



public interest
ADVOCACY CENTRE

Submission to Draft AER Customer Hardship Policy Guideline

1 March 2019

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- St Vincent de Paul Society of NSW;
- Good Shepherd Microfinance;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- Solar Citizens; and
- The Sydney Alliance.

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Introduction

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to respond to the AERs Draft Customer Hardship Policy Guideline.

PIAC agrees that the current arrangements for retail hardship assistance are not delivering acceptable outcomes for consumers experiencing payment difficulty. We support the AER's review as a crucial first step in ensuring that retailers better meet their obligations to consumers. PIAC highlights the following elements of the draft guidelines as welcome improvements, helping to ensure that retailer assistance policies deliver more consistently upon their obligations to consumers experiencing payment difficulty:

- That there be no restrictive criteria for entry (or re-entry) into support programs that may act as barriers to consumers receiving the support and assistance their retailer is required to provide,
- That a range of standardised statements will be required to be incorporated into retail policies in order to improve the consistency of responses by retailers, and
- That the timeframes for transition will expedite implementation of the new guidelines to ensure that improvements to consumer assistance are delivered at the earliest possible opportunity.

However, PIAC regards the current process, and the guidelines as drafted, as an interim step that represents unfinished business. A more fundamental re-evaluation of the framework for supporting and assisting consumers is needed. With this as important context, the remainder of this submission will respond directly to this process and specific elements of the guidelines as drafted.

While the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR) may make obligations in relation to people experiencing 'payment difficulties due to hardship', PIAC regards hardship as an inappropriate and ineffective term to be used in any material intended for consumers, or retail service staff. The AER guidelines and standardised statements represent an opportunity to utilise less pejorative, more objective and more effective terminology in reference to consumers in these circumstances, and the programs that are intended to assist them. It has been suggested that because the legal and rule framework provides for a requirement to respond to 'hardship' that this terminology must be maintained. PIAC strongly disagrees and recommends that the AER provide direction through the guidelines that it will consider a range of appropriate terminology in place of 'hardship' or consumers experiencing payment difficulty 'due to hardship', ideally specifying alternative terms which will be regarded as acceptable.¹

The remainder of this submission will respond in detail to each section of the draft guidelines, referring to the draft guideline headings for ease of reference.

¹ In this submission, PIAC will utilise preferable alternative terms in place of hardship or consumers experiencing payment difficulty due to hardship, to indicate how this may be implemented.

1. Overview

A crucial gap in the current draft guidelines, is a clear statement of purpose and objective, not merely of the guidelines but of the assistance and support they seek to enable. It is not sufficient to simply restate the relevant sections in the rules and law to which these guidelines respond. While both the law and the rules make provisions for the ‘minimum’ requirements which retail policies must fulfil, PIAC contends that merely relying upon adherence to ‘minimum standards’, without a statement of the purpose or objective to which these requirements relate, is a key failing of the current framework, and one which the draft guidelines repeat. The AERs own statistics on the performance of retail support programs and consumer debt provide a foundation of evidence that minimum requirements are not effective on their own. PIACs recent report on residential disconnections² and the case study examples presented in appendix A of this submission provide further, stark illustration that an overarching purpose and objective is required to give clear direction to retailers regarding how their minimum requirements must be enacted, for the benefit of consumers.

Accordingly, PIAC recommends that the overview section should commence with a clear, concise declaration of the purpose and objective of the following guidelines, before proceeding to a further overview as presented in the draft. Specifically, PIAC recommends:

“These guidelines provide direction to retailers regarding how their minimum requirements under the NERL and NERR should be enacted, at the earliest possible opportunity, in order to ensure that all consumers in need of assistance, are provided with the support to which they are entitled. The objective of these guidelines, and the retail requirements they facilitate, is to ensure that in all dealings with consumers, retailers act in the best interests of their customers to ensure that they are able to retain affordable access to electricity as an essential service, with disconnection a last resort response that is kept to a minimum.”

2. Retailer hardship policy responsibilities: identification, training and information

2.1 Retailers’ overarching responsibilities

Current experience illustrates that most consumers are fundamentally unaware of the obligations that retailers have to assist them through periods of payment difficulty. This widespread lack of awareness, along with a perception that assistance is ‘not intended for them’, is a significant barrier to consumer self-identification, and a key impediment to consumers seeking assistance early enough for it to be of greatest benefit in avoiding the accumulation of debt and disconnection. PIAC considers it necessary for retailers’ overarching responsibilities under clause 27 to include an additional point, such that they must:

‘inform all their customers (not only those experiencing payment difficulty) that they are required to offer assistance to those experiencing difficulty paying their bills, and that a range of assistance and support measures are available to all customers in need, according to their individual circumstances’.

