Development Review, 2(1), 65–77. https://doi.org/10.2307/1971531

32 Qi, L. (2023). Translation as crisis (mis)communication for culturally and linguistically diverse communities: the case of Australia during the COVID-19 pandemic — Monash University Translation Spaces, 12(1), 97-123. https://doi.org/10.1075/ts.21044.qi

5.5 Contacts by Housing type

As indicated in the data over the six years of energy reports, people living in privately rented homes are over-represented in energy hardship contacts. Most people contacting the NDH were living in a private rental, and research has consistently shown renters experience an increased likelihood of higher energy costs than non-renters[33].

Similar to people experiencing family violence, people contacting the NDH living in private rentals are also more likely to incur closed account debt. This is likely attributed to insecure tenure, causing people to have closed account debts connected to homes they no longer live in.

Additionally, renters living with housemates face additional complications when the household changes – either through eviction or someone moving out. In these events, the renter who has the energy account in their name is liable for the energy debt, often without the financial ability to pay for the usage or any accrued debt with their single income.

As Victoria continues to prioritise the transition to renewable energy, renters are exposed to incurring the costs of a legacy energy grid, without the framework to ensure they will receive the benefits of electrification or solar energy installation. Further research into these risks faced by renters and low-income consumers would provide necessary information to improve and better target Victorian energy programs.

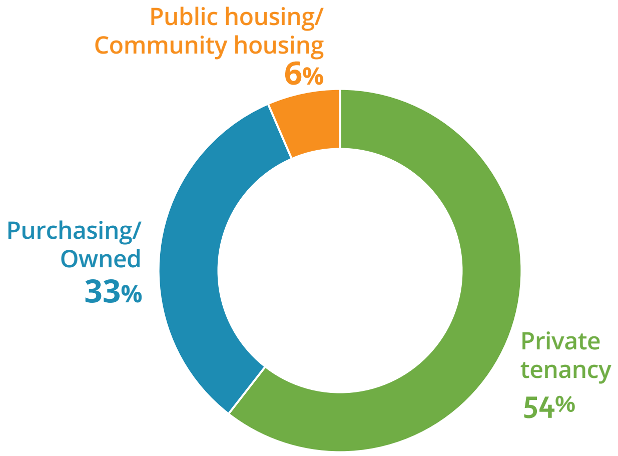


Figure 29. Housing type

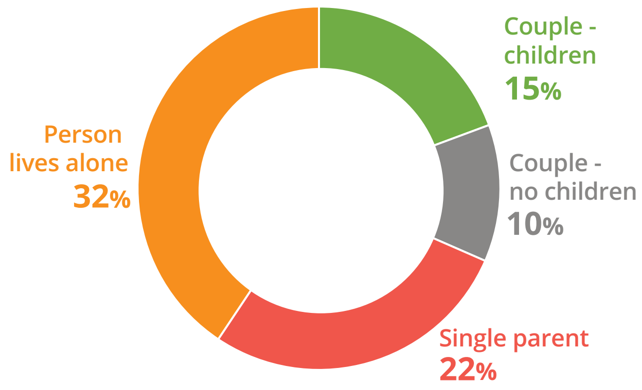


Figure 30. Household type

Case study: Rosie

Rosie* is renting on her own in community housing and receives the Disability Support Pension (DSP) after being diagnosed with a chronic condition from COVID19. She supplements her DSP income with casual work when she is well enough to do so and has additional caring responsibilities.

After suffering a significant breakdown during the peak of the COVID19 pandemic, Rosie had relied on BNPL loans to get by, and is struggling to keep up with the debts and current essential expenses.

Aside from these loans, Rosie has an old utility debt of approximately $650 from a property she had lived in years prior, despite having lived in two homes since.

Rosie notified the retailer that she receives the Disability Support Pension, that she was no longer living in that property, and that she was struggling with multiple debts and payment plans.

Rosie told the NDH that in response to her hardship request, the retailer had notified her she had to pay a minimum of $120 per month, and she was unable to access the Utility Relief Grant as the account had been closed.

The retailer had arranged a payment plan of $100 per fortnight, which was unaffordable for Rosie even without her additional BNPL payments.

How did the NDH help?

When Rosie contacted the NDH in October, our financial counsellors discussed her options under hardship and consumer protections, and assisted Rosie in writing a debt waiver request to the retailer.

*name changed

33 Best, R. and Burke, P.J. (2022), Effects of renting on household energy expenditure: Evidence from Australia, CCEP Working Paper 2202, May 2022. Crawford School of Public Policy, The Australian National University.

APPENDIX A METHODOLOGY

6 Year Review: Data Samples	1st Report			2nd Report	3rd Report	4th Report
2017 - 2023	2017	2018	2019	2020	2022	**2023**
No. of total Contacts	583	1166	507	808	6494	**7087**
No. of Energy Contacts*	94	107	56	133	697	**846**
% of total contacts	18%	11%	14%	16%	11%	**12%**

APPENDIX B DEFINITION OF TERMS

Payment Difficulty Framework

In 2017 the ESC introduced the PDF with the objectives of making it easier to pay for ongoing energy usage, to avoid falling into arrears; and ensure that people only face disconnection for non-payment as a last resort. In 2019, the PDF review saw amendments including an increase to $300 for the minimum amount of debt before disconnection, and requirements of retailers to contact and facilitate hardship assistance to all customers within 21 days of a missed payment.

Utility Relief Grant

The Utility Relief Grant scheme provides $650 payment per utility over two years to eligible households. Over 86,480 people accessed the scheme between July 2022 to March 2023, an increase of 22% since its previous year[34].

Power Saving Bonus

The PSB is a Victorian Government scheme available to all consumers of a $250 payment to assist with energy costs. The PSB has been available four times, once per year since 2019. In 2023 the PSB was accessed by more than 1.7 million Victorian households, before the program ended in August 2023[35].

National Debt Helpline

Consumer Action's financial counsellors receives the majority (75-80%) of contacts from Victorian residents to the NDH. The NDH is a national not-for-profit email, telephone and online chat-based financial counselling service providing free, confidential, and independent financial advice to Australians experiencing financial difficulty. There are multiple financial counselling agencies around Australia that respond to contacts to the NDH. This report analyses only contacts from Victorians to Consumer Action's financial counsellors at the NDH. No data in this report has been captured from other agencies. Financial counsellors are qualified professionals who provide information, advice, and advocacy to people in financial difficulty. Their services are non-judgmental, free, independent, and confidential. When a person contacts the NDH, a financial counsellor will work with them to assess their debts, identify factors that may be contributing to their debt issues and provide options to address the debts. Where a person can self-advocate, the financial counsellor will then provide them with information and resources to draw on. Where more support is required, people can be referred to a local community-based financial counsellor who can provide further assistance and advocate on their behalf, or Consumer Action's financial counsellors may provide some limited advocacy on behalf of clients. Financial counsellors make notes in our client management system throughout this process. They also record other information, such as general demographic details.

NATIONAL DEBT HELPLINE
1800 007 007
ndh.org.au

34 PSB Helps Half A Million Victorians Find A Better Deal | Premier of Victoria August, 2023
35 *ibid*

consumer action law centre

/consumeractionlawcentre

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consumeraction.org.au