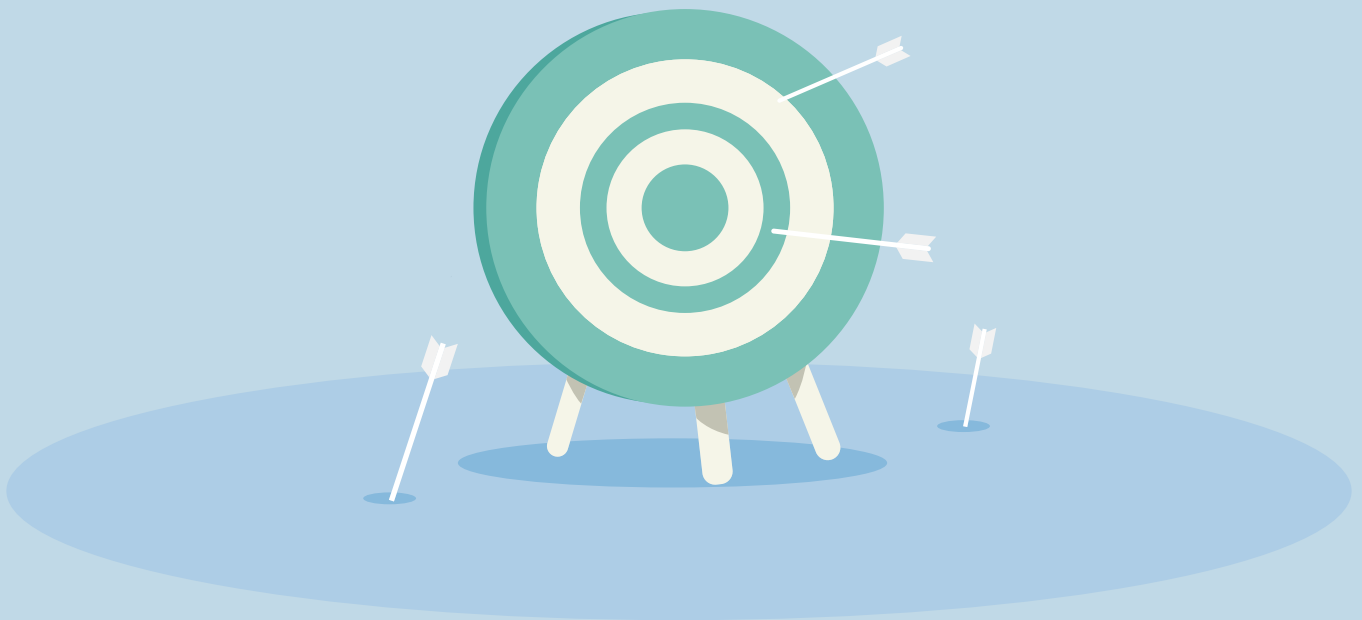


Missing the Mark



**EWOV insights on the impact of the Payment Difficulty
Framework (PDF) – 1 January 2019 to 1 October 2020**

DECEMBER 2020



**ENERGY AND WATER
OMBUDSMAN**
Victoria **Listen Assist Resolve**

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“Culture eats strategy for breakfast.”

- Peter Drucker

Background and introduction

On 1 January 2019 after a lengthy and contested policy development period¹, the Payment Difficulty Framework (PDF) came into effect in Victoria through Part 3 of the Energy Retail Code (Code) - Assistance for residential customers facing payment difficulties.²

The PDF represented a step change in the regulated response to customers experiencing payment difficulties in the Victorian residential retail energy sector.

Since the implementation of the PDF, energy retailers have been required to take a more proactive and tailored approach to customers struggling to meet their energy costs. The PDF utilises early intervention and flexible, customised approaches to customer circumstances as tools to achieve sustainable, ongoing energy affordability. Above all, the PDF encourages open and honest dialogue between customers and energy retailers. Throughout the development of the PDF, the notion that energy disconnection should be a last resort was a key principle – and it is fair to say that disconnections have reduced dramatically since the PDF was introduced, albeit from very high levels.³

It is also noteworthy that the PDF is an entitlements based framework. The framework protects customers by enshrining their right to certain kinds of assistance, which creates a regulatory breach if those rights are not met by the retailer.

As Dr Ron Ben-David, then Chair of the Essential Services Commission (ESC) said at the time:

*“... This is a notable and deliberate change in emphasis from the approach of the last decade which focuses on processes, rules and compliance. **This change in emphasis is achieved by establishing unambiguous customer entitlements to assistance from their energy retailer. These entitlements will empower customers to work with their retailer to design the assistance arrangements that are most appropriate in their individual circumstances.** In return, retailers are obliged to act fairly and reasonably when exercising their judgement about how they can best assist customers...”⁴*

1 The development of the PDF commenced in early 2016, with the intention that it would be implemented on 1 July 2017. Following a contentious Essential Services Commission (ESC) Draft Decision released in October 2016, further consultation was undertaken and a New Draft Decision was released on 9 May 2017, and then a Final Decision on 10 October 2017. Further consultation followed in relation to the PDF Guidance Note, and the PDF itself came into effect on 1 January 2019 - almost three years after work on the policy had commenced. Throughout the process, industry, consumer advocates and community sector organisations were heavily consulted. The history of the development of the PDF is available here: <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/energy-retail-code/energy-retail-code-review-2016-customers-facing-payment-difficulties#tabs-container2>

2 The Energy Retail Code is available here: <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/energy-retail-code>

3 The PDF was a response to the ESC’s 2015 hardship inquiry, which culminated with the March 2016 release of ‘Supporting Customers, Avoiding Labels. Energy Hardship Enquiry Final Report.’ (2016): <https://www.esc.vic.gov.au/sites/default/files/documents/Energy-Hardship-Inquiry-Final-Report-February-2016-1.pdf>. The hardship inquiry itself was prompted by very high disconnection numbers, which reached crisis levels in 2013-14 (58,503 customers had been disconnected for non-payment of bills, the highest number ever recorded by the ESC for any financial year).

4 Essential Services Commission, *Payment difficulty framework - Final decision*, (2017): viii. <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/energy-retail-code/energy-retail-code-review-2016-customers-facing-payment-difficulties#tabs-container2>

As the external dispute resolution body operating in the Victorian retail energy market, the Energy and Water Ombudsman of Victoria (EWOV), has been intimately engaged in the operation of the PDF. Many of the customers who contact us - particularly in relation to credit related complaints - are entitled to PDF related assistance under the Code. The PDF has provided a new set of tools to assist EWOV Service Officers and Conciliators in handling complaints, as well as a new set of regulatory requirements to be learned. Like much of the sector, EWOV has had to adjust to the step change that the PDF represented, and that adjustment has not been entirely smooth or immediate. Overall though, our data clearly shows that complaints, and particularly credit related complaints, have reduced significantly since the PDF was introduced. We have also seen customer debt levels fall slightly, (if not as much as one would hope), another sign that the PDF has had a positive effect across the market.

Beyond those headline figures though, we continue to see many cases where PDF entitlements have not been met. It is still not uncommon to see vulnerable consumers presenting with high levels of energy debt and on high tariff energy plans, yet not having been offered a Utility Relief Grants Scheme (URGS) payment, an affordable payment plan or a tariff review. If the PDF was being properly applied in all circumstances, such cases would not be presenting.



CASE STUDY

Sylvia*

(2019/15016)

Sylvia contacted EWOV by web complaint form on 21 August 2019. At the time, Sylvia was experiencing financial difficulty due to a very low-income, and was unable to keep up with the payment plan of \$80 per fortnight set by her second tier retailer.

Sylvia believed she may owe more than \$8000 on her electricity account.

In resolving Sylvia's case, her retailer advised that her outstanding balance was \$11,343.59.

To resolve the complaint, Sylvia's retailer took the following steps:

- Issued an URGS application, advising Sylvia that she would need to complete the application and submit it to DHHS before the application expiry.
- Reviewed Sylvia's tariff and identified a cheaper plan for her, which she could switch to if she agreed.
- Applied a credit of \$2,174, being the difference in what she owed compared to what she would have owed had she been on the identified cheaper plan from the time it was introduced.
- Applied missed concessions to the value of \$521.06.
- Applied missed pay on time discounts to the value of \$1,829.46.
- Collectively, Sylvia's retailer applied credits to the value of \$4,524.52, which reduced her amount owing to \$6,819.07.
- Sylvia's retailer then placed a hold on Sylvia's arrears for six months, and agreed to a \$50 per fortnight payment plan for usage – which was below her ongoing costs.
- Sylvia's retailer undertook to contact Sylvia regularly during the six-month period to provide advice and assistance in reducing her ongoing usage.

In closing our case with Sylvia, we advised her that to establish her payment plan by Centrepay or direct debit, she would need to contact Centrelink or her retailer directly.

Ultimately, Sylvia received her PDF entitlements but only after she came to EWOV, and she left our service still owing almost \$7,000.

Sylvia's case demonstrates how retailers can fail to identify and engage with customers who clearly need assistance, and the unsustainable energy debt that can result.

This is exactly what the PDF was designed to prevent.