² PIAC and UMR Research, [Close to the Edge – a Qualitative & Quantitative Study](#), November 2018.

Clause 27 directs retailers to:

- *'take into account all of the circumstances of which they are aware, and having regard to those circumstances, act fairly and reasonably'.*

PIAC is concerned that this direction may create an expectation that it is the retailer's role to determine the customer's circumstances, and to request specific personal information (potentially relating to the experience of family violence, mental or physical illness) to determine those circumstances. As PIAC and other stakeholders have raised throughout this process, this is both extremely inappropriate and unnecessary. For any customers experiencing payment difficulty 'due to hardship', this clause need only stipulate that

'in dealing with a customer who is experiencing payment difficulties, act fairly, reasonably, and in the best interests of the customer'.

- *'in a timely manner when it is relevant to do so, including on being contacted by a customer, give a customer clear information about the assistance available to the customer under the retailer's customer hardship policy'.*

This is overly qualified and subjective language that is too dependent upon interpretation to be effective. Further, as drafted, this provides no scope for necessary monitoring or enforcement. The intent of this direction would be more effectively achieved by,

'at every available opportunity, including on being contacted by the customer (or their representative), and in any case in no longer than 5 working days from identifying a customer experiencing payment difficulty, give clear information about the assistance available to the customer under the retailer's customer assistance policy'

- *'as soon as practicable, provide a customer who is entitled to receive assistance under the retailer's customer hardship policy, with that assistance'.*

The NERL and NERR do not make any qualifications upon 'entitlement' to assistance, with all consumers afforded the protection of appropriate retailer assistance measures when in circumstances of payment difficulty due to hardship. This universal 'entitlement' is not reflected in the draft language, and undermines the intent of the guidelines to ensure a consistent (and earlier) application of assistance measures. Additionally, the qualification 'as soon as practicable' does not provide a basis for effective monitoring or enforcement. Accordingly, the intent would be better delivered by,

'as soon as practicable upon identifying a customer experiencing payment difficulty, and in any case in no longer than 5 working days, provide those customers with assistance according to the retailer's customer hardship policy'.

2.2 Steps used to identify customers experiencing payment difficulty due to hardship

Clause 28 requires a retailer to detail the steps they will use to identify early, customers experiencing payment difficulty 'due to hardship', and the steps they will take to assist those customers. This clause further requires that the retailer's assistance policy must state that they have systems in place to meet their obligations. Having identified that consistency in the

minimum expectations for support is the primary need for enforceable guidelines in the first place, the draft is inadequate without the inclusion of specific minimum measures that hardship policies must include, or specific ways that retail assistance policies must demonstrate that they meet the respective requirements.

PIAC considers that, in fulfilling the various obligations of the NERL, NERR, and the guidelines, this clause should specify that the steps taken by retailers to undertake early identification of customers experiencing payment difficulty, and in need of assistance, must include (but not be limited to):

- Identifying customers carrying a debt of more than \$55
- Identifying customers who have paid late on more than 2 consecutive billing occasions
- Identifying rebate customers who are carrying any debt
- Identifying rebate customers who have paid late
- Identifying customers who have used emergency support relief
- Identifying customers who have been disconnected or served with a disconnection notice in the past 12 months
- Identifying customers on a payment plan who have not met the terms of their payment, or have requested a reduction in their payment plan amount
- Identifying customers who have requested an extension on 2 or more occasions in a 12 month period
- Identify customers on centerpay, life support or medical support rebates
- Identify customers receiving a government rebate (or any kind) whose bills or usage has increased by 20% relative to a comparable period.

These measures should be seen as a minimum to which retailers can add additional identification measures. If a retailer believes they have a measure that achieves the same purpose and outcome as one of these measures, there may be scope for them to demonstrate to the AER that this is the case.

