

Getting to fair – executive summary

Breaking down barriers to essential services

6 May 2021



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Executive summary

Every Victorian relies on essential services. From having clean drinking water, to affordable lighting and heating, sustainable council rates, or accessing energy efficiency products, Victorians across our state use the services we oversee and are affected by our work.

Sometimes, consumers can experience barriers to accessing these essential services. This creates unnecessary stress, and often worsens the difficulties they are already facing. Not effectively addressing these obstacles can also reduce consumer trust that essential service providers can meet community needs

Addressing these barriers to accessing essential services matters. We are dedicated to promoting the long-term interests of all Victorians and have already implemented innovative reforms across the energy and water sectors to promote greater support for those in the community experiencing family violence. In the energy sector we created a payment difficulty framework which strengthened the support available to consumers having trouble paying their bills.

But we recognise we must do more. With the businesses we regulate and administer, the community sector, and other parts of government, we are seeking to better address issues around consumer access to essential services. To do this effectively, we have developed this draft strategy to help improve the experiences of all Victorians who use essential services.

The final strategy is set for release in mid-2021 and will involve a three-year workplan for implementation, monitoring, evaluation, and review.

This strategy will ensure consumer voices are reflected in our work and will provide the commission with a consistent and long-term approach for addressing consumer vulnerability across the essential services we regulate and administer.

Background to the strategy

In 2019, the commission identified consumer vulnerability as a strategic priority for further examination. Legislation requires us to consider vulnerable and low-income consumers in our decision-making.¹

¹ Essential Services Commission Act 2001, s 8A(e)(i).

The unprecedented events of 2020 highlighted the importance of having a comprehensive and coherent strategy for the longer-term. The bushfires and coronavirus pandemic made it necessary for us to urgently adopt a comprehensive approach across our regulatory and administrative functions. And this experience also brought home that, working with others, we can, and must do more.

What we've heard from consumers

Through the development of this draft strategy, we have benefited from the opportunity to hear from a broad range of stakeholders - many of whom have engaged with the commission for the first time – to better understand the diverse challenges people face. While we heard that the various industries we regulate have made strides in addressing barriers to accessing essential services, there is still room for further improvement.

Through our research and direct engagement with consumers, we've been told that there are still significant barriers to accessing essential services which cause stress and harm. Key concerns raised include:

- inconsistent or inaccessible communication from essential services providers
- an inability for consumers to effectively engage in competitive markets
- a lack of consumer trust in essential services providers
- little support from essential services providers for those consumers who need it
- poor coordination between government, community sector and the industry.

Purpose of our strategy

Our strategy will address barriers to accessing essential services in all our regulatory and administrative functions. Its intention is to give a consistent, coordinated, and long-term approach to address these barriers through our communication activities, our engagement across the community and our regulatory processes. By working to better support those who are experiencing exclusion, our strategy will help support the interests of all Victorians.

Hearing and reflecting the consumer voice

Our strategy will better embed the full spectrum of consumers' voices as an essential part of all our work, including our regulatory processes. Listening to consumers and responding to their concerns is critical to achieving the anticipated outcomes from this work. We see improving our consumer engagement as integral to us remaining an effective, empathetic, and relevant regulator.

While addressing barriers to accessing essential services is the main purpose of this draft strategy, we have also defined 'consumer vulnerability' in the context of our legislative functions. This definition focuses on vulnerability as an experience caused by barriers to access, rather than as a

personal characteristic. Stakeholders and community groups can refer to this definition for insight into how we intend to approach our current and future work. The definition also informs the expectations Victorians have on how we perform.

Developing our draft strategy through engagement and research

To develop this draft strategy we engaged with stakeholders through roundtables, a stakeholder reference group and industry cross-sector workshops. We also ran a deliberative panel that represented a cross-section of our Victorian community.

Along with this, we undertook research with other organisations, and reviewed external reports. Through this research we aimed to build a comprehensive understanding of barriers to effective participation in essential services in a changing world and used systems-thinking to ensure our goals meet the changing needs of consumers.

