



## Payment difficulties and hardship – Urban water businesses July 2016

### Background

EWOV receives and investigates complaints about payment difficulties and hardship, sometimes where customers are unable to pay for their ongoing water usage and/or arrears. Sometimes customers contacting EWOV with affordability issues have accrued considerable debt and have had, or are at risk of having, their water restricted. This statement outlines EWOV's view of what is fair and reasonable in these situations.

### Definition of financial hardship

An urban water business must have a hardship policy and apply it to residential customers who are identified by themselves, the water business, or an independent financial counsellor as having the intention but not the financial capacity to make the required payments in accordance with the water business' payment terms.<sup>1</sup>

### Objectives during an EWOV investigation

When handling complaints involving financial hardship, EWOV aims to:

- *achieve consistency in hardship complaint handling*, including shared expectations between EWOV, customers and providers for complaint progression and appropriate outcomes
- *conduct timely investigations of hardship complaints in order to minimise accrual of customer debt*, including early identification of potential or actual hardship, monitoring payment by customers of undisputed or affordable amounts and seeking relevant independent advice<sup>2</sup>
- *promote and facilitate sustainable outcomes for customers and providers* which go beyond regulatory compliance and include principles of best practice.<sup>3</sup>

EWOV aims to repair, and where possible improve, the relationship between customers and providers by achieving outcomes that are realistic, maintainable and reflect the customer's capacity to pay.

### Considerations during an EWOV investigation

Each complaint is reviewed on its individual merits and its outcome will depend on the circumstances of the complaint. However, for hardship complaints EWOV will usually consider:

1. a timeline of events and the relevant facts
2. special customer circumstances
3. laws and codes
4. independent advice
5. regulatory advice

---

<sup>1</sup> 5.4 of Customer Service Code – Urban Water Businesses

<sup>2</sup> For example, a financial assessment to assist with establishing capacity to pay and affordability, or advice to provide understanding about consumption patterns and potential usage reduction.

<sup>3</sup> EWOV aims to assist customers to manage and pay for their water usage, and to assist water companies to identify customers who may require assistance, as well as helping providers promote habits of sustainable payment and usage by their customers. Achieving sustainable outcomes also enables risk mitigation relating to future water consumption and payment, for both customers and providers.



6. current good industry practice, past outcomes for similar investigations and previous Binding Decisions
7. water provider policies and their application
8. other industry practice.

### **1. A timeline of events and the relevant facts**

For this type of complaint it is important for EWOV to establish:

- Any relevant special customer circumstances.
- The customer's consumption and payment history, including fortnightly<sup>4</sup> usage information.
- The amount the customer can afford to pay per fortnight.<sup>5</sup>
- The status of the account, including whether it is an active or closed account.
- The amount and age of any debt.
- Whether the customer self-identified as being in hardship or provided any information about their capacity to pay.
- Whether the customer has complied with their regulatory obligations, such as making payments and providing identification as required.
- Whether there were hardship indicators, and any steps taken by the provider once it became aware of the customer's financial circumstances.
- Whether the provider has complied with its regulatory obligations, including offering flexible payment plans in line with a customer's capacity to pay.
- What genuine actions or efforts the provider has taken to engage with the customer, alert them to the debt and advise them of available support and assistance.
- Any proof or documentation available to support the actions taken by the provider once it became aware of the customer's financial hardship. EWOV expects that copies of the actual documents sent to the customer will be provided.
- Whether all applicable concessions and discounts have been applied to the account.
- Whether there was any dispute concerning the outstanding debt, and how it was managed or resolved.
- What efforts the customer made to engage with the provider about the debt and their affordability issues.
- Whether the customer has demonstrated an intention to pay and participate in a hardship program, or otherwise engage or work towards a sustainable outcome.
- Whether the customer has sought additional assistance or support from community groups to manage their financial commitments.
- Whether the customer or provider initiated communications.
- Whether the customer has previously participated in the provider's hardship program, and if so, the outcome of any past participation.
- Any other relevant information depending on the facts of an individual complaint, as the above list is not exhaustive.

---

<sup>4</sup> EWOV usually refers to a customer's fortnightly consumption for consistency and ease of reference, however in individual cases daily, weekly, monthly or annual consumption may be more relevant to EWOV's investigation.

<sup>5</sup> As with usage, EWOV usually refers to a customer's capacity to pay on a fortnightly basis for consistency and ease of reference, however this may vary in individual cases.



## 2. Special customer circumstances

EWOV considers any relevant special customer circumstances, including whether the actions or inaction of the provider have had adverse consequences for the individual customer. In particular, EWOV considers the following:

- The extent of financial hardship – whether it is short term or long term.
- The actions taken by the customer to engage with the provider. If the customer has previously been offered assistance under the provider’s hardship policy, EWOV will consider whether the customer engaged adequately in the process.
- The actions taken by the provider to engage with the customer.
- Payment history.
- Restriction history.
- The customer’s capacity to increase payments.
- The customer’s eligibility for concessions or other assistance – for example payments under the Utility Relief Grant Scheme (URGS).
- The customer’s capacity to reduce usage, which may be impacted by a variety of factors.
- Any history of contacts to EWOV and whether circumstances have changed since the customer’s last contact with EWOV.
- The customer’s participation in EWOV’s investigation, including making ongoing affordable payments and participation in a financial assessment.
- Personal circumstances and available support – from community groups, family, friends.
- Anything which may mean the customer is vulnerable – for example, age, education, language, health, disability.