PIAC notes the additional 'note' at the foot of page 9, of the draft guideline document, stating that clause 28 is designed for customer transparency and understanding. While PIAC welcomes any improvements to the clarity of information available to consumers, we disagree that the only (or even primary) purpose of this clause is (or should be) the provision of consumer information. PIAC contends that a key role of a retailer's hardship policy document is information for the retailer themselves, and crucially to their service staff (beyond those specialising in hardship), regarding their obligations to inform and support consumers. Accordingly, it is essential that specific requirements for the identification of consumers experiencing payment difficulty be included as part of this clause, and that retailers be required to provide specific details regarding how they exceed those minimum requirements to identify and assist consumers experiencing payment difficulty. We regard this as a necessary step in ensuring that all retailers (and all of their staff) understand how the payment support systems operate, and how they fulfil the retailer's obligations to the consumer under the NERL and NERR.

Clause 29 specifically references the submissions from PIAC and a number of other consumer stakeholders, recommending that the AER's hardship guidelines require retailers to implement a debt-trigger amount, consistent with that implemented in the Victorian Essential Services Commission Payment Difficulty Framework (PDF). This amount would act as an objective

mechanism through which retailers would be required to identify consumers in danger of being in payment difficulty, and contact them to offer information regarding potential assistance measures. While noting this input from consumer stakeholders, the draft only presents measures (such as the debt trigger) as something which may be implemented subsequent to 12 months of monitoring of its impact upon consumers in Victoria.

PIAC considers this an inadequate and inappropriate response in an environment where the impact upon consumers of the current approach to identifying and ‘triggering’ assistance, is well known. Further, early anecdotal evidence from consumer assistance organisations in Victoria indicates that the Victorian PDF, and specifically the use of a debt-trigger for an obligation to offer information and assistance, has already halved the average accumulated debt of consumers calling for assistance. Accordingly, PIAC strongly recommends that, as an integral part of a more prescriptive approach to specifying the minimum identification measures that retailers must include in their hardship policies, the AER require that customers with outstanding debt of \$55 or more, be required to be identified by retailers and provided information regarding hardship support³.

2.3 Training

While it is imperative that a retailer’s specialist staff supporting any hardship assistance program be appropriately trained, and have their performance against that training monitored and reviewed, PIAC considers it equally important that any retailer’s staff who deal with customers or their accounts (including contractors, agents and third parties who act on behalf of the retailer) undergo regular, periodic training regarding hardship issues.

Accordingly, PIAC recommends that clause 30 more clearly indicate that the training requirements contained in the clause apply to all customer service and accounts staff, including agents, contractors and other third parties who may act on behalf of the retailer.

Clause 30 of the draft provides no guidance to retailers regarding the need to monitor performance or outcomes related to their staff training. Without links to outcomes, performance indicators or evaluation, there is limited value to staff training. Accordingly, PIAC recommends that clause 30 include an additional stipulation that the retailer’s hardship policy specify how the retailer will evaluate the performance of their staff, including how they will link potential consumer complaints and actions or feedback provided through ombudsman’s schemes, Financial counsellors or emergency relief organisations, to their staff training.

2.4 Information about a retailer’s hardship program

It is important to note that neither the NERL or the NERR make any distinctions regarding the eligibility of any consumers to support and assistance when experiencing payment difficulty due to hardship. PIAC considers the resulting ‘universal’ eligibility of all consumers to be fundamental to supporting equality of access to an essential service. Accordingly, PIAC is concerned that

³ It is important to note, as previously outlined, that this is not a debt trigger amount that obliges retailers to provide any particular assistance through their hardship programs, but simply that this amount serves as an objective trigger that retailers must use in identifying customers, early, who may be experiencing payment difficulty due to hardship, and providing them with information on available support options, and determining what assistance measures may best ensure that the customer is better able to afford their ongoing usage without accumulating further debt.

clause 31 refers to a retailers' process for assessing the 'eligibility' of customers for support through a hardship program, terminology which perpetuates a problematic understanding of the purpose and availability of assistance. We consider that clause 31 should be amended so that:

'A retailer's customer payment assistance policy must include description of its processes for identifying and supporting customers experiencing payment difficulty, at the earliest possible opportunity. This description should include a graphic 'journey map'⁴demonstrating the specific steps, triggers and actions involved.'

