

# AMENDMENTS TO WATER CUSTOMER SERVICE CODES

New requirements for family violence policies

Final decision

April 2017

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# SUMMARY

- The Essential Services Commission (the Commission) will make changes to our urban and rural customer service codes to require water businesses to establish and implement a family violence policy.
- These changes will come into effect from 1 July 2017. From July 2018, the Commission will check that family violence policies have been implemented. We will then work with industry and the community sector to develop a monitoring and reporting framework to ensure that policies are delivering outcomes that are in the interests of water customers and the community.
- In March 2016, the Royal Commission into Family Violence (the Royal Commission) made 227 recommendations aimed at improving the community's response to the scale and risks of family violence. The Victorian Government has committed to implementing all recommendations of the Royal Commission.
- Noting the adverse financial impacts of family violence, one of the Royal Commission's recommendations was for the Commission to update its customer service codes to ensure water businesses provide support under their existing payment difficulty programs for customers affected by family violence.
- In November 2016, the Victorian Government released its water policy. The policy complemented the Royal Commission's findings and requires all water businesses to work with the Commission to develop and implement family violence policies.
- We engaged widely to respond to the Royal Commission's recommendation and inform updates to our codes. We heard that for a water business to have an effective family violence policy, it needs to address a number of key elements. These elements include the Royal Commission's recommendation, which focused on access to existing payment difficulty programs for customers affected by family violence.

- We heard that an effective family violence policy needs to provide for (at minimum):
  - training and support for staff dealing with customers affected by family violence
  - the protection of private and confidential customer information
  - access to the existing payment difficulty programs provided by businesses
  - minimising repeat disclosures of family violence by a customer, and
  - referring customers to specialist family violence services.
  
- Our code changes require all water businesses to develop and implement a family violence policy that covers these matters.
  
- Our code changes recognise the roles and responsibilities of water businesses. For example, we do not expect a water business will provide counselling services to customers; rather, we expect that a water business will provide referrals to specialist counselling services where appropriate.
  
- The changes will place new requirements on water businesses to put in place processes that help to minimise the risk of harm in their interactions with customers, and to help ensure businesses provide timely, consistent, and targeted advice to customers affected by family violence.
  
- The Commission intends for the code changes to take effect from 1 July 2017, and for businesses to fully implement the changes by the end of June 2018. Recognising that water businesses are at different stages of developing their family violence policies, our expectation is that all water businesses will need time to implement their family violence policies and processes. At the end of 2017-18, we will review whether all urban and rural water businesses have implemented family violence policies.

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# 1 INTRODUCTION

This paper sets out the Essential Services Commission's (the Commission's) final decision on changes to our customer service codes<sup>1</sup> to require water businesses to develop and implement family violence policies.

In February 2015, the Royal Commission into Family Violence (Royal Commission) was established by the Victorian Government to inquire into and report on how Victoria's response to family violence can be improved. In March 2016, the Royal Commission tabled its report including 227 recommendations aimed at improving the community's response to the scale and risks of family violence. The Royal Commission highlighted that family violence includes a broad range of behaviour that is not limited to physical violence.<sup>2</sup> It found that many parties have a role to play, including essential service providers, in addressing family violence.

Utilities deliver essential services that are critical for daily life. The Royal Commission found that because of the critical function these services play, perpetrators frequently use control over them as a form of family violence called economic abuse, including by:

- insisting an account is in a victim's name and refusing to contribute to the cost
- putting a service in the sole name of the victim without their knowledge or consent
- holding an account jointly and refusing to contribute to the cost
- holding the account in their own name and not paying bills, resulting in disconnection,<sup>3</sup> and

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<sup>1</sup> The customer service codes are: Essential Services Commission, *Customer service code - urban water businesses, September 2014*; and Essential Services Commission, *Rural water customer service code, July 2016*.

<sup>2</sup> State of Victoria 2016, Royal Commission into Family Violence: Report and recommendations, Vol I, Parl Paper No 132 (2014–16), March, p 15.

<sup>3</sup> Restrictions, rather than disconnections are applied in Victoria's water sector.