***NOTE: Customer name changed for de-identification purposes. Customer names have been changed in all case studies throughout this report.**

At a high level then, while we may say that the PDF has been a strong step forward - we cannot yet say that it is fully 'bedded down', or serving all of those customers it is designed to serve. Given the lengthy development period of the PDF, and the generous time allotted for implementation (the ESC issued its Final Decision on the PDF in October 2017, for a 1 January 2019 implementation date), we need to ask why this is the case - and how we, as a sector, can do better.

Where has the PDF been working - and where, and how, is it failing?

The purpose of this report is to explore these issues in anticipation of the Essential Services Commission (**ESC**) review of the PDF, scheduled for early 2021.

Importantly, as we reach the end of 2020 and head into a sustained economic recession, we are at a timely juncture to examine our approach to financial difficulty in the retail energy sector – in terms of both design, implementation and compliance.

Data challenges

In assessing the impact of the PDF on our complaints, unfortunately we cannot provide the detailed and comprehensive PDF data for the period since 1 January 2019 that we would like. A combination of the inherent flexibility of the PDF itself, unavoidable data 'gaps' created by our own processes, and difficulties in reliably integrating PDF data collection into our case-handling workflow have meant that we do not have reliable high-level PDF data sets, despite our efforts to collect them.

To address this, we conducted an internal review of our PDF data collection processes in July and August 2020. That review in turn has precipitated an internal project and we are currently revitalising our internal and external communications collateral around the PDF, as well as our data collection processes. This project will be completed in early 2021.

It is important to note that even after this work, our capacity to gather some PDF data will continue to be restricted. We do not gather the relevant information at Assisted Referral stage to fully assess all PDF entitlements. When we provide an Assisted Referral, we gather an overview of a customer's complaint and provide this to a more senior contact at their retailer who is required to contact the customer within 3 business days, and resolve their complaint within 15.

If this does not occur, the case is escalated to an Investigation and that is where our PDF data collection commences with relevance.

It is also worth noting that we employ a 'discretionary upgrade' process, whereby we can choose to bypass the Assisted Referral stage for customers who we immediately identify as experiencing vulnerability, or are otherwise requiring additional assistance (as illustrated by the case study below). In those matters, the case is taken straight to the Investigation stage.

It would be counterproductive and frustrating for all parties to slow the Assisted Referral process down by requiring additional data to be sourced, yet Assisted Referrals make up the majority of our cases. This inherently, and unavoidably, leaves a significant gap in our PDF data.



CASE STUDY

Tom

(2019/13063)

Tom called EWOV on 22 July 2019, upset that his electricity had been disconnected.

Tom had been in hospital for four days, and had come home to find the power out, and water all over the floor from his fridge. We identified that Tom was in vulnerable circumstances, as an Aged pensioner with poor health. We utilised our discretionary upgrade process to bypass the Assisted Referral stage, registering his case immediately as an Investigation.

Tom wanted his power back on immediately, and a payment plan of \$10 per fortnight.

In resolving his case, Tom's tier 3 retailer advised that it did not request disconnection of his electricity, and the distributor further advised that no disconnection had occurred. Instead, there had been an outage of around two and a half hours, which had caused the fridge to defrost.

In handling Tom's case, his retailer advised that he had \$868.98 owing on his electricity account.

To resolve his complaint, the retailer agreed to:

- Apply missed pay on time discounts to the amount of \$326.99, leaving Tom with a balance of \$541.99.
- Assist Tom to apply for an URGS payment through DHHS.
- Connect Tom with its hardship team to establish an affordable payment plan, and ongoing practical assistance.

In this case, by identifying Tom as vulnerable and bypassing the Assisted Referral stage, we learned more about his situation and ensured that the resolution he received went beyond his immediate issue, and instead dealt with this broader circumstances application of the PDF.

In other words, Tom did not just get what he asked for – he got what he was entitled to.

Further, there are some PDF 'practical assistance' measures over which we do not always have visibility. This is because they may be applied by a retailer's hardship team following our closure of the complaint, or may already be being applied the retailer's hardship team – yet not disclosed by the retailer case handler that we liaise with during the case. These measures include ongoing advice around energy usage (enabling a customer to modify their usage patterns), and an energy audit to assist in lowering energy use. It would be misleading in those cases for us to assert that a customer has not received those entitlements – yet we cannot confirm they have, or will.

Taking all of these factors together, we are unable to definitively state what proportion of eligible customers presenting to us receive **all** their PDF entitlements, nor can we drill down to identify which particular PDF elements are met more than others.

To address this issue going forward, (and as already mentioned), we are currently reviewing and simplifying our PDF data collection processes. Rather than attempting to capture all PDF measures, we will focus on collecting data that we can reliably gather - yet which still provide a strong measure of the effectiveness of the PDF.

Namely, we will narrow our focus to collecting data related to:

- > Payment plans;
- > URGS and concessions;
- > Tariff reviews; and
- > Arrears being put on hold for six months (for those customers who cannot afford their ongoing usage).

While other PDF measures are still important, we can reliably record these key measures at Stage 1 Investigation level and above. It is also worth noting that we will not close a case at Stage 1 if a customer is unable to afford their ongoing usage at the time they make their complaint. Such cases are upgraded to Stage 2, meaning that customers experiencing the highest degree of payment difficulty are naturally escalated through our process. This is important, as those are the customers with the greatest need and the widest range of PDF measures available to them.

Methodology for the purposes of this report

To overcome our data limitations for the purposes of this report, we have selected a sample of 90 PDF relevant cases and manually assessed them in detail. In doing so, we have identified the PDF measures that were applied by the service provider prior to the customer presenting to EWOV.

In this manner, we can form a credible picture of how the PDF has been operating, while still acknowledging that this does not represent comprehensive quantitative data.

The relevant cases have been divided into three time-periods, namely:

- › 1 January 2019 – 30 June 2019 (the first six months of operation of the PDF);
- › 1 July 2019 – 30 March 2020 (the post-introduction, pre-COVID-19 stage of the PDF); and
- › 1 April 2020 – 1 October 2020 (the early COVID-19 period of the PDF).

We felt it was useful to do this to gain a sense of whether application of the PDF had improved or deteriorated over time, and whether it has been affected by external events such as the coronavirus pandemic.

Please note that we did not assess cases from beyond 1 October 2020, so we are not examining the more recent, coronavirus specific adjustments to the PDF or the impact of the recently released guidance notes.⁵ We felt it would be too difficult to do so in the time-frame available, and we would not be able to gather sufficient cases to draw any reliable conclusions about the effectiveness of those measures. We will be assessing them at a future time, however.

Other points to note about our data set are:

- › We drew cases from across all three tiers of the retail sector (30 cases for each of tier 1, 2 and 3).
- › We focused on customers requiring tailored assistance who were unable to afford their ongoing usage. These are the customers of highest need, for whom PDF related assistance is most critical (we refer to these as Tailored Assistance 2, or 'TA2' customers).
- › By implication, this means we did not gather data on standard assistance as while they form part of the PDF, standard assistance measures do not always apply to customers who one would regard as being in serious payment difficulty (or 'hardship', to use the old language). Indeed, even customers eligible for tailored assistance measures who can afford their ongoing usage (Tailored Assistance 1, or 'TA1') do not always fall into that category. We believe this is an area where the design of the PDF may be improved, and discuss this under the heading "*Final Observations and Recommendations*" below.

By taking this data-set and examining it as we have, we believe we can provide an indicative, if not definitive, assessment of the PDF's impact on our complaints since its introduction on 1 January 2019.

Certainly, through this data we are able to demonstrate that the PDF is not always operating as it should, and there is scope for retailers across all tiers of the market to improve their compliance.

We can also show there are limits to how much the PDF can achieve even when properly applied - and that customers themselves sometimes make it very difficult to apply the PDF appropriately. These are all valuable insights, and enable us to provide informed commentary on why the PDF has not achieved its full potential, and how it may be improved in the years ahead.

5 For more information see, Essential Services Commission, *Supporting energy customers through the coronavirus pandemic: final decision* (2020): <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/supporting-energy-customers-through-coronavirus-pandemic-2020>

Broad measures of PDF impact since 1 January 2019

While we are limited in our ability to provide granular data on the application of PDF measures across all customers, we can provide broad 'macro' data which speaks to the impact of the PDF on the market overall.

