

DECEMBER 2021



VCOSS submission to the Essential Services Commission on their energy Payment Difficulty Framework implementation review

Implementation review an important milestone, not an early destination

VCOSS welcomes the opportunity to provide feedback to the Essential Services Commission (ESC) in response to its key questions for the energy Payment Difficulty Framework (PDF) implementation review.

VCOSS is the peak body for Victoria's social and community sector. We work for a Victoria free from poverty, with genuine wellbeing for all.

As noted in our response to the ESC's initial paper on this review's scope, VCOSS supports the ESC's measured and consultative approach to this review. It remains VCOSS' view that this review should:

- Fully utilise existing regulatory compliance data, retailers' business records and other available research reports, including those developed for the ESC's consumer vulnerability strategy;

- Focus primarily on retailers' operational implementation and continuous improvement efforts in relation to key early intervention protections, while also exploring how they are measuring their capability-building and internal cultural change; and
- Establish an improved and integrated basis for the ongoing assessment of the PDF's specific role and impact on supporting energy affordability and consumer wellbeing outcomes.

VCOSS' fundamental starting point is that household energy supply is an essential service. At the same time, we recognise that the nature and causes of energy-related disadvantage, and the barriers to successfully managing ongoing affordability and mounting arrears are often complex. As one part of the overall energy supply and household support system, a highly-responsive, entitlements-based framework is clearly the right model for these payment difficulty safeguard provisions.

Given that context, and the inherent power imbalance between a household struggling to pay their power bills and a private energy retailer, VCOSS has three main observations on the practical application of the PDF since 2019:

1. It is not surprising that these new arrangements (and terminology) are still being bedded-down, given both their unique Victorian context and the overlay of the coronavirus pandemic since March 2020;
2. However it appears to be a common theme, across both aggregate compliance data and evidence from frontline community workers, that establishing the PDF as an entitlements-based framework has removed some barriers to take-up for some households that anticipate or experience payment difficulty; nonetheless *there remain issues to unpack and resolve* in relation to improving retailers' early engagement practices; and
3. While all system stakeholders could work together better in promoting general awareness and understanding of PDF requirements (and other affordability-related matters), to improve consistency across the sector the ESC should explore options for some standard minimum mandatory training for relevant retailer staff (across all customer-facing functions) on key PDF principles and rights.

VCOSS supports the core objective of this review in focusing on implementation lessons to inform the ESC's proposed better practice co-design program in 2022. We also encourage the ESC to identify specific areas for improvement in both the PDF's design/drafting and other "non-PDF" issues (such as potential changes to other market rules, retailer practices, or changes to relevant government programs and policies).

Three issues that VCOSS has identified are:

- Strengthening the PDF assistance requirements on tariff checks, given general market obligations on retailers already require them to regularly advise all consumers of their Best Offer;
- Ensuring that the wording and implementation of PDF requirements around the timeframe for reasonable payment plans are not having a perverse effect; VCOSS is concerned some current retailer practices continue to emphasise resolving arrears rather than facilitating a "fix affordability first" approach; and
- The continuing need for complementary non-PDF options, such as additional frontline community sector support, to help prevent affordability challenges by assisting households in persistent payment difficulty to secure their ongoing energy needs.

While recognising some of these issues are beyond this implementation review, given they intersect with key review questions on awareness and engagement, VCOSS would encourage the ESC to capture any relevant insights and identify potential next steps in its final report.

What changed with the PDF

Before unpacking VCOSS' reflections and specific feedback on the PDF in-operation, it is important to re-state for clarity the key concepts, objectives, and elements of this Victorian-specific framework.

While this institutional context and the recent reform history of (and around) the PDF is very familiar territory to the ESC, it is vital that ongoing implementation of this framework holds true to the lessons of the preceding hardship inquiry and the nuanced intent of the 2017 final decision.

The energy-specific PDF in Victoria is unique to the essential services of electricity and gas, and clearly quite different to the ordinary rules for other (non-essential) retail markets. At the same time, the underlying shift from labelling “hardship customers” to supporting “consumers experiencing payment difficulties” is part of a broader trend towards more sophisticated regulatory approaches to consumer vulnerability.