- holding the account in their own name and threatening to have the service cut off or having it cut off when they leave the family home.<sup>4</sup>

The Royal Commission found that these actions can result in family violence victims facing financial difficulties and the loss of access to essential household services.

Noting the role of the Commission as the economic regulator of Victoria's energy and water sectors, the Royal Commission recommended that we amend our customer service codes to help address these issues. Our codes place obligations on the businesses we regulate in terms of the conditions and standards they must meet in their delivery of services to customers.

Box 1 provides the full recommendation of the Royal Commission as it applies to our role in Victoria's water sector. In April 2016, the Victorian Government committed to implementing all recommendations made by the Royal Commission.

#### **BOX 1 ROYAL COMMISSION — RECOMMENDATION 109**

The Victorian Government work with the Essential Services Commission [within 12 months] to:

- amend the Customer Service Code — Urban Water Businesses [within 12 months] to:
  - list minimum eligibility criteria for access to hardship program
  - include family violence as an explicit eligibility criterion.
- develop industry guidelines for energy and water retailers to require comprehensive and ongoing training of customer service staff to help them identify customers experiencing family violence and financial hardship.
- publicise the availability of dispute resolution mechanisms for people affected by family violence.

Source: State of Victoria 2016, *op. cit.*, p. 120.

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<sup>4</sup> State of Victoria 2016, *op. cit.*, p.104.

In November 2016, the Victorian Government released its water policy.<sup>5</sup> The policy complemented the recommendations of the Royal Commission, and requires all water businesses to continue to develop ‘good practice in dealing with hardship, including actions to accommodate situations where domestic violence has created financial insecurity.’<sup>6</sup> The policy also requires all water businesses to work with the Commission to develop and implement family violence policies.

Our final decision on amending our customer service codes has been informed by ongoing engagement with stakeholders. We released a draft decision in February 2017 and held a public workshop on 9 March 2017<sup>7</sup>. We received eleven submissions on our draft decision. Discussions at the workshop and all submissions have been taken into account for our final decision.

The code amendments will take effect from 1 July 2017 and can be viewed on our website. After 30 June 2018, the Commission will review that all water businesses have a family violence policy in place.

This final decision on the amendments to the customer service codes is structured as follows:

- Chapter 2 outlines our review and engagement process
- Chapter 3 details our decision on each element of the code amendment
- Chapter 4 details the process for implementation of code changes and policies.

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<sup>5</sup> State of Victoria (DELWP) (Department of Environment, Land, Water and Planning) 2016, *Water for Victoria, Water Plan*

<sup>6</sup> State of Victoria (DELWP) (Department of Environment, Land, Water and Planning) 2016, *Water for Victoria, Water Plan*, p 173

<sup>7</sup> Essential Services Commission 2017, *Proposed amendments to water customer service codes – New requirements for family violence policies, Draft decision*, February



## 2 OUR REVIEW

The Commission collaborated with a range of interested parties to inform our changes to the urban and rural customer service codes.

### 2.1 OUR ENGAGEMENT PROCESS AND FEEDBACK

From June 2016 we met with water businesses, industry representatives, family violence experts in the community sector, and specialist training providers to increase our understanding of how family violence can impact on water businesses. Later in 2016 we hosted workshops with industry (box 2) to promote awareness of family violence within the water sector, and to explore the issues a family violence policy might deal with.

#### **BOX 2 WORKSHOPS WITH THE WATER INDUSTRY**

The Commission hosted two workshops (August and September 2016) to raise awareness and identify issues faced by water businesses and their customers. The focus was to provide information on how community organisations and water businesses could respond to customers affected by family violence. Approximately 60 people from across the state attended each event in Melbourne.

Attendees heard from experts such as Jo Benvenuti (consultant and formerly Executive Officer of Consumer Utilities Advocacy Centre), who spoke about the pervasiveness, yet under-reporting, of family violence and the role of the water sector in supporting victims of family violence. Prue Cameron (Domestic Violence Victoria) spoke about how customers may be affected by family violence and the risks of inadvertent disclosure of a customer's information.