PIAC disagrees with the inclusion of the explanatory note under clause 31 of the draft, and considers that a retailer should be required to include, within their hardship policy, specific information on how it undertakes to identify and assess the needs of a customer experiencing payment difficulty. This is not only necessary to demonstrate how any retailer defines 'hardship' (which is crucial consumer information), but a fundamental tool in evaluating a retailer's performance against both the guidelines, and their own policy (something which is vital in any complaints or investigations by Ombudsman schemes). Accordingly, PIAC strongly recommends that this note be removed.

PIAC strongly supports the inclusion of clause 32, and welcomes the recognition that all consumers experiencing payment difficulty due to hardship must have access to the retailer's hardship support programs without barriers to entry or re-entry.

The statement regarding re-entry to a retailer's assistance program is particularly important. PIAC's report on residential disconnections demonstrates that vulnerable consumers' circumstances are incredibly complicated, often with overlapping and compounding circumstances that impact upon their ability to meet the terms of their assistance programs. Where these consumers are not able to meet the terms of their assistance programs, it is crucial that this does not exclude them from re-admission, or that re-admission does not involve the imposition of terms that make their circumstances worse (and decrease their ability to return to more sustainable payment cycle)⁵.

PIAC supports the intent of clause 34 of the draft, and recommends that it be expanded to include specific mention of the mechanisms or steps that a retailer or customer may take to vary or adapt a customer's hardship support program in the event of changed circumstances. Evidence, including that from PIAC's report on residential disconnections⁶ shows that many consumers end up disconnected and further burdened by hardship and financial difficulty (and hence less likely to remain in a hardship program or successfully complete it) because they are unable to vary the conditions of their assistance program, with their violation resulting in the removal of support (and often the incurring of further fees or debt, at the very time that they are in most need of assistance from their essential service provider). PIAC considers that the effective interaction between clause 34 and 32 is crucial to ensuring that vulnerable consumers in need of payment assistance are not excluded, or negatively impacted by their participation in a retailer's assistance program.

⁴ PIAC highlights the journey map included by QCOSS in their submissions to this process.

⁵ See Appendix A case studies

⁶ PIAC and UMR Research, [Close to the Edge – a Qualitative & Quantitative Study](#), November 2018.

2.5 Accessibility of Customer Information

PIAC agrees that it is important that a retailer's hardship policy include direct contact information for hardship support staff, but does not regard this as sufficient. It is both unreasonable and counter-productive to a consumer's ability to access information and potentially assistance via a retailer's hardship policy, for a retailer to restrict access to direct contact information for their hardship support staff (as the current guidelines may allow). PIAC regards this as a form of 'gatekeeping' which undermines the ability of any customer to directly access staff who have the training and understanding of 'hardship' to offer them the information, and potentially support, that they need when they are experiencing payment difficulty.

Accordingly, PIAC recommends that clause 36 be expanded to include a wider requirement for retailers to include the general provision of direct contact information for their hardship support staff, on the appropriate section of their website, on bills, and potentially in direct communications (such as via SMS) with customers they believe to be in payment difficulty (subject to the earlier clauses on how a retailer must identify when they are required to provide information to a customer).

2.6 Payment plans and options

PIAC questions why clause 39 is qualified, asking only that retailer 'consider' including certain elements relating to payment plans and options in their hardship policy. Such qualification is unnecessary.

The sustainable payment plan framework is specifically designed to improve the quality of interactions between retailers and their customers experiencing payment difficulty. As such PIAC considers it appropriate that the AER's hardship guidelines require retailers to formally adopt the sustainable payment plans framework, and include reference to this in their hardship policy.

3. Communication of customer rights

3.1 Accessibility of information provided to customers

Evidence, including PIAC's own report on residential disconnections⁷, shows that consumers have a poor awareness of the availability of retail payment assistance, and an even poorer awareness that it is an obligation for retailers to provide it. Accordingly, widespread accessibility not only of a retailer's assistance policy, but of information regarding the existence and purpose of payment assistance, should be aimed at all customers, not merely those identified as potentially experiencing payment difficulty or 'hardship'. PIAC recommends that specific minimum measures that a retailer should undertake to achieve this be set out in this section, with other 'preferable, but not required' measures also listed, including:

Required

- The assistance policy (or an appropriate summary version of it), and information regarding the purpose of the assistance policy (including that it is a legal requirement for the retailer to have one) be accessibly provided on the retailer's website, and in any initial contract commencement material.

⁷ PIAC and UMR Research, [Close to the Edge – a Qualitative & Quantitative Study](#), November 2018.