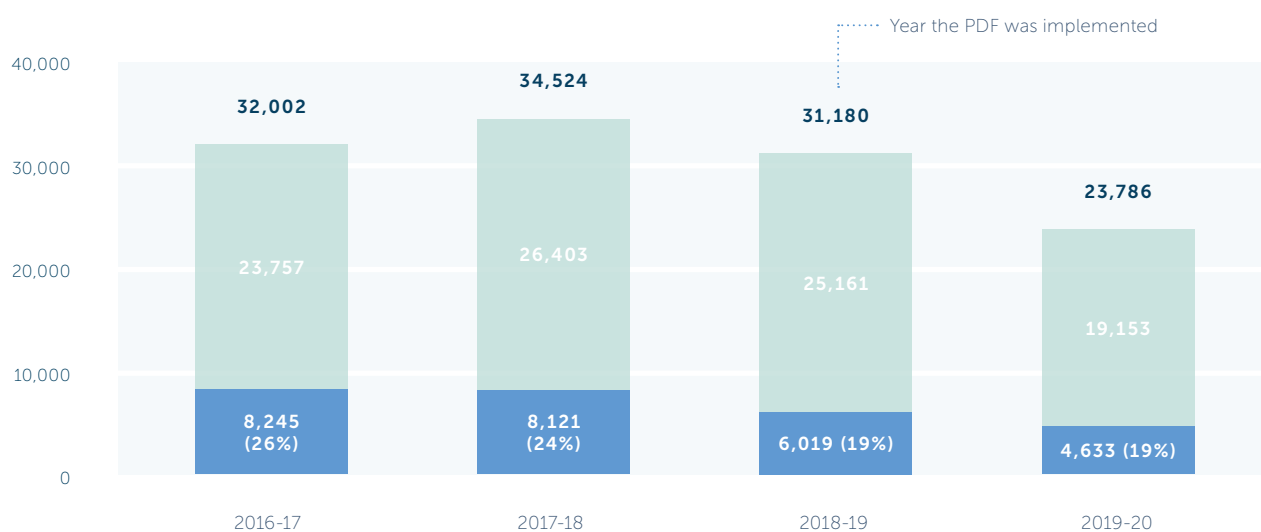
This data includes variations in the volume of credit related complaints (and how they compare, proportionally, to variations in overall complaints); the volume of disconnection complaints and how many are actual versus how many are imminent disconnections, (as opposed to the period before the PDF); and perhaps most tellingly, the levels of energy debt that customers are presenting with at EWOV's Investigation stage.

Finally, we are also able to provide data on debt waivers. While debt waivers are not a PDF entitlement, an increase in debt waivers would indicate a shift in retailer practice towards those in payment difficulty – and debt waivers represent a measure beyond the PDF that we will often seek when attempting to resolve a complaint.

These data sets and associated commentary are provided below. In each case (other than for customer energy debt levels, where we do not hold the data), we have gone back to the 2016/17 Financial Year in an attempt to illustrate both the "pre" and "post" PDF picture.

Credit related complaints

● Credit cases ● Other cases



Commentary

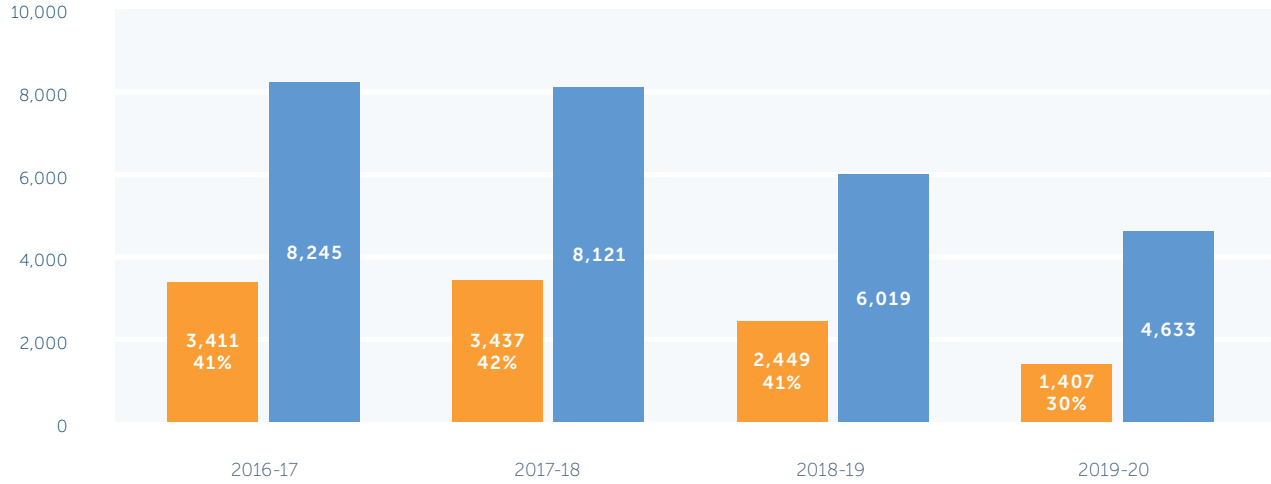
As can be seen, Credit complaints have fallen sharply since the implementation of the PDF, by a proportion that outstrips the reduction that has occurred in case numbers overall. This indicates that fewer customers are lodging complaints related to arrears, which in turn suggests that retailers are doing a better job of preventing customers from accruing unmanageable debt. Given that that this was an explicit aim of the PDF, this is a positive data set.

Certainly, when looked at in terms of raw numbers – Credit complaints have fallen from 8,245 in the 2016/17 Financial Year to 4,633 in the 2019/20 Financial Year, representing a fall of 44%. Even taking the impact of the COVID-19 pandemic impact into account (where, from March 2020 the ESC joined the Australian Energy Regulator in expressing their expectation that energy retailers would not disconnect customers), this is a remarkable reduction.

Disconnection related complaints

Disconnection complaint numbers:

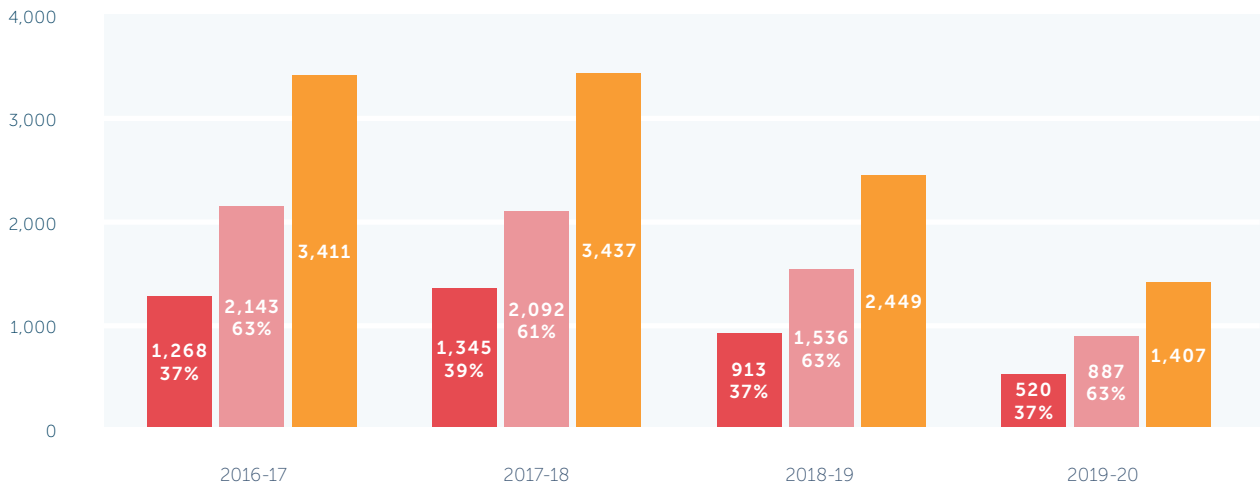
● Disconnection/restriction cases ● Overall credit cases



Financial year	Disconnection/restriction cases
2019/20	Sub-issue ranked 6
2018/19	Sub-issue ranked 3 (Year the PDF was implemented)
2017/18	Sub-issue ranked 2
2016/17	Sub-issue ranked 1

Imminent vs Actual Disconnections:

● Actual disconnection/restriction cases ● Imminent disconnection/restriction cases ● Overall disconnection/restriction cases



Commentary

In 2016/17 Disconnection/Restriction related complaints were the number one complaint sub-issue for the year, and by 2019/20 they had fallen to the sixth most prominent sub-issue.⁶ This reflects a significant drop, which was heavily affected by the de facto moratorium on disconnections implemented by the ESC in April 2020⁷ as an emergency response to the pandemic. It is true to say that since that time EWOV has recorded very few disconnection complaints, and the 2019/20 figure of 1,407 cases is artificially low as a result.

That factor aside, the PDF has undeniably had a powerful downward impact on disconnections. Given that disconnections are very clearly framed as a measure of last resort by the PDF, this is a strong indication that the PDF has been effective - at least in broad terms.

The drop from 3,437 disconnection/restriction cases in 2017/18 to 2,449 in 2018/19 represents a significant 29% reduction, even if disconnection cases as a proportion of Credit cases has remained surprisingly static at around 40% (not including the 2019/20 year, which was affected by the ESC de facto moratorium).

Perhaps even more surprisingly, the proportion of Disconnection/Restriction cases that are 'Actual' (meaning the customer has already been disconnected when they present to EWOV), versus 'Imminent' (meaning they have received a disconnection notice, and are on the verge of disconnection), has barely changed – even with the significant drop in disconnection cases overall. This may reflect that a steady proportion of customers are only likely to seek help once the lights have gone out, so to speak, which in turns reflects the challenges of customer engagement. This is discussed further under the heading "Discussion point: Improving customer engagement" below.