National Australia Bank and Optus spoke about their approach to assisting customers impacted by family violence. Panel and table discussions covered a broad range of topics, including current partnerships to improve awareness of family violence, training available for staff, how to refer customers to appropriate support agencies, treatment of debt, information privacy and issues facing the water sector. Panellists included representatives from Good Shepherd, Energy and Water Ombudsman (Victoria), Kildonan, South East Community Links, Wannon Water, WEStjustice, Women's Health and Wellbeing Barwon South West, Women's Legal Service Victoria and Yarra Valley Water.

As noted by the Royal Commission, the scale and impact of the harm caused by family violence is large and different entities will have different roles in the community's response to family violence. We recognise that water businesses should not and cannot be expected to solve all problems associated with family violence. Indeed for customer safety, it is important that water businesses do not provide a counselling service in their dealings with customers experiencing family violence, or imply an expertise in the field of family violence they do not have.

The nature of the services delivered by water businesses and their processes means they come into contact with customers affected by family violence in a number of different ways; for example through front line call centre staff and during property visits.

Recognising the impact of family violence on their customers and staff, a number of utilities have already commenced developing or implementing family violence policies. We reviewed policies developed by Yarra Valley Water and AGL, to learn from emerging practice and inform our code changes. We have sought to build on the progress of these businesses for the benefit of all Victorian water customers.

Informed by our engagement and review of emerging practice, we identified that an effective family violence policy needs to, at minimum, cover the following elements:

- **Protection of private and confidential information** – During our engagement, we heard examples where private information (such as a forwarding address) was inadvertently disclosed by a service provider to a perpetrator of family violence, putting a customer at risk of harm. Water businesses should have processes that prevent them from disclosing personal information. Having these processes in place will provide additional assurance to customers that they can safely disclose confidential information to a water business, including that they are affected by family violence. This will help water business to offer support to customers affected by family violence.
- **Access to payment difficulty programs** – We heard during our engagement that bill payment difficulty is common for customers affected by family violence. A water business can deliver better outcomes for customers affected by family violence by providing support under existing payment difficulty programs. It is through these programs that businesses can offer flexible arrangements that are matched to a customer’s circumstances. We note that these programs are a requirement already established in our customer service codes; however water businesses do not always recognise victims of family violence as in need of this support. A good family violence policy allows for access to this support, and makes explicit the options for debt recovery so as to avoid victims of family violence taking sole responsibility for joint debt, particularly in order to maintain supply.
- **Staff training and support** – Front line staff in water businesses engage with customers affected by family violence. A staff member’s response can influence the risk that a customer faces in terms of family violence, as well as the quality of support provided to a customer. A good family violence policy will provide for training to be delivered to staff to help them identify signs of family violence, and know what to do in response. For example; extending training to IT staff equips them to evaluate the risk posed by system upgrades as well as to implement practical solutions to prevent the inadvertent release of confidential information.

A good family violence policy will include mechanisms to support staff assisting customers experiencing family violence and staff who are themselves family violence victims. This may include training of managers and an employee assistance program.

- **Minimising repeat disclosures of family violence** – During our engagement, a number of community organisations noted that when family violence victims have to repeat their story to different staff, it can have a traumatising effect, causing them to ‘re-live’ the experience of family violence. In addition, there is greater risk for a customer if they need to disclose their circumstances multiple times, as the perpetrator may be either present or monitoring calls. Water businesses should put in place processes to minimise repeat disclosures of family violence by a customer (including where customers are referred by a community agency) and to provide an avenue for continuity of service that ensures that any requests water businesses make to customers, as well as their referrals, are appropriate.
- **Referrals to specialist agencies** – Accessing support can be difficult for those living with or escaping from family violence. As providers of an essential service, it is not anticipated that water businesses are experts in the field of family violence or equipped to provide a counselling service. Water businesses, however, do have a close association with their local communities and are therefore well placed to identify and provide referral information about specialist family violence services. This includes for Aboriginal and Torres Strait Islander customers affected by family violence, and customers from culturally and linguistically diverse backgrounds.

On 20 February 2017, we released our draft decision. The purpose of the draft decision was to test our views with stakeholders. We invited submissions from interested parties and also held a public forum on 9 March 2017.

### **BOX 3 PUBLIC FORUM ON THE PROPOSED CUSTOMER SERVICE CODE CHANGES**

The Commission hosted a public forum to provide an overview of the proposed amendments and provide an opportunity for representatives from both industry and community sector to provide feedback.