- Plain English terminology information about the existence of support measures, including direct contact information for hardship specialist support, to be made available or inserted with regular billing communications, provided by email (where appropriate), and made available to community and emergency support organisations, financial counsellors and other assistance providers.

Possible

- Text/Email/SMS prompts provided to customers who have paid late, are carrying debt, have not met the terms of their conditional discount, asking them if they are having difficulty paying their bills and providing them direct contact information for specialist hardship program support advice/access to information and assessment not provided by general service or credit support staff.

Clause 43 should include an additional requirement regarding the accessibility of a retailer's assistance policy, specifically that it must:

'be available (either in full or in summary version) in form that is translated into common community languages, or in a format that is easily translated into common community languages'

4. Processes and timeframes

PIAC supports the processes and timeframes set out in the draft guidelines and recommends that they be retained to ensure that improved consistency in consumers assistance is facilitated as soon as possible.

5. Standardised statements

PIAC reiterates our recommendation that 'hardship' should not be used in any consumer facing, or retail policy documents used to inform and direct retail staff (or their agents, contractors or third parties). While the retail hardship guidelines and policies (including the standardised statements) exist under the legal framework in the NERL and NERR, PIAC considers it more effective and appropriate to utilise other, more objective and less pejorative terminology, to give effect their purpose and intent. Accordingly, PIAC recommends that in all instances where the standardised statements refer to 'hardship' or 'hardship program' are used, they be replaced by:

- Payment assistance program
- Assistance program
- Payment difficulty
- In need of payment assistance
- Payment assistance
- Assistance

Examples of more appropriate and effective language for use in dealing people facing payment difficulties, can be found in the recently implemented Victorian Essential Services Commission Payment Difficulty Framework, or the Australian Banking Associations code of banking.

Further, PIAC makes the following specific recommendations regarding the wording of the standardised statements:

- The general statement should have 'due to hardship' removed, and refer simply to those experiencing difficulties paying their energy bills
- The 3rd dot point on the purpose of the policy should refer simply to the rights of the 'customer in our assistance program'
- In sections 1 and 2 where the statements refer to what a retailer will do, it should be amended to:

'We will tell you about our assistance programs and how they can help you if:

- *You tell us you are having trouble paying your bill,*
- *You are referred to us by a financial counsellor or other community worker; or*
- *Our systems suggest that you may be experiencing payment difficulty and benefit from assistance.*

We will recommend that you speak to a staff member who can provide you information regarding our assistance program if:

- *We see that you owe more than \$55 debt on your account, your payment history includes more than one late payment, payment plans that you haven't been able to meet, or requests for payment extensions,*
- *We have sent you a warning, a notice of disconnection, or you have been disconnected due to non-payment,*
- *We see that you have used an emergency or relief payment or grant, or you inform us that you may require one, or*
- *You mention any personal or financial circumstances that suggest that you may benefit from payment assistance (although you are not required to disclose such circumstances in order to access assistance)*

Our specially trained staff will discuss whether payment assistance might be right for you, and what assistance measures are best for your circumstances.

We will let you know what assistance we can offer you through our payment assistance program within [retailer to insert timeframe that does not exceed 5 working days].

As part of our payment assistance program we will:

- *Check, and make sure you are on the best plan for your circumstances.*
- *Check, and make sure you are receiving any government concessions, rebates, grants or other relief or assistance measures that you might be eligible for.*
- *Make sure you have access to advice and assistance about how you might be able to safely reduce your energy use without impacting upon your health and well-being.*
- *Discuss a plan for you to make payments that are affordable for you, and how to change that plan if your circumstances change.*
- *Refer you to independent financial counselling and advice.*
- *[any other measures which a retailer may include as part of their assistance programs]*

We will send you a copy of our assistance policy in a form and language that best suits your needs.

- Section 3 of the standardised statements, referring to payment options should be amended such that:

Customers receiving support through our payment assistance program will have the option of:

- *Using Centrepay,*
- *Having a payment plan that takes account of their circumstances,*
- *[retailer to add additional payment options]*

What we will do:

When you are receiving assistance through our payment support program we will provide you with flexible payment plan options based upon your individual circumstances.