## 3. Laws and codes

EWOV expects customers and providers to meet their legal and regulatory obligations. Obligations under laws and codes represent minimum standards. Consideration of what is fair and reasonable includes, but is not limited to, the legal requirements. This means that, while a provider may have complied with its regulatory obligations, EWOV’s assessment of the complaint may determine that compliance alone is not fair and reasonable in the individual circumstances, and an alternative resolution may be required.

The *Water Act 1989*, the *Water Industry Act 1994* and any laws, codes or guidelines made under them (for example, the *Urban and Rural Customer Service Codes*)<sup>6</sup> all place legal obligations and responsibilities on water providers and customers.

### Hardship policies

All urban water providers must have a customer hardship policy.<sup>7</sup>

Water providers need to have processes in place to identify hardship customers and to work with customers or their representatives (such as financial counsellors) to assess the appropriate options. Water providers are also required to make staff aware of their hardship policy and to ensure their staff have the necessary skills to sensitively engage with customers in hardship.<sup>8</sup>

---

<sup>6</sup> This is not an exhaustive list and EWOV will consider all relevant laws and codes. The legislative and regulatory framework relating to the water industry has a consumer protection purpose, and EWOV interprets laws and codes to be consistent with this purpose.

<sup>7</sup> Clause 5.4 of the Customer Service Code – Urban Water Businesses

<sup>8</sup> Clause 5.4 Customer Service Code – Urban Water Businesses.



Although a water provider does not have to offer all the options available in its approved hardship policy to an individual customer, the water providers must provide a hardship customer with equitable access to appropriate options for their particular circumstances.<sup>9</sup> Some of the options required under the Urban Customer Service Code include:

- Offering a range of payment options in accordance with the customer's capacity to pay
- Making customers exempt from supply restriction, legal action and additional debt recovery costs – including waiving any interest accrued prior to the customer being identified as in hardship, while payments are made to the water business according to an agreed flexible payment plan or other payment schedule;
- Stating any circumstances in which the water provider will waive or suspend interest payments on outstanding amounts.
- Providing for written confirmation of any alternative payment method to be sent to customers within 10 business days of an agreement being reached.
- Offering information and referral to government assistance programs and no cost independent financial counsellors.
- Offering information on how to reduce water usage and improve water efficiency
- Providing information setting out the circumstances when hardship arrangements or assistance may or will end.

#### Payment difficulties

Water providers are also required to offer a flexible payment plans to hardship customers or any other residential customers experiencing payment difficulties.<sup>10</sup> If a flexible payment plan is offered it must:

- state how the amount of the payments has been calculated
- state the duration of any plan
- specify the amount payable for each instalment, the frequency of instalments and the date by which each instalment must be paid
- be able to be renegotiated at the request of the customer if there is a demonstrable change in their circumstances
- be confirmed prior to or as soon as practicable after the flexible payment plan commences.

#### Debt collection

A water provider cannot commence legal proceedings for debt recovery if:

- the amount owed by the customer is less than \$200.00, unless the customer has failed to pay consecutive bills in full over a period of at least 12 months.
- the customer is eligible for and has lodged an application for an eligible concession card and the application is outstanding.
- The customer has made an URGS application and the application is outstanding.
- The customer is a tenant and:
  - (1) the amount unpaid is owed by the landlord; or
  - (2) the tenant has a claim against the landlord in respect of a water bill at the Victorian Civil and Administrative Tribunal.

---

<sup>9</sup> Clause 5.4 Customer Service Code – Urban Water Businesses

<sup>10</sup> Clauses 5.2 and 5.3 Customer Service Code – Urban Water Businesses



- The amount in dispute is subject to an unresolved complaint procedure in accordance with a water business's complaints policy.

EWOV considers that a water provider should not commence debt collection activity (including, but not limited to legal proceedings) unless it has complied with all of its regulatory obligations, or in instances where a customer is engaged and participating.

In case handling it can be difficult to identify when a payment plan has formally ended and when debt collection can start. Before commencing debt collection, a provider should be able to establish it has advised the customer that any payment plan has ended (usually due to the customer failing to make payments). EWOV would expect the water provider to provide a copy of any such communication with the customer.

#### **4. Independent advice**

EWOV considers any appropriate technical advice, and where relevant will arrange for financial assessments and audits. EWOV works with the customer and provider towards reducing the customer's consumption whilst increasing their capacity to pay. This approach aims to minimise the gap between the ongoing cost of supply and what the customer can afford to pay.