Energy debt levels of presenting customers, and debt waivers by retailers

Average debt levels of customers entering our Investigation process:

Financial Year	Average Customer Debt	Case Count	Monthly average (cases)
2017/18	\$2,587.03	974	81 (Partial data)
2018/19	\$2,391.66	2,963	247
2019/20	\$2,358.73	2,410	201
2020/21...so far (For the period 1/7/20 – 30/11/20)	\$2,179.04	745	149

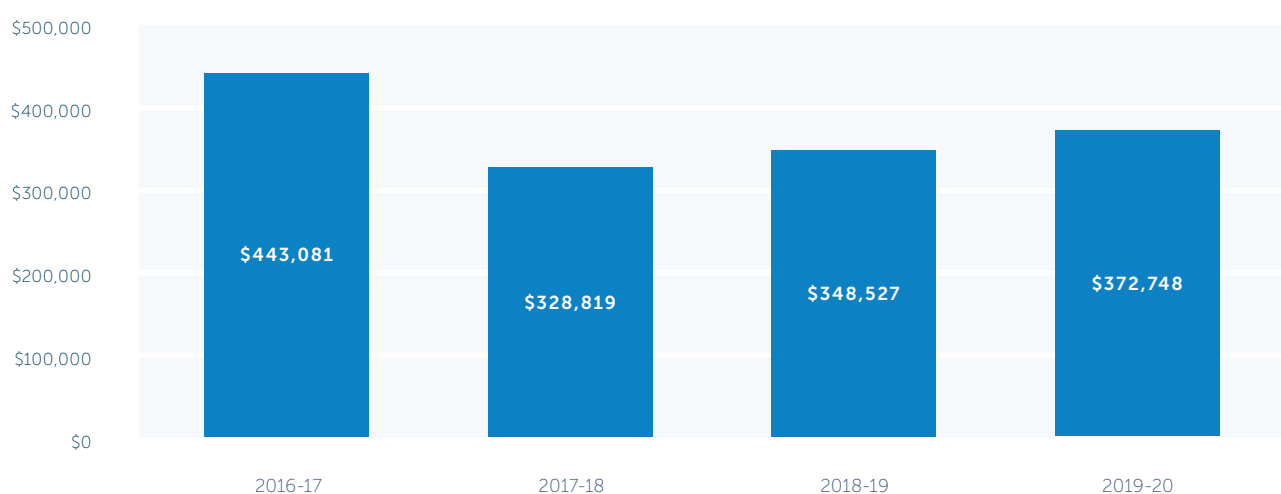
6 At EWOV we register complaints by issues, and sub-issues. Disconnections are a 'sub-issue', because they are sub-issue of 'Credit', which is a primary issue. Such cases are lodged as 'Credit>Disconnection/Restriction'. When reporting, we will rank sub-issues by case volume. For example, at the time of writing, *Billing>High* is our most common complaint sub-issue for the 2020-21 FY so far, followed by *Billing>Error* and then *Credit>Collection*.

7 The ESC wrote to energy retailers operating in Victoria, echoing views expressed by the Australian Energy Regulator (AER) in their 9 April *Statement of expectations of energy businesses: Protecting customers and the market during COVID-19*. In their statement, the AER wrote: "Do not disconnect any residential or small business customers who may be in financial stress (including small businesses eligible for the JobKeeper Payment), without their agreement, before 31 July 2020 and potentially beyond.": <https://www.aer.gov.au/system/files/AER%20-%20Statement%20of%20Expectations%20-%209%20April%202020.pdf>

Average debt levels of customers entering our Investigation since PDF implementation:

Time Period	Average Customer Debt	Case Count	Monthly average (cases)
1/1/2019 – 30/6/2019 (First six months)	\$2,442.55	1,301	217
1/7/2019 – 30/3/2020 (Post introduction, pre- COVID-19 pandemic)	\$2,279.76	1,940	215.5
1/4/2020 – 1/10/2020 (COVID period)	\$2,557.15	891	148.5

Debt reduction/waivers:



Financial year	Debt reduction/waivers
2019/20	\$372,748 (4,633 Credit cases) - \$80.45 per case average
2018/19	\$348,527 (6,019 Credit cases) - \$57.90 per case average (Year the PDF was implemented)
2017/18	\$328,819 (8,121 Credit cases) - \$40.49 per case average
2016/17	\$443,081 (8,245 Credit cases) - \$53.73 per case average. ⁸

8 The slightly higher debt reductions/waivers achieved in 2016/17 reflect the impact of EWOV's Real Time Resolution (**RTR**) process, which was discontinued in 2017. EWOV implemented the RTR process in 2012 to efficiently manage a sudden and rapid influx of incoming failed Assisted Referrals. RTR enabled us to quickly progress the complaints made by these customers by bringing conciliation forward in the complaint handling process, with experienced RTR Conciliators focussed on achieving faster resolutions, (and to prevent an Investigation being opened where suitable). This was cost effective for scheme participants, and also resulted in more financial settlements for customers. EWOV discontinued the RTR process after a decline in the straightforward complaints (such as simple billing issues), which had made the process successful for scheme participants and customers. As a result, in 2017 we formally closed the RTR process and returned to our traditional escalation process – from Assisted Referral to Investigation.

Commentary

While we do not have customer debt data extending back to 2016/17 we can report on this data from as far back as 2017/18, although data from that first year is only partial.

As can be seen from the table above, both average customer debt for customers who do enter the investigations process and the number of customers who do has generally declined since the implementation of the PDF.

The one exception to this trend is the recent COVID-19 period (1/4/20 – 1/10/20). As the table shows, average customer debt is higher for that period than at any other time since the introduction of the PDF, although not astronomically so (\$2,557.15). It's also true that relevant case numbers have been very low during that period, averaging only 148.5 per month for a total of 891 over six months. With lower case numbers, the average debt per case are more easily skewed by large outlier debts.

Certainly, when the much lower average debt amount for the period 1/7/20 – 30/11/20 is taken into account (\$2,179.04), it appears that large debts presenting in the three-month period 1/4/20 – 30/6/20 have had a significant impact on the COVID-19 period average debt figure.

Another interesting measure is debt waivers and reductions, which while not a PDF entitlement, do reflect retailer attitudes towards assisting customers to manage and reduce their energy debt.

From the above data it is clear that while the total amount waived/reduced was not markedly different from 2017/18 to 2018/19, this occurred in the context of a period when credit cases fell significantly. When the amount waived/reduced is averaged out over the number of Credit cases for that year, the amount waived/reduced per case increases by over \$17 per case – an increase of 43% on the 2017/18 amount. This increase is almost matched by the 39% increase that then occurred from 2018/19 to 2019/20 year, when Credit cases again dropped significantly while the amount waived/reduced per Credit case increased by \$22.55.

It is worth noting that debt waivers and reductions have almost certainly increased due to the pandemic, and this may be a temporary response by retailers that is unlikely to be maintained beyond the pandemic period. That being said, the fact is that debt waivers/reductions averaged per Credit case increased by almost 100% (98.6%, to be exact) from 2017/18 to 2019/20. On any measure, this shows a greatly increased willingness on the part of retailers to respond to customer circumstances, and waive or reduce unmanageable energy debt where they can. While not strictly a PDF measure, this is still significant market impact caused by the PDF.

The risk of debt waivers

Finally, it should be noted that an increase in debt waivers and reductions is less positive if they are offered in lieu of PDF entitlements, as opposed to being offered in addition to PDF entitlements.

Without the benefit of a tariff review and other forms of practical assistance to reduce ongoing costs and usage, vulnerable customers will only receive a short-term benefit from a debt waiver. While the customer will of course be accepting of the waiver, the likelihood is they will end up in a similar financial situation before too long, unless their PDF entitlements are also applied. It is also worth noting that if a customer switches retailer while in significant arrears to their first retailer, then they will not receive the benefit of PDF entitlements to help them manage their debt - as they no longer have an account with the retailer holding the debt. This underlines the importance of retailers proactively contacting customers who are struggling, and working with them for the benefit of both parties.



CASE STUDY

Geraldine

(2020/6262)

Geraldine called EWOV on 1 May 2020. At the time, she was unemployed and reliant on JobSeeker payments, and was a public housing tenant. We registered Geraldine's case as a discretionary Investigation, bypassing the Assisted Referral stage. We made the discretionary upgrade because Geraldine was experiencing family violence, and related financial difficulties.

"I've just left a domestic violence relationship not long ago, and I've got bad credit because of 20 years of that and I can't get the gas on and it's freezing cold and I have four kids..."

Geraldine contacted us because her gas had been disconnected about two months earlier. She had received warning notices, but due to fear of her partner she had not been able to call to discuss it. She believed she owed about \$2000, and had been on a payment plan but she couldn't remember when she had last made a payment. She believed it was the previous year, sometime.

Geraldine wanted her gas to be re-connected, and to resume a payment plan of \$60 per fortnight while also being included in her retailer's hardship program. Geraldine was with a tier 3 retailer.

In resolving the case, Geraldine's retailer advised that her gas account had been finalised on 24 March 2020, with \$2,277.44 owing. The retailer applied pay on time discounts to the account, in the amount of \$142.02. They then applied a customer service payment in the amount of \$2,135.42 – bringing the balance owing to zero.