Approximately 50 people attended from the different water businesses, government, community groups and industry.

Attendees heard Jo Benvenuti (consultant and former Executive Officer of Consumer Utilities Advocacy Centre), provide her perspective on economic abuse in the utility sector. Jo welcomed the Commission’s response to this issue and the water industry’s

willingness to engage in and support this work. She urged the Commission to ensure that the substantial improvements to be gained through water businesses implementing the Commission's code changes are supported with an appropriate reporting framework.

Pat McCafferty (Yarra Valley Water, Managing Director) provided a water industry perspective and shared some examples of the benefits for the water businesses to introduce family violence policies. He noted the code amendments are a starting point to address family violence and added that 'to truly make a difference we need to bring the code to life through our stand, and our actions. Other sectors will be watching what we do, and we should do all we can to set a high standard, because everyone will be better off as a result'<sup>8</sup> .

Commission Chair, Ron Ben-David acknowledged those who had supported the development of the project and thanked participants at the forum for their positive feedback and willingness to embrace the draft amendments.

We received 11 written submissions and have taken these into account in reaching our final decision. All submissions were highly supportive of the proposed amendments with many commenting on the potential benefits to Victorian consumers.

A joint submission by City West Water, South East Water and Yarra Valley Water,<sup>9</sup> which supply 75 per cent of Victorian water users, supported the proposed amendments as changes that align strongly with their existing work supporting vulnerable customers. They consider the proposed policy requirements will help ensure consistent outcomes for customers and communities affected by family violence.

The peak body of the Victorian water industry, VicWater, submitted that the proposed changes are practical inclusions and identified for itself an ongoing role in supporting water businesses to collaborate on training and staff support.<sup>10</sup>

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<sup>8</sup> Pat McCafferty 2017, Public forum

<sup>9</sup> City West Water, South East Water and Yarra Valley Water 2017, *Joint submission*, March

<sup>10</sup> VicWater 2017, *Submission*, March

Kildonan Uniting Care’s submission endorsed the draft decision, noting that the proposed amendments had the potential to drive systemic and cultural change by building stronger connections between corporate and community entities. It also submitted that the Commission’s proposals identified for water businesses the necessary tools to safely identify and ‘appropriately respond to victims and perpetrators of family violence’.<sup>11</sup>

Feedback about the Commission’s approach to the development of the code amendments was also very favourable. In their joint submission, the metropolitan water businesses thanked the Commission for displaying leadership in an open and transparent manner, and for its program of engagement that has delivered policy amendments that go ‘further than merely meeting a recommendation’.<sup>12</sup> Wannon Water also thanked the Commission for the way it ‘engaged with the sector’.<sup>13</sup>

The Economic Abuse Reference Group<sup>14</sup> commended the Commission for its work on code amendments noting the consultation process had been valuable and provided a useful model for other industries.<sup>15</sup>

At the public forum we sought feedback about the drafting of the clause, noting it was intended to be high level and enabling to provide businesses the flexibility to design policies that meet local needs. Feedback was favourable, with participants indicating they were satisfied with the Commission’s approach.

Some submissions included comments about the implementation of the proposed family violence provisions by water businesses. In order to support sharing and collaboration within the sector and the development of better practice standards, we are preparing guiding material on better practice. We plan to publish this guiding material in late April 2017.

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<sup>11</sup> Kildonan Uniting Care 2017, *Submission*, March

<sup>12</sup> City West Water, South East Water, Yarra valley Water 2017, *Submission*, March

<sup>13</sup> Wannon Water 2017, *Submission*, March

<sup>14</sup> This group includes Women’s Legal Service Victoria, Consumer Action Law Centre, Financial & Consumer Rights Council, Good Shepherd Australia New Zealand, Kildonan Uniting Care, Justice Connect Homeless Law, and Domestic Violence Victoria

<sup>15</sup> Economic Abuse Reference Group 2017, *Submission*, March

Some attendees suggested minor amendments to the clauses in the draft decision and we discuss these in relevant sections in chapter 3.