To ensure the achievement of a sustainable, fair and reasonable outcome, EWOV will review any financial assessments conducted by the provider or by a qualified financial counsellor. As part of the investigation EWOV may also conduct its own independent financial assessment and/or audit.

#### Financial assessment

EWOV does not provide financial counselling or formal financial advice, but uses information/advice from our Financial Assessor to:

- Gain an understanding of a customer's individual circumstances and their capacity to pay.
- Assist a customer to access all benefits, concessions, additional income or government benefits for which they are eligible.
- Provide appropriate referrals, for example to local financial counsellors.

#### Site visit and water usage audit

Although it is not usual process, EWOV will seek advice regarding water usage reduction from a technical advisor where this is relevant or expertise exceeding EWOV's knowledge is required.

In conjunction with meter data, EWOV uses audit information and advice to:

- Gain an understanding of a customer's individual circumstances and consumption.
- Work with a customer to improve their understanding of their usage patterns and general consumption.
- Identify and explore possible opportunities to reduce usage.
- Work towards decreasing usage so that cost of supply is within the customer's capacity to pay.
- Identify faulty or incorrectly functioning appliances.

#### **5. Regulatory advice**

Depending on the circumstances, EWOV may seek advice from relevant regulators, such as the Essential Services Commission (ESC) or the Australian Competition and Consumer Commission (ACCC) for an individual complaint.



## **6. Current good industry practice, past outcomes for similar investigations and previous Binding Decisions**

When handling complaints involving financial hardship or payment difficulties, EWOV aims to achieve sustainable outcomes which go beyond regulatory compliance and include principles of best practice. To be sustainable, outcomes need to be realistic, maintainable and reflect a customer's capacity to pay.

When assessing what is fair and reasonable in an individual complaint, EWOV expects the actions of a provider will be consistent with or exceed current good industry practice, as well as being consistent with appropriate past complaint outcomes and previous Binding Decisions.

## **7. Water provider policies and application**

EWOV acknowledges that, although the intent and regulatory requirements are the same for all water providers, hardship policies may differ depending on the provider's customer base, the strategic direction of the provider and the range of services provided.

EWOV will review the statements or representations contained in the provider's Hardship Policy and Customer Charter, about how the water provider will deal with financial hardship issues.

EWOV will consider the application of those policies. EWOV expects that providers will adhere to any statements or representations made in their Policies and Charters.

## **8. Other industry practice**

Because energy providers have similar legal obligations requiring them to assist and support customers experiencing affordability issues, advice from energy providers can be useful in establishing fair and reasonable complaint outcomes for water complaints. In addition, information from the financial or telecommunications sectors can also be valuable in establishing what is fair and reasonable in the circumstances of an individual complaint. Where appropriate, EWOV will seek other industry practice from energy providers, or from other sectors.

## **Complaint resolution and outcomes**

In relation to affordability complaints, EWOV considers that a provider should be able to demonstrate:

- Genuine consideration of the customer's individual circumstances, including offering assistance and support that is appropriate, relevant and tailored to address those circumstances.
- Compliance with any legal or regulatory obligations as a minimum standard.
- Timely and appropriate action to identify whether the customer is in hardship and assess the customer's capacity to pay.
- Appropriate action taken to minimise accrual of the customer's debt.
- Any advice provided to the customer about the existence of the URGS and financial counselling services.
- Efforts made to prompt the customer to engage, including any reasonable requests for information enabling the provider to offer various options to assist the customer.
- Correct and appropriate application of the provider's hardship policy.
- Any genuine efforts or steps taken to alert the customer to the debt, to clearly notify the customer of the potential for supply disconnection if the debt is not managed and to advise of the support and assistance available.
- Restriction or other debt collection/recovery processes are undertaken as a last resort.
- Why its resolution offer is fair and reasonable in the circumstances.



To resolve these types of complaints, EWOV may:

- Ask a provider to accept the customer on to its formal hardship program and provide ongoing support, which could include monitoring consumption and payments.
- Ask a provider to make payments to acknowledge lost opportunity or opportunities to access URGs payments.
- Ask a provider to consider offering additional assistance, such as financial contributions towards repair or replacement of damaged appliances.
- Ask a provider to offer the customer an extended payment plan. This may be especially relevant for customers with closed accounts, which do not have the same issues of ongoing usage and debt accrual as active accounts. It may also be relevant if the customer has separate water costs for new premises.
- Ask the provider to waive a portion of the debt, where the provider has contributed to debt accrual, or where it is otherwise appropriate (for example, in recognition of customer service issues). Failure to intervene or offer early assistance to customers may be both a regulatory compliance and a customer service issue.
- Ask the provider to put the outstanding debt on hold, accept a payment plan that meets ongoing consumption, and/or offer an incentivised payment plan.
- Ask a provider to make any appropriate additional offers to resolve the complaint, which could include further recognition for customer service issues.

Where a customer has been previously removed from a hardship program, and is seeking financial hardship assistance, EWOV will consider the circumstances of the individual complaint, to assess whether completion or removal from the hardship program, and/or cancellation of a payment plan is appropriate or fair and reasonable in the circumstances.