Through this research and engagement program we received specific recommendations on how to facilitate equitable access to essential services for all consumers. We have incorporated these recommendations into this draft strategy.

See appendix 5 for more information on our research and engagement activities.

Structuring our draft strategy

Definitions and terminology

In developing our draft strategy, we repeatedly heard that terms like ‘vulnerability’ or ‘vulnerable’ are not well accepted, particularly by the people they are used to describe. The use of these terms when communicating directly to consumers, by us, or those we regulate, can discourage people from accessing the support they need and deserve. This is not the outcome any of us are seeking.

We are alert to this sensitive issue on language, so when we communicate with the community, we will use language they have suggested such as resilience, wellbeing, equity, accessibility, inclusion, and fairness.

However, as our legislative framework refers to ‘vulnerable consumers’, we need a clear working definition to outline what being ‘vulnerable’ means. We have developed the following definition:

A person experiencing vulnerability is someone who experiences barriers to participating in the essential services we regulate or administer. As a result of those barriers that person experiences economic and social exclusion or harm.

Barriers to participation in essential services

In our definition of ‘consumer vulnerability’ we took the approach that ‘vulnerability’ is not a characteristic of the individual, but an experience. ‘Vulnerability’ is not inherent to a consumer, but is a product of barriers to participating in essential services. We heard that these barriers can be caused by:

- event-based circumstances such as illness, job loss, financial stress, death of a loved one, natural disaster, global pandemic
- systemic factors such as ageing, poor mental health, social isolation, disability, language barriers, regional limitations, digital and financial literacy, siloed services
- market-based factors such as inadequate or overly complex documentation, pricing strategies, misleading marketing and targeted exploitation.

Ultimately, our aim is to ensure all consumers, regardless of their circumstances, have equitable access to the essential service we regulate and administer, and do not experience barriers to access that cause or exacerbate harm.

The themes and goals of our draft strategy

Through our research and engagement program we identified eight key themes that reflect how consumers are experiencing barriers to access:

- **Theme one:** Consumers require appropriate, consistent, and accessible communications.
- **Theme two:** Consumer engagement is not always universal or inclusive, leading to less accessible services.
- **Theme three:** Consumer trust of their service provider is low, with many not empowered to make choices or seek support.
- **Theme four:** Consumers who need support are not always identified and supported effectively.
- **Theme five:** Support offered to consumers is inconsistent, which means it is not always appropriate or flexible.
- **Theme six:** First Nations consumers receive limited support and engagement and face increased rates of disconnection.
- **Theme seven:** Government, industry and community organisations could coordinate more effectively to address issues across the system.
- **Theme eight:** Sudden, acute and unexpected challenges can have significant impact on consumers in the short, medium and long term.

From these key themes we developed goals to guide our areas of focus as we set a long-term pathway to inform the commission’s future priorities.

Possible initiatives to operationalise our work

To operationalise these themes and goals, teams across the commission used their knowledge of our regulatory and administrative functions to identify initiatives for action consistent with the long-term goals of the draft strategy.

Goal	Possible initiatives (actions for the commission to deliver on the strategy)
Goal one: We aim to improve the accessibility of the communications consumers receive, so they are consistent, accessible and meet their needs. ²	<ul style="list-style-type: none">• We will develop and improve consumer facing information to better meet the diverse needs of consumers, including improving information about consumer rights.
Goal two: We aim to take a universal and inclusive approach to our own engagement practices with consumers and support our regulated sectors to do the same. ³	<ul style="list-style-type: none">• We will work collaboratively with local government sector to promote better practice in direct engagement with consumers.• We will work more proactively with community groups to support more effective and targeted engagement with the full spectrum of consumer groups.• We will include direct engagement with consumers and community groups in VEU engagement program.• We will ensure engagement practices by water businesses are universal and inclusive, enabling the participation of hard-to-reach consumers.• We will review of the effectiveness of the payment difficulty framework, incorporating the voices of consumers experiencing vulnerability. This relates to goals three and five.
Goal three: We aim to improve consumer trust and support them to feel empowered, make choices and seek support. ⁴	<ul style="list-style-type: none">• We will review of the effectiveness of the payment difficulty framework, incorporating the voices of consumers experiencing vulnerability. This relates to goals two and five.• We will hear the voices of consumers experiencing vulnerability to better informs our reforms and monitoring of the energy market.