Geraldine was advised she would need to contact the retailer directly, or another retailer of her choice, to set up a new gas account in her name.

Beyond those actions, Geraldine's retailer offered further steps by way of resolution.

The retailer also:

- Waived a debt of \$944.21 that Geraldine had owing on a previous, closed electricity account at her former address.
- Waived a debt of \$575.87 that Geraldine had owing on another previous, closed electricity account at a second former address.
- Waived a debt of \$143.09 that Geraldine had owing on a previous, closed gas account at the second former address.

Collectively, the retailer applied discounts, customer service payments and debt waivers to the amount of \$3,940.61.

Given Geraldine's life circumstances and payment history, it is clear that she would benefit from the application of PDF entitlements – particularly practical assistance, – in addition to the debt waivers provided.

Without that help, Geraldine may well find herself back in payment difficulty in the medium term future.

At the same time, if Geraldine were to receive PDF entitlements they may lead to sustainable ongoing energy affordability.
- This would benefit both her and her retailer.

Policy Spotlight: Aboriginal and Torres Strait Islander peoples and the PDF

When considering credit and disconnection related data, it must be noted that these issues do not affect all customer groups equally. Overall statistics can hide the fact that credit and/or disconnection cases remain unacceptably high for some customer categories – and the effectiveness of the PDF should be considered specifically in relation to those customers.

EWOV's Aboriginal and Torres Strait Islander customers highlight this dynamic. As the data for the 2019/20 Financial Year below shows, these customers are far more likely to present with disconnection, or other Credit related complaints than non-Aboriginal and Torres Strait Islander customers.⁹

9 EWOV asks customers if they identify as an Aboriginal and/or Torres Strait Islander person upon entry, with the option to reply 'Yes', 'No' or 'Prefer not to say'. This data relates to those who answered 'Yes' or 'No'.

In fact – more than 1 in 10 of EWOV’s Aboriginal and Torres Strait Islander customers were facing imminent disconnection, closely followed by those who had actually been disconnected. By contrast, only 3.5 in 100 non-Aboriginal and Torres Strait Islander customers faced imminent disconnection – and actual disconnections did not make the top five issues (for Aboriginal and Torres Strait Islander customers, actual disconnections ranked second).

Given that disconnections are clearly framed as a measure of last resort by the PDF, this data would suggest that PDF measures are not being applied as they should be for Aboriginal and Torres Strait Islander customers, and there is significant scope for retailers to improve their service levels for those customers.

2019/20 Financial Year

Aboriginal and Torres Strait Islander peoples – Top 5 Issues	%	Other Customers – Top 5 Issues	%
Credit > Disconnection / Restriction > Arrears > Imminent	11.5%	Billing > High > General	11%
Credit > Disconnection / Restriction > Arrears > Actual	8%	Billing > Backbill	4%
Credit > Payment Difficulties > Arrears > Account Holder	8%	Credit > Collection > Credit Rating	3.5%
Billing > High > General	8%	Credit > Disconnection / Restriction > Arrears > Imminent	3.5%
Credit > Collection > Credit Rating	6%	Billing > Concession > Error	3.3%

Yellow = Credit related sub-issues

Green = Billing related sub-issues



CASE STUDY

Helen

(2019/16088)

Helen identifies as an Aboriginal and/or Torres Strait Islander person and was referred to EWOV by a community organisation on 5 September 2019. She had been issued with a disconnection warning notice. At the time Helen was a public housing tenant, receiving the single parent payment.

Helen was making payments of \$130 a week, as her usage was very high. Her second tier retailer had advised Helen her that her payments were not enough, and for two months had been insisting she increase them to \$140 a week to prevent accruing further debt. When she contacted us, Helen believed she was around \$1,600 in arrears.

Helen wanted the disconnection to be stopped, and a payment plan she could afford to be set-up. She also wanted to be put on the retailer’s cheapest plan and an URGS payment if she was eligible.

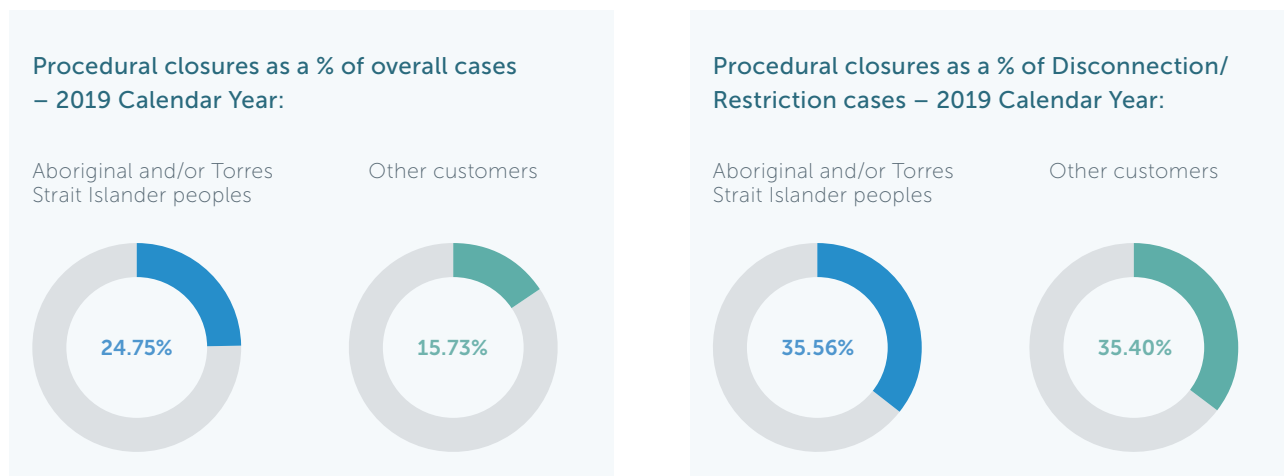
In resolving her case, Helen’s retailer confirmed that she was \$1,470.17 in arrears.

They took the following actions:

- Applied \$574.64 in missed pay on time discounts, as a goodwill gesture. This left Helen with an outstanding balance of \$895.53.
- Conducted a tariff review, and identified a cheaper plan for Helen to switch to.
- Issued Helen with an URGS application form.
- Agreed to a payment plan of \$120 a week, and placed Helen’s account with their hardship team.

One challenge facing both retailers and EWOV in ensuring PDF measures are applied is procedural closures. A procedural closure occurs at EWOV when the customer ceases to engage with our process. Following repeated efforts to contact them and a clearly communicated deadline for return contact, we close the case.

Procedural closures often occur in disconnection cases, as some customers disengage with our service once their power has been reconnected (reconnection is an immediate step we take, before moving on to consider a customer's circumstances more generally).¹⁰ Given the higher proportion of disconnection cases for Aboriginal and Torres Strait Islander customers, it is not surprising that procedural closures are also more common for that customer group.



Devising customised strategies to ensure that all customers receive their entitlements and stay engaged to achieve sustainable, ongoing energy affordability should be a priority moving forward. In relation to Aboriginal and Torres Strait Islander customers, one strategy that could be considered would be for retailers to employ liaison officers, to facilitate culturally safe interactions and improve customer outcomes, through better application of PDF entitlements.



CASE STUDY

Steve

(2020/2216)

Steve identifies an Aboriginal and/or Torres Strait Islander person and was referred to EWOV by a financial counsellor on 10 February 2020. His electricity had been disconnected three days earlier (the 7th), as he had fallen behind in his bills.

Steve advised that he was unemployed and experiencing financial difficulty. He further advised that his third tier retailer refused to re-connect him unless he paid the amount owing in full. Steve believed that he would be able to pay by the 18th, but wanted his electricity re-connected immediately in the meantime.

EWOV immediately arranged the re-connection, and left a phone message and sent an email to Steve on 11 February, for him to re-contact us and discuss further measures that could be taken (such as setting up an affordable payment plan).

We did not hear back from Steve, and after further attempts to contact him (clearly communicating that we needed to hear from him by the 26th, or we would have to close the case) his case was closed as a procedural closure on 27 February 2020.

By losing contact with Steve, we missed the opportunity to ensure that he was put on a sustainable path with his energy retailer, which may have included arrears on hold, a tariff review, an URGS payment and ongoing practical assistance.

The issue of procedural closures is discussed more generally below under the heading “*Discussion point: Improving customer engagement*”.

¹⁰ For example, in March 2020 we closed 29 Stage 1 and 36 Stage 2 *Credit>Disconnection/Restriction* Investigations. 34% of the Stage 1 cases were procedural closures, along with 33% of the Stage 2 cases. When overall cases for the month are examined (i.e. across all sub-issues), only 11% of Stage 1 Investigations were procedural closures, and 25% of Stage 2.

“... we are conscious that many retailers would assert that a Best Offer Notice constitutes a tariff review, and therefore by default every customer does receive that entitlement”

Data insights from sample cases

As discussed above, in the absence of reliable definitive data sets around specific PDF measures, we have selected 90 cases, breaking them into groups of 30 for each tier of the retail market and splitting them across three key time-periods.