These complexities are a good thing, but navigating them requires a sustained level of shared purpose across the retail

energy landscape. One passing reflection on the PDF-era to-date is that maintaining this shared purpose requires ongoing institutional effort, particularly given the multiple relevant business units within retailers (i.e. from generic customer care through to tailored assistance, collections, reporting and regulatory policy teams), and inevitable staff turnover in the public, community and regulated energy sectors.

These considerations underscore the importance of continuing to invest in measures that help to embed and deliver on the promise of the PDF for vulnerable Victorians – in particular, measures that embed culture and practices that reflect retailers' shared responsibility with households for avoiding arrears build-up. This is an important conceptual and operational shift for retailers, and requires a sustained focus.

Further, in terms of the role of households, VCOSS highlights the need – and opportunity – to continue to build their knowledge, skills and confidence in accessing their rights and responsibilities, understand their entitlements, and awareness of other supports available.

While some surveys show increased levels of public confidence and trust in the energy retail sector, the baseline is low and a hesitancy to engage early about arrears is also likely to be informed by low expectations from other places (including, but not limited to, entirely different service cultures in other countries).

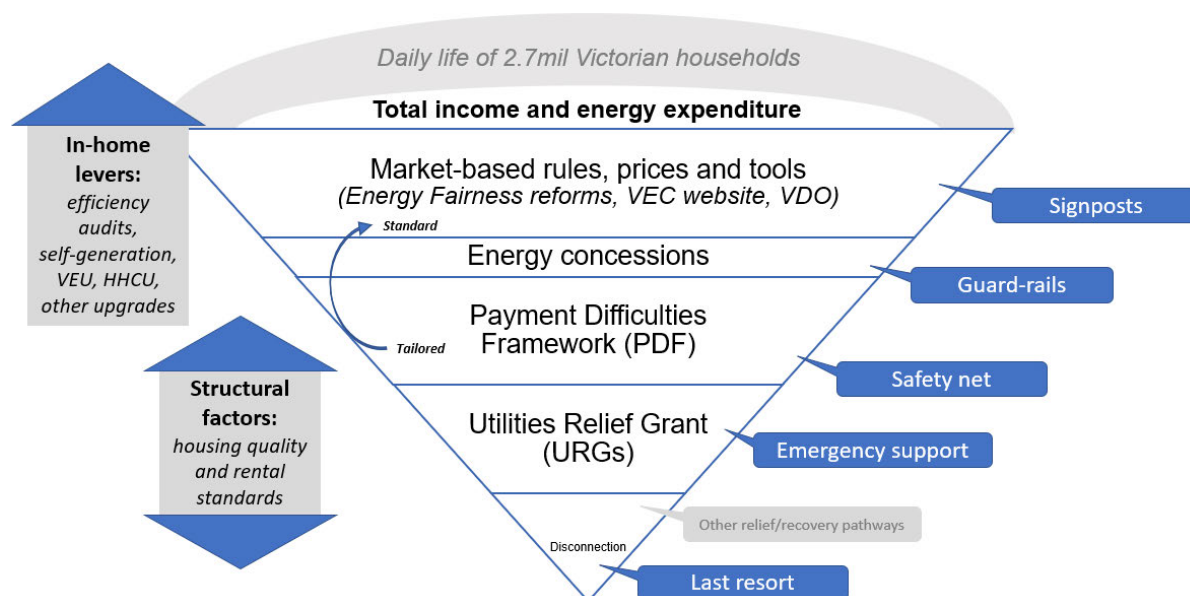
Measuring progress and controlling variables

One of the main reasons why VCROSS supports this review's relatively constrained focus on the PDF in-practice – rather than moving directly to a full design-and-impact review – is our recognition of the depth and complexity of energy-related disadvantage *prior* to the PDF's formal implementation.

As detailed in VCROSS' *Battling On – Persistent Energy Hardship* report, analysis of the Household, Income and Labour Dynamics in Australia ("HILDA") survey in 2018 found that 16 per cent of Victorian households face temporary bill payment difficulty, and just under half as many households (7.3 percent) face persistent bill payment difficulty.

Along with grounding this exercise from a Victorian energy-related disadvantage perspective, in developing a shared picture of the PDF's implementation to-date it is also important to put the PDF's objectives and entitlements in-context with pre-existing consumer protections and post-2019 "Energy Fairness Plan" reforms.