# 3 CODE AMENDMENTS

Taking into account the roles and responsibilities, our code changes place new obligations on water businesses to ensure they are playing their part in a whole-of-community response to family violence.

## 3.1 DEFINITION OF FAMILY VIOLENCE

Family violence is defined under the *Family Violence Protection Act 2008 (Vic)* (see box 4).

### **BOX 4 FAMILY VIOLENCE PROTECTION ACT 2008 (VIC)**

Family violence is defined as:

- (a) behaviour by a person towards a family member of that person if that behaviour—
  - (i) is physically or sexually abusive; or
  - (ii) is emotionally or psychologically abusive; or
  - (iii) is economically abusive; or
  - (iv) is threatening; or
  - (v) is coercive; or
  - (vi) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- (b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).

## 3.2 FAMILY VIOLENCE CLAUSE

The family violence clause to be introduced into both the rural and urban customer service codes is provided at figure 3.1. The clause requires water businesses to develop and implement a family violence policy, and specifies the minimum requirements for the content of the policy. The requirements are designed to be high level and enabling, providing businesses with flexibility to decide on their specific approach. This also allows businesses to learn and adapt their policies and approach to family violence over time.

Shaded text in figure 3.1 represents areas where the final decision differs to the draft decision, as a result of us incorporating feedback from submissions and at the public forum. Each element of the family violence provision, as well as any changes from the draft to final decision, are explained in subsequent sections. The urban and rural codes are available on our website; [esc.vic.gov.au](http://esc.vic.gov.au).

### FIGURE 3.1 FAMILY VIOLENCE CLAUSE

A water business must have and implement a family violence<sup>1</sup> policy.

As a minimum, the policy must:

- (a) provide that all relevant staff have ongoing training to:
  - (1) identify customers affected by family violence;
  - (2) deal appropriately with customers affected by family violence; and
  - (3) apply the water business's family violence policy and related policies and procedures to customers affected by family violence;
- (b) identify the support the water business will provide to staff affected by family violence, including any training, leave, external referrals and counselling available;
- (c) promote customer safety by providing for the secure handling of information about those who are affected by family violence, including in a manner that maintains confidentiality;
- (d) specify the water business's approach to debt management and recovery where a customer is affected by family violence, including, but not limited to:
  - (1) the recovery of debt from customers with joint accounts; and
  - (2) the circumstances in which debt will be suspended or waived;
- (e) recognise family violence as a potential cause of payment difficulties and as an eligibility criterion for access to the water business's hardship policy under clause 5.3 and 5.4, and address what payment support will apply to customers affected by family violence;
- (f) provide for a process that avoids customers having to repeat disclosure of their family violence, and provides for continuity of service; and
- (g) provide a means for referring customers who may be affected by family violence to specialist family violence services.

A water business must:

- (h) publish on its website, and keep up to date, the assistance and referrals available to customers affected by family violence and how customers may access such assistance;
- (i) provide a copy of the policy to a customer upon request; and
- (j) provide for a periodic review mechanism of the policy and its associated procedures.

<sup>1</sup> "Family violence" has the meaning given in section 5 of the *Family Violence Protection Act 2008* (Vic).

### 3.2.1 STAFF TRAINING TO IMPROVE RESPONSES TO FAMILY VIOLENCE VICTIMS

#### Draft decision

Through our engagement, we heard that providing staff within water businesses with guidance and training in understanding, identifying and responding to family violence is critical. The clause proposed in our draft decision was:

#### Draft amendment

As a minimum the policy must:

- (a) provide that all relevant staff have ongoing training to:
  - (1) identify customers affected by family violence;
  - (2) deal appropriately with customers affected by family violence; and
  - (3) apply the water business's family violence policy and related policies and procedures to customers affected by family violence;

Part (a) (1) sought to ensure that water business staff are trained in order to help them identify where customers may be affected by family violence. We received feedback that customers may be reluctant or unable to disclose their circumstances, and that training should provide staff with skills to identify signs that indicate customers may be affected by family violence including economic abuse.

The Royal Commission noted economic abuse is a form of family violence that is not well recognised by service providers. It found that service providers (and others) do not consistently and appropriately recognise, intervene and respond to economic abuse. This highlighted an opportunity to develop the capacity of service providers to identify economic abuse and know what to do in response.