² This goal broadly aligns with recommendations 1, 3 and 8 from the community deliberative panel report

³ This goal broadly aligns with recommendations 4 and 8 from the community deliberative panel report

⁴ This goal broadly aligns with recommendations 5, 7 and 8 from the community deliberative panel report

- We will develop options to include the voice of the consumer experience in enforcement processes.
- We will bring together qualitative and quantitative data to better understand how consumers experiencing vulnerability interact in the sectors we regulate. This also relates to goal eight.
- The review of the effectiveness of family violence provisions currently in place across our regulated sectors, work in collaboration with the community and government stakeholders to promote better industry practice. This also relates to goal four and five.

Goal four: We aim to improve practices so consumers who need support are identified effectively and in a timely manner.⁵

- We will incorporate the voices of consumers and reflect the barriers to access and inclusion in the outcomes of the review of the water customer service codes.
- We will continue to highlight business innovation and better practice in identifying and responding to consumer vulnerability across our regulated sectors.
- We will use industry education to support better practice approaches for retailers and distributors to have a consistent understanding of vulnerability.
- We will support a consistent understanding of vulnerability across the local government sector.
- We will work with Accredited Providers of the VEU program to support better practice in identifying and understanding consumer vulnerability.
- The review of the effectiveness of family violence provisions currently in place across our regulated sectors, work in collaboration with the community and government stakeholders to promote better industry practice. This also relates to goal three and five.

Goal five: We aim to ensure support offered to

- We will consider the needs of consumers experiencing vulnerability as part of our role in setting commercial passenger vehicles fares

⁵ This goal broadly aligns with recommendations 2 and 7 from the community deliberative panel report

consumers is flexible and suited to their needs.⁶

- We will review existing reporting and explore options for improved reporting on coronavirus support mechanisms by the water sector (including qualitative methods of reporting) where there are low numbers of consumers accessing support
- The review of the effectiveness of family violence provisions currently in place across our regulated sectors, work in collaboration with the community and government stakeholders to promote better industry practice. This also relates to goal three and four.
- We will review of the effectiveness of the payment difficulty framework, incorporating the voices of consumers experiencing vulnerability. This relates to goals two and three.

Goal six: We recognise the specific barriers faced by First Nations consumers and will build partnerships and lasting relationships to improve outcomes for First Nations consumers and communities.⁷

- We will develop a Reconciliation Action Plan to improve outcomes for First Nations consumers and communities.
- Better understand the relationship First Nations people have with country and water and identify ways to support appropriate levels of engagement between water businesses and their First Nations consumers and community.

Goal seven: We will build and improve partnerships with government, industry and community organisations to identify and respond to issues across the system.⁸

- We will reflect the needs of consumers based on our research and engagement through our role in assisting the Department of Environment, Land, Water and Planning with the expansion of the VEU program.
- We will work with relevant agencies to understand where eligibility for the VEU program interacts with other policy initiatives (e.g., community housing upgrades).
- Work with relevant agencies to address systemic issues affecting consumers access to essential services. As well as

⁶ This goal broadly aligns with recommendation 6 from the community deliberative panel report

⁷ This goal broadly aligns with recommendations 4 and 7 from the community deliberative panel report

⁸ This goal broadly aligns with recommendations 5 and 6 from the community deliberative panel report

the impact of large scale sudden and acute events. This also relates to goal eight.

Goal eight: We aim to be well-equipped to respond to sudden, acute and unexpected challenges, including the economic impacts of events (e.g. natural disasters and global pandemics), and will support our regulated sectors to do the same.