When discussing your payment plan with your, we will:

- *Take into account (but does not require you to disclose) circumstances that might impact upon your ability to pay, and any other expenses you have, to work out how much you are able to pay, and*
- *Take into account how much you might owe, and what other options there may be to help reduce your debt, and*
- *Take into account how much energy you are likely to need over the next 12 months, to help us to work out a suitable payment plan for you, and*
- *Discuss how we can adapt your plan to ensure we can continue to assist you, and ensure you continue to be connected if your circumstances should change.*

The final paragraph in section 3 refers to customers who have had two payment plans cancelled in the last 12 months, and specifies that a retailer is not required to offer further payment plans to these consumers. PIAC regards this qualification as inappropriate and recommends that it be removed. We refer to our recent report on residential disconnections, demonstrating that vulnerable customers are often dealing with overlapping vulnerabilities are subject to rapid changes over which they have little or no control (such as their benefit payments being reduced or stopped).

Consequently, PIAC regards consumers who may not have been able to meet their payment plans on previous occasions as some of the most vulnerable consumers, and those in most need of support and assistance to maintain their connection to an essential service. Further, PIAC reiterates that neither the NERR nor the NERL make any mention of an obligation on consumers to act in a particular way to be entitled to support from their retailer when they are experiencing payment difficulty.

Appendix A

Case Study – “Joe”.

- **Failure to offer information or assistance from a hardship team**
- **Failure to offer hardship program assistance.**
- **Failure to recognise circumstances.**
- **Failure to register life support.**
- **Disconnection of a customer requiring life support.**

Joe missed a couple of bills during a stay in hospital. He then received a Disconnection Notice. He rang retailer X to tell them he had been in hospital but was told that he still owed them \$900 to avoid disconnection. He explained that he has Parkinson’s Disease, throat cancer and uses an oxygenator for severe breathing difficulties but was still not offered any information or assistance through a hardship program. There was also no discussion of registering his premises for Life Support protection. Unable to discuss options, he was disconnected and then charged \$400 to reconnect.

Joe managed to obtain \$472 in assistance through HEEAS, making payments to reduce his retail debt to \$400. Despite this, and the fact that he sent them a Doctors certificate as evidence of his hospitalisation and ongoing health issues, they did not offer any hardship assistance. They disconnected him even despite his contact with them, and his demonstration of serious medical need and Life Support equipment. The Body Corporate of his unit complex (embedded network) changed providers after numerous complaints against the retailer from other occupants. Joe has advised the new energy suppliers to register his premises for Life Support.

Retailer X began calling Joe daily threatening him with a bad credit listing. Consequently, Joe felt he had to accept the payment plan they offered (even though he knows that he cannot afford it) because their constant calls and threats were causing him a great deal of stress and distress. He understands that if he cannot pay by the due date that he will be subject to debt collection procedures, but has accepted because he feels that he has no other option. Consequently, Joe is now paying his current energy bills, and making payments to the payday lenders that he has had to borrow from in order to cover the shortfall in his accumulated repayments, and basic living expenses.⁸

Case Study – ‘Bob’

- **failure to identify potential hardship early.**
- **Failure to ask about rebates.**
- **Failure to inform about emergency relief.**
- **Failure to consider circumstances in payment plans.**
- **Unreasonable conditions for entry onto payment plans.**
- **Failure to offer information or assistance from hardship team.**
- **Failure to offer hardship program support.**

⁸ *note that this situation indicates not only failure of the intended retail hardship support process, but also clearly illustrates how interaction with retailers often actually compounds the hardship experienced by consumers, and leaves them more vulnerable to future financial and personal distress. Experiences such as this are regularly experienced by consumers experiencing payment difficulty, often leading to disconnection, as evidenced in PIAC’s cut-off report

- **Failure to backdate rebate.**
- **Failure to act in the customers best interest to avoid accumulation of debt.**

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

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

By the time the second bill arrived in January, he had only paid two of the payments and now owed his retailer \$450. He contacted the energy retailer again, but they said because he had already broken his first payment agreement, he needed to make an immediate payment of \$80 to avoid disconnection. He did not have \$80 in his bank account. He informed them of his Centrelink income and the amount remaining after rent and food. They advised him to contact QCOSS for information on where he could get further assistance. At no time did they mention their own retailer hardship program or the Queensland Government’s Home Energy Emergency Assistance Scheme (HEEAS) which could have paid the entire \$450 bill. Further, it was only at this late stage that they asked him if he had a concession card. They applied the concession from that date onwards but said they could not backdate it to the start date on the card or the date he first called them. QCOSS advised him to call the retailer again, tell them that he was still experiencing financial hardship and ask to go on their hardship program. He was told to insist that they generate a HEEAS application and provide the application number to him over the phone. Once a HEEAS application is generated, a customer cannot be disconnected until the outcome is known.