The cases chosen involved customers with significant arrears, who were not able to afford their ongoing usage – i.e. high needs, ‘TA2’ customers, most of whom were experiencing some form of vulnerability.

Inevitably, this meant that we were generally selecting cases in which the PDF had not been properly applied, and customer entitlements had not been met. If they had been, these customers would arguably not have sought recourse with us. We cannot now say how many similar customer accounts exist where the PDF has been properly applied, nor can we know how many customers did not receive their entitlements - yet also did not lodge a complaint with us. It should be remembered that all of these cases have occurred in the context of falling Credit related cases, (especially *Credit > Disconnection/Restriction* cases), in terms of overall case volumes.

Taking all of the above into account, the selected cases do seem to indicate that some PDF measures are more likely to be applied than others, and based on the very small selection, some tiers of the market do appear more likely to apply them. Further, many retailers do appear to have responded to the COVID-19 pandemic by improving their application of the PDF.

In assessing the cases, we focused on three key relevant TA2 PDF measures, namely:

- › Arrears being placed on hold for 6 months;
- › URGS and concession information being provided to the customer; and
- › A tariff review conducted to ensure the customer was on their retailer’s best plan for them.

In relation to URGS, it is worth noting that these were cases where customers were overwhelmingly eligible for URGS payments, which we would set in process by the time we closed their case. This is also true of arrears being placed on hold for six months.

In relation to tariff reviews, we are conscious that many retailers would assert that a Best Offer Notice constitutes a tariff review, and therefore by default every customer does receive that entitlement. In assessing the cases we have disregarded Best Offer Notices as a tariff review, and focused instead on tariff reviews that have been more personally communicated by phone or other direct means to the customer in dealings with their retailer prior to lodging their complaint with us. Remembering that these are cases with significant arrears involving vulnerable customers who cannot afford ongoing usage, we felt that more than a Best Offer Notice should have been provided - and in some cases it had been.

The first six months (1 January 2019 – 30 June 2019)

Total Sample Cases: 30	Tier 1 retailer cases: 10	Tier 2 retailer cases: 10	Tier 3 retailer cases: 10	
Key PDF measures applied prior to contacting EWOV				Totals
- Arrears on hold for six months?	0	0	0	0
- Advice re: URGS?	1	2	4	7
- Tariff Review Discussed?	1	0	0	1
Cases out of 30 that received one or more forms of PDF assistance prior to contacting EWOV:				8

Commentary

Apart from the low rates of PDF assistance offered generally, what stands out is that URGS were almost the sole PDF measure being offered, and there was a higher likelihood that a tier 3 retailer would have discussed an URGS payment with their customer than either a first or second tier retailer. During this period there were long processing times for URGS, (which DHHS has since addressed), and the ESC has strengthened the retailer obligation to assist customers with URGS applications.¹¹ No case in this sample received more than one PDF measure.

It is not surprising that none of these customers had had their arrears placed on hold for six months. Perhaps more than any other measure, this is only likely to occur following a tailored dialogue with the customer, resulting in full application of the PDF. Arguably, such cases are less likely to make their way to our service.

In relation to resolutions offered, it should be noted that very often measures over and above the PDF would be applied by the retailer. These included customer service gestures (credit), the application of missed pay on time discounts, and full or partial debt waivers.

It is also notable that customers would sometimes be offered a choice between different payment plans – some involving plans where arrears were placed on hold for six months, and others where they were not. While this may be the customer's choice to make, it is arguable that if they are entitled to their arrears being placed on hold for six months then they should not be offered anything less.

11 For more information, see Essential Services Commission, *Supporting energy customers through the coronavirus pandemic*, (2020): <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/supporting-energy-customers-through-coronavirus-pandemic-2020>



CASE STUDY

Justine

(2019/7852)

Justine rang EWOV on 19 April 2019 and we bypassed the Assisted Referral stage for her case, using our discretionary upgrade process. Justine was experiencing family violence, and raising three children while receiving the single parent payment.

She was at risk of homelessness, and had been issued with a disconnection warning notice by her second tier retailer.

Justine advised that she owed around \$8000 for electricity and \$500 for gas, and had not paid a bill for some time as she was struggling to manage other debts. She was also going through the courts, and didn't have time to properly deal with her utilities. In addition, Justine was sharing a rental property with a housemate who used a lot of power but didn't contribute to bills. She was on the verge of eviction, the property was damaged and would need to be demolished – all she had was a periodical monthly tenancy. Justine wasn't sure where she would go if evicted.

Justine had raised her situation with her retailer, but they had proposed a payment plan that she couldn't afford. She had requested and received an URGS application form, but hadn't had time to fill it out.

In resolving her case, Justine's retailer confirmed that she was \$8,024.22 in arrears on her electricity account, and \$962.86 for gas. Justine's electricity usage averaged out at \$331.76 per fortnight, and \$54.75 for gas.

The retailer made the following offer to resolve the case:

- The choice of an electricity payment plan of \$25 or \$50 per fortnight for 24 months (i.e., both well below usage).
- They conducted a tariff review and identified a cheaper electricity plan for Justine to switch to.
- The choice of a gas payment plan of \$25 or \$50 per fortnight for 24 months (again, below usage).
- An offer to contact the retailer to discuss further PDF entitlements.

Unfortunately, Justine did not re-contact EWOV to confirm her response to the retailer's proposal. We requested she do so by 2 July 2019, and when we did not hear from her the case was closed procedurally on 4 July 2019.

As with many disconnection cases, once the immediate crisis of disconnection had been averted Justine may not have had the mental or emotional bandwidth to remain engaged with the resolution process.

The post-introduction, pre-COVID-19 period (1 July 2019 – 30 March 2020)

Total Sample Cases: 30	Tier 1 retailer cases: 9	Tier 2 retailer cases: 10	Tier 3 retailer cases: 11	Totals
Key PDF measures applied prior to contacting EWOV				
- Arrears on hold for six months?	0	0	0	0
- Advice re: URGS?	2	3	3	8
- Tariff Review Discussed?	3	0	1	4
Cases out of 30 that received one or more forms of PDF assistance prior to contacting EWOV:				10

Commentary

Again, none of these cases showed arrears being placed on hold for six months, but tariff reviews and URGs were (marginally) more common, with URGs more evenly spread across the three tiers. That being said, the rate of assistance being offered was very similar to the first six months.

Overall, 10 of the 30 cases selected had received some form of PDF assistance prior to presenting at EWOV (one tier 1 case and one tier 2 case received both URGs advice and a tariff review prior to their complaint to us).

As with the first six-month period, retailers would often offer measures over and above the PDF to resolve a case. At the same time, far too many vulnerable customers were still presenting with significant debt and their PDF entitlements unmet – as illustrated by the case study below:



CASE STUDY

Simone

(2019/19381)

EWOV first connected with Simone at an outreach event in regional Victoria, and we facilitated a referral for a financial counsellor to obtain an authority to act on her behalf. As an aged pensioner and public housing tenant, Simone was highly vulnerable. Her case bypassed our Assisted Referral stage and went straight to Investigation through the discretionary upgrade process. We opened her case on 22 October 2019.

Simone had signed up with a third tier retailer after being door knocked. She had attempted to set up a payment plan, but her retailer had declined. She had also requested an URGs application form, but this too was declined.

Simone did not know how much she owed, but she had been issued with a disconnection warning notice.

In resolving her case, Simone's retailer advised that she was \$9,384.93 in arrears.

The retailer took the following steps to resolve her case:

- Applied a credit of \$5,728.74 for missed pay on time discounts.
- Applied a credit of \$558.79 for backdated concessions.
- Reviewed Simone's tariff, and identified a cheaper plan for her to switch to.
- Assisted Simone to apply for an URGs payment.
- Advised that Simone may also be eligible for a medical cooling concession, and sent her the application form so she could assess if this was so.
- Placed Simone's arrears on hold for six months, and established a payment plan of \$25 per fortnight (which was well below Simone's usage of \$206.50 per fortnight).
- For every sixth payment made on the \$25 payment plan, the retailer undertook to apply a matching credit.
- Undertook to provide regular usage updates to assist Simone in reducing usage.
- Advised that it would conduct an energy audit to assess Simone's usage.
- Provided a referral to the National Debt Helpline for further financial advice.
- Following the six-month period of arrears on hold the retailer advised that if Simone's circumstances and affordability had not changed, it would establish a new payment plan in line with a financial counsellor's advice.
- Offered to assist Simone with a referral to DHHS to ensure her property and appliances were in line with public housing requirements, and liaise with DHHS to assist Simone in making available energy efficiency changes.

As can be seen, Simone ultimately received a high degree of customer care, including all of her PDF entitlements and more. This only occurred after significant advocacy was made on her behalf by others, and her case illustrates how vulnerable customers continue to be 'missed' by retailers, who fail to provide PDF entitlements.