This concept map is an inevitably stylised snapshot of an inherently complex system. Nonetheless, the layering of these inter-related elements helps to bring into focus the critical (and shared) policy observation that the household energy system should catch people "up-top", i.e. proactively ensure ongoing affordability for all Victorians.



Whether caused by a temporary and unforeseen event, or the result of compounding financial pressures, the aim of each subsequent layer should be to help households secure this basic right to affordable energy. In short, the safety net should do more than just cushion the fall.

In addition to recognising the PDF's energy system context in Victoria, this review must also grapple with how to measure progress on its implementation in this system, along with its subsequent impact on outcomes.

Indeed, as VCOSS noted at the review scoping stage, one possible "success measure" for this review itself could be that it helps establish an improved basis for the ongoing assessment of:

- a. how well the PDF is being implemented; and
- b. what impact that implementation is having at a household and market level.

This bedding-down some of the PDF's more subtle changes to key terminology, and the capturing of new data points within retailers' systems and ESC reports, would be a substantial exercise in normal times. Identifying relevant trends in implementation and compliance, and weighing-up the influence of other market and contextual factors, is clearly made more complicated by the global coronavirus pandemic since March 2020.

That said, of the data points as presented at the ESC's early observations workshop on 16 November, three stand out and/or invite specific comment:

- Firstly, the 2017-2021 increase in customers "in hardship programs or receiving tailored assistance" is a good example of a data point that needs to be handled with care, as it could be suggesting growing energy

hardship, or a sign of increased awareness of assistance being available from retailers; consider, for example, the Australian Energy Regulator's 2020-21 data (and [concern](#)) on a decrease in other states in customers getting support from their retailers through hardship programs;

- Secondly, the increase in average arrears at the point of commencing tailored assistance, particularly for households that cannot pay ongoing usage, strongly suggests that more needs to be done to improve retailers' efforts to contact customers when arrears first occur; and
- Thirdly, at the "pointy end" of household disconnection, it is a clear priority area that 1-in-2 customers are not receiving assistance in the six months prior to disconnection; consider also the 49% of customers unsuccessfully "exiting" payment assistance.

In getting to the drivers of these data points, VCOSS also notes the valuable research reports and insights from:

- **EWOV**, the Energy and Water Ombudsman, on cultural change issues in [Missing the Mark](#);
- **CALC**, the Consumer Action Law Centre, on mixed improvement trends and persistent gaps identified from calls to the National Debt Helpline in its [Energy Assistance Report \(2nd Edition\)](#); and

- **CPRC**, the Consumer Policy Research Centre, in the qualitative research with frontline workers undertaken by a team from Monash University, highlighting inconsistent practices in [Consumer Experience's Following Energy Market Reforms in Victoria](#).

Rather than repeat those findings, the following sections synthesise VCOSS' three key observations across on the PDF's implementation to-date.

Specific rights encourage early engagement

One clear common theme from the “early observations” data and frontline community workers' experience is that the formal status of key PDF entitlements appears to be helping to make the system more accessible for households anticipating or experiencing payment difficulty.

It is significantly easier for someone to make the critical, but potentially confronting, early telephone call to their energy retailer **if** that customer knows they have a right to assistance.

This is, of course, a significant “**if**” and VCOSS shares the concerns raised in submissions made to this review by CALC and Financial Counselling Victoria (FCVic) regarding increasing household and community awareness of the PDF. Without awareness of these entitlements, there is a serious risk of a household

turning to other (less regulated) forms of short-term debt.

It is also important to acknowledge and understand that stress and trauma can impede a consumer's ability to engage with information, make decisions and access entitlements. As noted by the Council on the Ageing (COTA) Victoria in its submission to this review, the same stressful events [that trigger payment difficulties] also make it more difficult to engage in discussions such as the negotiation of payment plans.

In this context, and as recognised by FCVic in its submission, the mere fact of a formal obligation on retailers to help consumers can be helpful in assisting clients who have otherwise disengaged from their retailers out of fear of disconnection.

Further improvements in the timeliness and effectiveness of retailer-initiated communications at early intervention points is vital to making these rights work, and future best practice co-design programs will no doubt draw on some well-recognised [behavioural science insights](#).

As highlight by the previous discussion, however, alongside better implementation of PDF-specific rights it is important that retailers are being proactive in identifying and supporting consumers at-risk of payment difficulty *prior to* arrears being accrued.