Bob was angry that his retailer had not told him this and instead forced him to ring and tell his story to even more people. He said his situation was humiliating enough without having to call retailers and beg for consideration. He said he had never missed paying an electricity bill with that retailer before his accident and thought they should have taken that into account.

Case Study – ‘John’

- **Failure to offer a deal that recognised a customers circumstances**

- **Failure to implement a reasonable or sustainable payment plan that recognised customers circumstances**
- **Failure to identify a customer in hardship**
- **Failure to offer information or advice regarding potential hardship support**
- **Failure to offer hardship assistance**
- **Failure to fulfil the intent of a retailers obligation to offer assistance.**

'John' is 32 years old and lives alone in a rental property since his mother, who he had been caring for, passed away about 18 months earlier. John had been struggling to pay his electricity bills during this time and had accumulated a debt of \$6,000. He was on a Pay On Time discount (which he never received, because he was never able to pay by the due date) and was receiving the Queensland government's electricity rebate. His only income is Newstart Allowance - about \$450 per fortnight. When John engaged with his retailer, they asked him to pay \$300 per fortnight to cover the expected usage and accumulated debt. He was obviously unable to sustain this amount on Newstart Allowance and kept missing payments. When he tried to talk to his retailer, he was not offered any assistance beyond the existing payment plan and he was not able to negotiate a more sustainable amount.

While in contact frequently with his retailer, John was frustrated that the retailer was not listening to him, was not offering advice or assistance other than 'management of his debt', and was not taking in to account his circumstances. After 18 months of this, numerous occasions of disconnection, and periods without power, John sought help from a community organisation called Multilink. John had been without power for five days when he came to Multilink. The retailer demanding an upfront payment of \$1,500 to be reconnected. Multilink spent almost an hour on the phone to the retailer to get John reconnected before the weekend. It was around 4pm on a Friday afternoon and the retailer was insisting that they could not do it as it was past 5pm – they were in a state that had daylight savings. Multilink renegotiated the payment plan and the retailer eventually offered \$50 per fortnight, an amount that would leave John in debt indefinitely.

John was never offered a better deal that recognised his circumstances (he was left on the Pay On Time discount deal which he never received). No-one ever spoke to him about the Home Energy Emergency Assistance Scheme, and there was never any discussion of other assistance that may be possible through a hardship program, nor was never offered any other assistance to try to get his bills down or address the large accumulated debt. The retailer would not let John switch retailers until the debt was repaid. After three months of persistent contact by Multilink, the retailer offered John a payment a payout figure of \$1,500. He was able to borrow this money from his dad, paid out the amount and immediately switched to another retailer. John was never offered any hardship information or assistance from his retailer.

Case Study – Sara

- **Not ensuring that hardship customers are on the best available deal**

A community worker visited 'Sara' at home to assist them with managing their energy bills, and offer them advice regarding what they could do to lower their bills. Sara was on a hardship program with their retailer. The community worker found that Sara was not on the best plan, and

was not receiving any discounts, and so called the energy retailer's hardship team to try to get Sara on a better deal. The hardship team said the best discount was 16 per cent. The community worker knew that the retailer was offering some customers an unconditional discount of 21 per cent. He asked to speak to someone in the sales team who also said that the best they could do was a discount of 16 per cent. The customer was also offered an NBN bundle. The community worker persisted and eventually spoke to someone who was able to offer the customer a 21 per cent discount. The community energy worker has found that this practice of not offering hardship customers the best deal was common across all energy retailers.

Case Study – 'Jacinta'

- **Failure to consider capacity to pay in payment plans**
- **Failure to consider a customers circumstances**

Jacinta was disconnected by her retailer. When she contacted her retailer to get reconnected, she was told that she was required to make an upfront payment before she could be reconnected. She informed the retailer that she only had \$10 in her bank account and was not able to make any payment that day in order to be reconnected. The retailer demanded that she arrange to pay the \$10, and despite her assertions that this would leave her with no money (and her distressed pleading that this not be required) she was forced to make this payment in order to restore her connection.