The early COVID-19 period (1 April 2020 – 1 October 2020)

Total Sample Cases: 30	Tier 1 retailer cases: 11	Tier 2 retailer cases: 10	Tier 3 retailer cases: 9	Totals
Key PDF measures applied prior to contacting EWOV				
- Arrears on hold for six months?	1	0	3	4
- Advice re: URGs?	4	4	7	15
- Tariff Review Discussed?	2	0	3	5
Cases out of 30 that received one or more forms of PDF assistance prior to contacting EWOV:				15

Commentary

The third small data set is notable for the higher rate of PDF assistance that retailers did seem to be offering during this period, presumably in response to the COVID-19 pandemic. Notably, four cases had already been offered all three of the key PDF measures prior to lodging their complaint with us (three of those were with tier 3 retailers, and one was with a tier 1). Another case, with a tier 1 retailer, had also received both URGs advice and a personalised tariff review prior to lodging their complaint.

This was the only small data-set in which customers had already had their arrears placed on hold for six months. Looked at one way, this is a positive sign that retailers are identifying vulnerable customers and applying their PDF entitlements. Looked at another, these customers still needed to seek recourse with us – which may indicate the limits of the PDF to resolve severe ongoing payment difficulty. We discuss this further in *“Final Observations and Recommendations”* below.



CASE STUDY

Harry

(2020/8766)

A financial counsellor acting on behalf of Harry rang EWOV on 22 June 2020, concerned that he had been issued with a disconnection warning notice by his first tier retailer.

Harry requires a life support machine for ten to twelve hours a day, and is on the life support register. He is also low-income, and relies on the aged pension.

Electricity

At the time of the complaint, Harry had arrears of \$2,893 on his electricity account.

In resolving the complaint, Harry's retailer advised that he had received a \$650 URGS payment in May 2020, was receiving all relevant concessions and was already on their best plan (and had been since 2 January 2018).

Harry's usage was \$68 per fortnight, and from 30 June the retailer agreed to establish a \$30 per fortnight payment plan for six months, while arrears were put on hold.

The retailer further undertook to apply a \$300 customer service gesture for the inconvenience caused by the matter, and to connect Harry to their hardship team so that he may receive further practical assistance to reduce usage.

Gas

The retailer advised that Harry was also in arrears of \$2,361.54 on his gas account.

Again, Harry was already on the retailer's best plan, an URGS payment was in process (and was applied on 30 June), and all other relevant concessions had been applied.

To further resolve Harry's matter, the retailer:

- Established a six-month payment plan of \$30 per fortnight (usage was \$87.36 per fortnight) while arrears were placed on hold.
- Connected Harry to their hardship team so that he may receive further practical assistance to reduce usage.
- Identified that Harry had not been placed on their cheapest gas bill at the same time as when he was placed on their cheapest electricity bill. If he had been, he could have saved \$728.53. To acknowledge this, the retailer applied an \$800 credit to Harry's gas account.

Harry's case demonstrates that even when some key PDF entitlements have already been applied (e.g. URGS, other concessions and tariff reviews), customers can still reach the point of disconnection – including highly vulnerable customers, dependent on life support.

Given Harry's available income and minimum necessary usage, it is highly likely that he will continue to accrue energy debt over time despite having received his full PDF entitlements.

Full data summary across all three periods (1 January 2019 – 1 October 2020):

PDF Measure applied prior to presenting at EWOV	Tier 1 cases (30)	Tier 2 cases (30)	Tier 3 cases (30)	Totals
URGs	7	9	14	30
Arrears on hold for six months	1	0	3	4
Tariff Review Actively Discussed	6	0	4	10
Totals:	14	9	21	44
Cases out of 90 that received one or more forms of PDF assistance prior to contacting EWOV				33

Commentary

While continuing to acknowledge that the data set is very small and certainly cannot be taken as definitive, it is interesting that of the 90 selected cases the tier 3 customers were more likely to have received PDF entitlements prior to lodging their complaint with us.

It is also noteworthy that not one of the tier 2 cases showed arrears having been placed on hold, or a personalised tariff review undertaken. Further, it is surprising that tier 1 cases showed less application of URGs than the other two tiers – with tier 3 retailers clearly applying that entitlement more often than their competitors. Even then, only 30 of the 90 cases showed that URGs advice had been provided – which was still far ahead of the other two PDF measures.

The fact that only 4 of the 90 cases showed arrears already having been placed on hold demonstrates that these customers - overwhelmingly vulnerable and with significant arrears – were not successfully identified by their retailer as being eligible for tailored assistance under the PDF. Or, if they were, then it was not communicated well enough to prompt their engagement and initiate an in-depth dialogue.

Finally, and as noted earlier, based on our limited sample rates of PDF assistance did appear to increase over the COVID-19 period, to the point that 50% of cases in that period had received at least some form of PDF entitlement - and 13% had received all three. As already noted, those 4 cases may indicate that for a small group of customers payment difficulties are likely to be ongoing, even when the PDF is properly applied.

Key takeaways and emerging narrative from sample cases

The limited sample of cases can only tell us so much statistically. Significant factors emerge anecdotally through case studies and these are discussed below.

Early intervention?

First, it is striking that even well after the introduction of the PDF, vulnerable customers continue to present with very high energy debts accrued over a long period. Under the PDF, retailers are required to provide information to customers within 21 days of the customer having missed a bill that puts them more than \$55 in arrears. We are aware that in many, (if not most), instances customers will receive this information included as part of a reminder notice. As with Best Offer Notices being considered as tariff reviews for the purposes of the PDF, we question whether reminder notices are appropriate for these purposes – and whether more targeted, personalised forms of communication should be considered.

Certainly, on the evidence available many customers are not engaging to take up their PDF entitlements, and how those entitlements are communicated may be partly responsible for that. We discuss this point further below in *“Discussion point: Improving customer engagement”*.

Incomplete application of entitlements

Second, there is often a ‘patchy’ application of PDF entitlements. For example, a customer may have been provided with information about (and in fact received) an URGS payment, but still be on an expensive plan with no discussion being had of placing their arrears on hold – even as they remain unable to afford their ongoing usage. The lack of a cohesive application of all PDF entitlements seems to indicate that the customised dialogue envisaged by the Code has not occurred between the customer and the retailer, or if it has, the retailer has not provided all the information that it should.

Retailer staff training, and/or organisational silos?

One question that does emerge from the case studies, and also from the experience of EWOV, is the extent to which PDF provisions are broadly known and understood by retailer staff, or whether that knowledge tends to be contained within retailer hardship teams. Unless frontline staff and other case handlers are also fully versed on the PDF, there is always a risk that customers requiring assistance will go unidentified and not receive their entitlements. Through the course of conciliating cases at EWOV some staff have found that there is a disconnect between the information provided to them by a retailer case handler, and the assistance that is actually being provided to the customer by the retailer’s hardship team. Whether that disconnect stems from a lack of knowledge or a lack of time to fully communicate the assistance being provided is unclear.

Customer engagement

Finally, it should also be noted that the PDF depends on customer engagement and very often customers are unable, or choose not to engage with their retailer. In those circumstances it can be impossible for retailers to provide customers with their full entitlements.

Customer engagement with the conciliation process is also an issue for EWOV, and is expressed through our data in the form of procedural closures. As mentioned earlier, procedural closures are more common for disconnection cases than other sub-issues. This is particularly problematic when one considers that customers who have been or are facing disconnection are likely to be those in highest need, who could benefit most from the PDF.

In order to improve the effectiveness of the PDF, it is axiomatic that thought should be given to improving customer engagement. Increasing the proportion of customers who are willing and able to engage with their retailer to receive assistance should be a key focus in the months and years ahead.

This issue is discussed further below.

Discussion point: Improving customer engagement

Procedural closures are an ongoing challenge for EWOV as they prevent us from ensuring a customer receives their entitlements, even after the retailer has agreed to do so to resolve the complaint. As discussed earlier (see *Policy Spotlight: Aboriginal and Torres Strait Islander peoples and the PDF*), procedural closures occur very often in relation to disconnection cases. In such cases, the first step EWOV takes is to ensure reconnection, before then going on to assess other aspects of the customer's situation. Unfortunately, once that reconnection has occurred some customers become unresponsive to our attempts to contact them, and we are ultimately forced to procedurally close their case. In many such cases, the customer could benefit greatly by staying engaged and allowing us to assist them in reaching a sustainable ongoing arrangement with their retailer.



CASE STUDY

Stephanie

(2020/1819)

Stephanie rang EWOV on 3 February 2020 to complain about her gas bill, issued by a tier one retailer. Stephanie was in vulnerable circumstances, dependent on JobSeeker and living in public housing – so we escalated her matter past the Assisted Referral stage using our discretionary upgrade process.

Stephanie had received a gas bill of \$220, but when she rang her retailer to see if her winter concession had been applied they said that it had not. They further advised that she would need to go on a payment plan of \$100 per month, which she could not afford. Instead, she was hoping to go on a payment plan of \$10 per fortnight. At the time, Stephanie was also seeking assistance with an URGs application.

In response to Stephanie's case, her retailer advised that her gas account was in arrears by \$484.01.

The retailer offered to:

- Apply a customer service gesture of \$50 to her gas account.
- Apply a credit of \$52.20 to cover the Winter Energy Concession from 27 August 2019 to 31 October 2019, and continue to apply it through 1 May to 31 October each year.
- Switch Stephanie to a plan which it identified would be cheaper for her.
- Place her arrears on hold for six months, and provide her with practical assistance to reduce her usage during that period.
- Accept Stephanie's offer of a payment plan at \$10 per fortnight, (which was well below her usage of \$59 per fortnight).
- Sent an URGs form to be completed and submitted by Stephanie by 4 April 2020.