Part (a) (2) sought to ensure the manner of staff dealing with a customer affected by family violence facilitates, rather than acts as a barrier to the identification of family violence, and to improve the experience of customers affected by family violence.

The Royal Commission cited examples where customers were reluctant to disclose their circumstances due to a lack of lack of empathy and understanding of staff

members within essential service providers. We also received feedback about this during our engagement process including that once a customer has a poor first experience with a call centre, they may be reluctant to seek assistance in the future. This means customers don't benefit from support services water business offer and may be at greater risk of harm.

Part (a) (3) seeks to ensure that businesses make their staff aware of the policies and procedures of the business when responding to family violence.

Our consultation highlighted the importance of training on policies and processes to ensure water business staff provide accurate information and consistent service to customers. During our consultation we heard from Kildonan Uniting Care (Kildonan) and Good Shepherd which already provide training to utilities and have developed tailored training programs aimed at raising awareness, education on business family violence policies, management response to staff experiencing family violence and training for front line staff.

### **Feedback on draft decision**

Feedback at our public forum demonstrated strong support for the inclusion of a clause that requires a water business to provide ongoing training to their staff. Submissions also supported the draft decision with Kildonan commenting it was 'pleased to see a requirement for this training and support'<sup>2</sup>.

North East Water suggested training needed to be tailored to reflect the level of contact staff have with customers<sup>3</sup>. We agree that businesses will need to explore training options that accommodate different roles within the businesses. As noted above, training providers have already developed training programs aimed at raising awareness, training frontline staff and equipping managers to support staff who are affected family violence.

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<sup>2</sup> Kildonan Uniting Care 2017, *Submission*, March

<sup>3</sup> North East Water 2017, *Submission*, March

## Final decision

Given the general support we intend to implement this clause as proposed in the draft.

## Final amendment

**As a minimum the policy must:**

- (a) provide that all relevant staff have ongoing training to:**
  - (1) identify customers affected by family violence;**
  - (2) deal appropriately with customers affected by family violence; and**
  - (3) apply the water business's family violence policy and related policies and procedures to customers affected by family violence;**

## SUPPORT PROVIDED TO STAFF

### Draft decision

Many participants in our engagement process noted that businesses seeking to develop an effective customer-facing family violence policy also needed to consider the support they provide to their staff. Through their contact with customers experiencing family violence, staff will experience many difficult situations. We heard some examples where staff were adversely affected when their interactions with victims or perpetrators of family violence caused them to re-live their own experience of family violence. While not requiring businesses to have a staff family violence policy, this clause was intended to require a water business to consider and specify the support it provides staff that are affected by family violence, and to give some consideration to the training it provides managers and the nature of its employee assistance program. Accordingly, in our draft decision, we proposed that:

### Draft amendment

**As a minimum the policy must:**

- (b) identify the support the water business will provide to staff affected by family violence, including any training, leave, external referrals and counselling available;**

## Feedback on draft decision

Discussion at the public forum supported this clause being included among the family violence provisions of the code. No submissions suggested changing or removing the clause.

Kildonan's submission was strongly in favour of this clause highlighting that staff need support not just to deal with the impact of customers' stories, but also because water business often represent a 'microcosm of the retailer's broader customer base'<sup>4</sup>, meaning that some staff will also experience family violence.

Wannon Water submitted that the code amendments could place greater emphasis on workplace prevention of family violence<sup>5</sup>. It noted that initiatives such as improving gender equity are an important adjunct to customer focussed aspects of the code amendments, especially given the water industry's current approach to gender equity (diversity and inclusion) being driven by the Minister for Water and coordinated through VicWater.

In his speech at the public forum, Pat McCafferty noted a further recommendation from the Royal Commission, that all employees be entitled to 20 days paid family violence leave. Yarra Valley Water has adopted a family violence clause in its enterprise agreement bringing it in line with entitlements for Victorian public sector employees<sup>6</sup>.

## Final decision

Due to the support we received at the public forum and in submissions, we are implementing this clause as proposed in the draft. We consider that the detail of staff policies are up to businesses to decide and we will provide in our guiding material examples of better practice, including Wannon Water's approach to prevention.