This could include, for example, establishing better default billing cycle

arrangements, or proactively initiating respectful contact with customers who are receiving state concessions but not on their retailers' Best Offer.

Reinforcing flexibility with consistency

Ultimately, the operational implementation and case-by-case application of an entitlements-based framework like the PDF is an ongoing process, rather than a one-off event.

In reflecting on workshop discussions on customer engagement and areas of retailer better practice, VCOSS continues to hold the view that there is a need for ongoing information and education campaigns to support effective implementation of the framework.

On one hand, there would be merit in exploring options for all system stakeholders to work together better in monitoring and promoting general awareness and understanding of PDF requirements (and other affordability-related matters).

More immediately, however, to improve consistency across the retail sector in embedding the PDF in day-to-day customer interactions the ESC should explore options for establishing an independently-delivered standard minimum mandatory training for relevant retailer staff (across all customer-facing functions) on key PDF principles and rights.

Other areas for further improvement

While supporting the core objective of this review in focusing on implementation lessons to inform the ESC's proposed better practice co-design projects in 2022, VCOSS also continues to encourage the ESC to identify specific areas for improvement in both the PDF's design/drafting and other "non-PDF" issues, such as potential changes to other market rules, retailer practices, or relevant government programs and policies.

For example, and in addition to those outlined below, VCOSS encourages the ESC to explore ideas like the potential role of a debt ceiling (or arrears cap), to further encourage retailers to work with households and prevent extremely large energy debts.

Update PDF assistance given market-wide reforms

As VCOSS argued at the time of the ESC's [2020 coronavirus support rule changes](#), there is a strong argument that retailers should at least offer to conduct a tariff check whenever a customer has reached the point of calling their energy retailer, whether for standard assistance (i.e. they anticipate payment difficulty) or where they are only requesting a bill deferral.

The regulatory regime should facilitate and encourage such behavior, given widely-recognised social and psychological barriers to seeking help, especially for

people with limited English language skills, or experiencing mental health challenges or financial distress.

VCOSS supported a wider entitlement to the tariff check requirement at the time the PDF was finalised. Given that notification of an alternative Best Offer has subsequently been made a market-wide basic requirement on every bill, it is difficult to justify why this key tool for addressing ongoing affordability is not part of all standard assistance, let alone both forms of tailored assistance.

Strengthen an “affordability-first” approach to establishing reasonable payment plans

As highlighted by the ESC’s early observations workshop and coronavirus-era data collections, there are clearly multiple compounding challenges involved in establishing an effective payment plan for those households that cannot afford their ongoing usage.

VCOSS is greatly concerned by the experiences and case studies cited by frontline workers of households feeling pressured to agree to unaffordable plans.

We support the observations of CALC and FC.Vic that there needs to be better practice on (if not also technical revisions to) PDF requirements on payment plans resolving arrears within two years.

Building trust by prioritising ongoing affordability in this key retailer-household engagement moment would help prevent

arrears from growing further, while also supporting shared ongoing objectives, even if it means retailers holding those arrears for longer.

What to do to support those who fall through the gaps

VCOSS strongly supports the systemic policy logic of the PDF, and the unique responsibilities that sit with energy retailers in working with all households that are experiencing payment difficulties in sustaining this essential service.

We also recognise, however, that a retail energy market will always be complex. As noted earlier, alongside the PDF there have been a number of important changes in the Victorian system to help people make more informed choices, apply for upgrades, and access ongoing entitlements.

Nonetheless, navigating energy needs and the retail market remains confusing and overwhelming for many, arguably illustrated by the high rate of households (**3-in-4**) who are not on their current electricity retailer’s Best Offer.

While beyond the immediate scope of this PDF implementation review, VCOSS notes that community sector organisations play an important role providing information, advice, practical assistance and advocacy support for people enduring, or on the cusp of, energy hardship.

To get the most from market-wide rules, tools and other safety nets, VCOSS is currently advocating to the Victorian

Government the public benefits of an ongoing, independent energy advice and assistance regime.

Like the PDF itself, no one element of the current energy system can solve all affordability, arrears, and equity issues.

A sustainably-funded (i.e. ongoing) graduated support system, delivered by a collaboration of experienced community sector organisations, would however be a valuable component in maintaining an even fairer energy system.

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