In handling her case, we asked Stephanie to:

- Confirm if she had received the URGs form, and would be able to complete and submit it by 4 April 2020 (and advise if she had access to a financial counsellor who may be able to assist her if she needed it).
- Make a payment of \$10 by 2 March 2020, and provide us proof that she had made it.
- Confirm she would continue to make the \$10 payments through the Investigation.
- Advise us if her retailer's response had met her concerns, and explain to us if she required anything further.
- Contact us by 2 March 2020 to discuss her complaint.

We did not hear back from Stephanie, or receive proof that she had made any payment. We closed her case as a procedural closure on 3 March 2020.

While procedural closures are far from ideal, they are understandable for customers who are facing multiple life challenges and experiencing significant cognitive stress. Once an immediate issue - or crisis - has been dealt with (such as disconnection), many customers simply do not have the mental or emotional 'bandwidth' to continue to engage. Unfortunately, there is a tendency in the retail energy sector to conclude that the customer has 'failed' in their responsibility to engage, rather than questioning what could have been done better to encourage them to do so.

The language and mentality of 'mutual obligation', so often adopted in the retail energy sector, is unhelpful and doomed to fail. Rather than placing the onus on vulnerable customers to meet their 'responsibilities' around engagement, retailers and other service providers (including EWOV) should tailor their interactions with an emphasis on assisting, and helping the customer. The conversation should not be about what the customer must do now – but rather about what the service provider can do to help them, if the customer chooses to remain engaged. While this seems a subtle shift in messaging, it changes the style and tone of the interaction significantly.

For many customers, vulnerable or otherwise, retail energy companies are not perceived as entities that exist to help, but as entities more likely to punish, or penalise. Trust in retail energy companies has continued to sit at low levels, reflecting poor customer service over a long period of time. Retail energy companies literally hold the power in the relationship, (or are at least seen to), and having power over the supply of an essential service is significant. An effective analogy may be the relationship that many renters have to their landlord. Even if a rental property requires maintenance, many renters will choose not to contact the landlord for fear of 'rocking the boat' and causing an unwanted outcome (such as a rental increase on their next lease).

This mirrors the relationship that many customers are likely to have with their energy company. It stands to reason that if a customer doesn't expect anything good to come from engagement then they will probably avoid it. Further, if a customer is experiencing financial difficulty, they may be even less likely to engage with their retailer. They know they are struggling – and may not see anything positive coming from advertising their situation. This means, ironically, that the more a customer needs help the *less* likely they may be to receive it. This further underlines the need for early, direct, proactive and personalised interaction by retailers - rather than relying on Best Offer Notices and reminder notices to communicate key PDF entitlements.

Ultimately, customers should not be blamed for 'failing' to engage. Rather, the energy sector needs to consider what it can do to improve customer trust and confidence, re-set the relationship, and thus render that engagement more likely.

Discussion point: Should Tailored Assistance 1 entitlements be more targeted?

One facet of the PDF not overly discussed in this report is tailored assistance available to customers more than \$55 in arrears, but who can afford their ongoing usage (i.e. TA1). One difficulty with this category is that many customers who fit the criteria are not experiencing genuine payment difficulty, but are simply late in paying their bill. Under the Code, however, retailers are required to provide information to those customers within 21 days, making them aware of their PDF entitlements (such as URGS, a tariff review and payment plans of up to two years to pay off their arrears). In many cases this information is likely to be disregarded by the customer and causes no difficulty. The requirement to provide it, however, may reduce service standards to those who are genuinely struggling.

Because they are required to inform such a broad swathe of customers, (many of whom do not require assistance), retailers may opt for broad cost-effective communication methods that are less impactful – but will at least guarantee basic compliance. Providing tariff reviews by way of Best Offer Notices, and PDF entitlements set out on reminder notices are examples of such communication. While the Best Offer Notice should remain in its own right, there should be a focus of more targeted communications for those in genuine payment difficulty. This could encourage more engagement, though may involve more costly communication methods (such as by SMS, or phone call).

Beyond this factor, the retail energy market is competitive and there will always be a tension between full regulatory compliance and the desire to seek a competitive advantage through lean operation. In those circumstances, there is a risk that if protections are cast too broadly – stretching compliance capacity – some customers for whom compliance fails may be those who actually need it, while others who do not need it receive 'full service'.

Further, by framing protections too broadly there is a risk of eroding their rationale in the eyes of those employed to apply them. Retail staff, (and indeed ombudsman staff) who are required to repeatedly assess PDF entitlements for customers who are clearly not experiencing payment difficulty may form the view that the PDF is flawed and/or unnecessary, and become less stringent in their application of it – even when another customer genuinely needs the entitlement.

A revised focus on the roles and relevance of, and compliance to, Tailored Assistance 1 and Tailored Assistance 2 may ensure that those who actually require the proactive early intervention that the PDF envisages actually receive it. By adjusting the approach to Tailored Assistance 1 for those who do not typically need customised assistance, we may better serve those who do.

This report does not seek to recommend a preferred approach to revising the entitlement to tailored assistance, but rather to raise the question of whether revisions could be considered to ensure it is fit for purpose.

Final observations and recommendations

Observations: How has the PDF succeeded?

- › Credit related cases and particularly disconnection cases, have fallen significantly since the PDF was introduced. This was true even before the ESC placed an informal moratorium on disconnections in response to the COVID-19 pandemic. This is a major and significant achievement, and should not be underestimated.
- › Average customer debt levels have decreased since the PDF was introduced.
- › Debt reductions and waivers have increased since the PDF was introduced.

Observations: How has the PDF failed?

- › Large numbers of vulnerable customers continue to present to EWOV with significant arrears and their PDF entitlements unmet. There is still significant room for all tiers of the market to improve compliance.
- › When PDF entitlements are applied, they are sometimes ad hoc and incomplete.
- › While credit and disconnection cases have fallen overall, they continue to remain prominent for some customer sub-sets (e.g. customers who identify as an Aboriginal and/or Torres Strait Islander person), which suggests that the PDF is working better for some customer groups than others.
- › Customer disengagement, (expressed as procedural closures at EWOV), is still very common and remains a significant challenge for the sector.
- › Key PDF entitlements are being communicated through documents unlikely to be seen as personalised, or likely to prompt engagement. Examples include Best Offer Notices for tariff reviews, and PDF information being communicated on reminder notices. This blunts the intent of the PDF to provide effective early intervention.
- › It is not clear whether all retailer staff are aware of PDF entitlements, or whether that knowledge is concentrated within retailer hardship teams.

Recommendations

- › Consideration should be given to improving the communication of PDF entitlements through more direct and personal means such as SMS or phone calls as opposed to generic and multi-purposed notices (such as bills and reminder notices).
- › Consideration should be given to improving training of all staff in relation to the PDF, to avoid that knowledge becoming 'siloed' within retailer hardship teams.
- › Consideration should be given to appointing dedicated staff to provide culturally safe assistance to customers from cultural groups that are currently poorly served by the PDF (e.g. customers who identify as an Aboriginal and/or Torres Strait Islander person).
- › Consideration should be given to whether the entitlement to tailored assistance for customers who can afford their ongoing usage (i.e. TA1) is currently too broad, and whether the PDF could be made more effective for those in genuine payment difficulty if it was narrowed.
- › Consideration should be given to further policy measures for those who cannot afford their energy even after PDF entitlements have been fully and properly applied. This is a small, but important cohort of customers.
- › It should be clarified that while debt waivers are positive, they should not be applied in lieu of PDF entitlements – but only in addition to them.

Final remarks

While the PDF has had a positive impact on the market, it is clear that it is not reaching all customers. Far too many continue to accrue unaffordable energy debt without receiving their entitlements.

A key challenge in addressing this failure will be improving the communication of entitlements, and ensuring that those who are entitled to assistance are engaged at an early stage. While the PDF does envisage this kind of proactive, early stage support, the communication methods currently being used – while technically compliant – do not meet the true intent of the reform. Where the PDF envisaged a customised dialogue between retailers and customers, in practice we see key information being communicated through generic, multi-purpose documents.

For the PDF to reach full effectiveness, the retail energy sector must genuinely embrace an ethos of customer service and care. Beyond simply complying with the provision of information, the tone and style of that communication must be considered and improved. Customers must be made to feel that if they engage with their retailer then they will receive assistance, and not fear that they will be penalised. While a significant cultural shift needs to occur on both sides of the retailer/customer relationship, only the industry can initiate that change. Until that change occurs, the PDF will continue to perform poorly. If retailers remain impersonal and officious in their approach, then customers will remain unwilling to engage – and the necessary dialogue will not occur. We will continue to see vulnerable customers struggling with unsustainable and unnecessary energy debt.

We should strive to ensure that the PDF improves the service culture of the retail energy sector. Currently, it risks being absorbed into the poor customer service culture that preceded it.