- We will work collaboratively with local government to identify and promote best practice approaches to consumer outcomes.
- Examine the intersection between consumer vulnerability and climate change and how this interacts in our regulated sectors, to ensure our approach is well informed.
- We will bring together qualitative and quantitative data to better understand how consumers experiencing vulnerability interact in the sectors we regulate. This also relates to goal three.

Recommendations from our community panel

Our community panel's recommendations were key to the development of our draft strategy. Held over five weeks with 37 members of the Victorian community, the discussion between panel members and the commission leadership and staff, helped us to better understand the consumer experience. The panel's recommendations shaped the themes that reflect how consumers are experiencing barriers to access in our regulated sectors. The themes formed the basis of the long-term goals of the strategy which in turn led to the initiative that will operationalise the strategy.

The recommendations from the panel are below.

- The commission must work with providers to ensure bills, forms and communications are understandable, inclusive and accessible for all Victorian consumers, and are tested with a diverse group of people experiencing hardship.
- The commission works with providers to ensure that when people are facing hardship, it triggers being contacted by an empathetic and trained person who will help them.
- The commission works with providers to improve consumer communication and engagement, ensuring better outcomes for those facing hardship. The commission should regularly monitor providers and issues penalties for poor performance.
- The commission to develop minimum standards to ensure providers respond in an appropriate way when dealing with people from diverse cultures, backgrounds and needs. This is monitored to ensure compliance.
- The commission to work directly with consumers, and in partnership with other organisations, to help and educate consumers to become more aware of their rights, entitlements and obligations so that they are confident and empowered to understand, act and navigate the system with positive outcomes.

- The commission to form active partnerships with relevant government, community groups and industry entities to take collective responsibility for consumers experiencing hardship.
- Investigate the meaning of ‘vulnerability’ further.

The commission to maintain regular engagement with the community to gain insights about consumers who are facing hardship, their concerns and circumstances.

What this means for consumers

Ultimately, we aim to improve consumer access to the essential services we regulate. Consumers should be able to better understand their choices and get better support that meets their specific needs. Some of these consumers will be facing payment difficulties, while others will face language difficulties when they contact their provider. Some consumers will need the support of trusted third parties in the community, and these agencies should be able to work more effectively with more responsive service providers.

This will be a substantial challenge, and to give some sense of scale, currently in Victoria there are:

- Nearly 700,000 water concession customers receiving more than \$170 million in benefits
- Nearly 50,000 electricity consumers asked for, and received assistance from, their energy retailer to help stay on top of their bills
- More than 35,000 gas consumers asked for, and received assistance from, their energy retailer to help stay on top of their bills
- More than 50,000 energy and nearly 16,000 water applications for utility relief grants were approved in 2019–20.⁹

While providing an indication of those that accessed financial assistance, these numbers do not include consumers encountering barriers to accessing essential services or the support on offer. By implementing this strategy, we hope to see an increase in consumer engagement with businesses and an increase in access to support.

A three-year outlook

This draft strategy has a three-year outlook but will evolve over time to accommodate changes in our operating environment, and as we and those we work with gain a better understanding of what

⁹ As at end of 2019–20 financial year. Statistics from the Essential Services Commission’s Victorian Energy Market Report 2019–20 and water data performance reports.

works. An initial three-year period provides certainty for our stakeholders, and an opportunity for us to monitor and rate the effectiveness of our goals and initiatives.

Next steps

We are keen to receive feedback on this draft strategy. Input from our regulated and administered sectors, the community sector, government partners, and other regulators is key to its success. Through this process we will continue to work together, explore innovative responses to consumer need, and ultimately create opportunities for equitable and inclusive participation in essential services.

Indicative dates for the next stages in the development of the strategy are provided below. You can also visit our website at www.esc.vic.gov.au/about-us/how-we-regulate/regulating-consumer-vulnerability-mind.

1.1.1. Key dates for public engagement for the strategy are:

- 11 May 2021 – virtual public forum
- Late May – sector specific workshops
- 4 June 2021 – closing date for submissions on our draft strategy
- 30 June 2021 – release of final strategy.