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<sup>4</sup> Kildonan 2017, *Submission*, March

<sup>5</sup> Wannon Water 2017, *Submission*, March

<sup>6</sup> Pat McCafferty 2017, Public forum

## Final amendment

**As a minimum the policy must:**

- (b) **identify the support the water business will provide to staff affected by family violence, including any training, leave, external referrals and counselling available;**

### 3.2.2 PROTECTING PRIVATE AND CONFIDENTIAL INFORMATION

#### Draft decision

During our engagement we heard how important it is for victims of family violence that businesses keep private their personal information, particularly when the perpetrator is or has been a joint account holder. The Royal Commission reviewed a 2014 report by the Consumer Utilities Advocacy Centre which identified that confidentiality is a critical concern in circumstances of domestic violence<sup>7</sup>. In cases of family violence, particularly where there is a joint account, abusive partners can use a victim's personal information to pass privacy screening questions and obtain their ex-partner's new contact details in order to continue abusive behaviour.

During our consultation we heard from EWOV that customers face risks associated with outstanding bills and confidentiality, in that utility retailers require new addresses to follow up outstanding amounts on joint accounts. EWOV noted instances where the final bill was sent to an old address with details of the new address on it in error. This placed the customer at considerable risk of harm.

Participants in our consultation identified the importance for customers of having confidence that information they share with the water business about their family violence is not disclosed to the perpetrators, and that any information they provide is accessible only to authorised staff.

Victims of family violence need to have confidence that their personal information is secure and not at risk of deliberate or inadvertent disclosure. This provision in a family

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<sup>7</sup> Consumer Utilities Advocacy Centre 2014, *Helping not hindering: Uncovering domestic violence and utility debt*, August

violence policy requires that water businesses turn their mind to how a customer's personal information will be made secure, particularly from joint account holders where family violence is known to exist. In our draft decision, we proposed that:

### Draft amendment

As a minimum the policy must:

- (c) Promote customer safety by providing for the secure handling of information about customers who are affected by family violence, including in a manner that maintains confidentiality;

### Feedback on draft decision

Discussion at the public forum was strongly in favour of including this clause among the family violence provisions of the code. No written submissions suggested major changes or the removal of the clause.

The Victorian Council of Social Services (VCOSS) and Kildonan highlighted that customer safety was the driver behind the need for secure handling of information, and suggested this be made explicit in the clause.<sup>8</sup>

### Final decision

We stress the importance of customer safety, particularly in the handling of personal information, where inadvertent disclosure of information to a perpetrator can place a victim at risk. To make this explicit in the code amendment, we have modified the draft decision to specify that information should be handled in a manner that promotes safety.

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<sup>8</sup> Victorian Council of Social Services (VCOSS) 2017, *Submission, March*; Kildonan Uniting Care 2017, *Submission, March*

## Final amendment

As a minimum the policy must:

- (c) **Promote customer safety by providing for the secure handling of information about customers who are affected by family violence, including in a manner that maintains confidentiality;**

### 3.2.3 RESPONDING TO CUSTOMERS EXPERIENCING PAYMENT DIFFICULTY

#### Draft decision

Our consultation identified that perpetrators often avoid responsibility for debts, and leave their partners or former partners with substantial liabilities. During our consultation we learned that debt incurred through jointly held accounts was one of the most difficult issues for victims to resolve with financial institutions.<sup>9</sup> These difficulties often resulted in ongoing abuse after the relationship ends due to victims being unable to extricate themselves from financial arrangements with former partners.<sup>10</sup>

The Royal Commission recognised a role for utilities to do more in assisting customers with regaining control of their finances. This included specific recommendations to the Australian Communications and Media Authority (Recommendation 109) to amend the Telecommunications Consumer Protections Code to include family violence as grounds for splitting jointly held debt. The Australian Bankers' Association responded to the Royal Commission recommendation 111 by specifying how banks can address joint debt in situations of family violence. Through our consultation, community groups noted the approach of the Royal Commission on joint debt and highlighted the need for customers and their support workers to have consistency when dealing with utilities.

Part 1 and part 2 of the draft decision clause sought to ensure water businesses provide greater transparency about the range of options available for the recovery of debt so customers and their support workers have greater certainty when working

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<sup>9</sup> State of Victoria 2016, Royal Commission into Family Violence: Report and recommendations, Vol IV, Parl Paper No 132 (2014–16), March, p 103

<sup>10</sup> *Ibid*, p102

towards future financial security after economic abuse. In our draft decision, we proposed that:

### Draft amendment

As a minimum the policy must:

- (d) specify the water business's approach to debt management and recovery where a customer is affected by family violence, including, but not limited to:
  - (1) the recovery of debt from customers with joint accounts; and
  - (2) the circumstances in which debt will be suspended or waived;

### Feedback on the draft decision

Discussion at the public forum identified this as a priority issue and strongly supported including this in the customer service codes. No submissions suggested major changes or the removal of the clause.

Kildonan's submission recommended a consistent approach to debt management suggesting that the Commission 'provide more detailed guidelines in its better practice guiding material around how businesses might approach debt management and recovery where a customer is affected by family violence'.<sup>11</sup>

### Final decision

The Commission does not intend for this clause to lead to a uniform approach to debt waiver. Businesses must develop policies, as they currently do with other payment difficulty provisions. The intent is that a business recognises the role of family violence in the accrual of debt, thoroughly investigates the debt recovery options available, and empowers staff to adopt an approach to debt recovery that supports victims of family violence to manage or recover from the effects of financial abuse.

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<sup>11</sup> Kildonan Uniting Care 2017 *Submission*, March

We are implementing this clause as proposed in the draft. As suggested by Kildonan, we will provide examples of better practice in our guiding material. We also suggest water businesses seeking to implement standardised practices work with their industry associations to identify options that support and maintain high standards, and avoid any uniformity around the lowest common denominator.

## Final amendment

### As a minimum the policy must:

- (d) **specify the water business's approach to debt management and recovery where a customer is affected by family violence, including, but not limited to:**
  - (1) the recovery of debt from customers with joint accounts; and**
  - (2) the circumstances in which debt will be suspended or waived;**

## ELIGIBILITY FOR HARDSHIP PROGRAMS

### Draft decision

Our draft decision proposed a new clause in direct response to the Royal Commission recommendation 109 which states that family violence is to be included as an explicit criterion for access to hardship programs. The intent of the Royal Commission is to improve access to support measures that are already offered as part of a hardship program. The issue was highlighted in a report by Consumer Utilities Advocacy Centre which found that even when victims of family violence satisfied the criteria for assistance with payment difficulty, in practice some utilities did not assess the circumstances as worthy of hardship assistance. It noted that South East Water's hardship policy was among the exceptions, listing family violence as a circumstance that contributed to a person's inability to pay.

Our interpretation of existing payment difficulty and hardship provisions in the water service codes is that water businesses are already obliged to offer support to customers who self-identify as experiencing hardship, or who are experiencing difficulties paying. We consider clause (e) will strengthen this obligation, and lead businesses to make a more comprehensive evaluation of the support they provide to

customers experiencing family violence, even in circumstances where family violence is not the primary driver for their contact with a water business. In our draft decision, we proposed that:

### Draft amendment

As a minimum the policy must:

- (e) recognise family violence as a potential cause of payment difficulties and as an eligibility criterion for access to the water business's hardship policy under clause 5.3 and 5.4, and address how the hardship policy will apply to customers affected by family violence;

### Feedback on the draft decision

Feedback at our public forum strongly supported this clause in the draft decision. VicWater's submission noted that this clause was a practical measure for customers affected by family violence<sup>12</sup>.

### Final decision

Given the prominence given to this issue in the Royal Commission, and the favourable feedback during consultation, we are implementing this clause as proposed in the draft.

### Final amendment

As a minimum the policy must:

- (e) **recognise family violence as a potential cause of payment difficulties and as an eligibility criterion for access to the water business's hardship policy under clause 5.3 and 5.4, and address how the hardship policy will apply to customers affected by family violence;**

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<sup>12</sup> VicWater 2017, *Submission*, March

### 3.2.4 MINIMISING REPEAT DISCLOSURES OF FAMILY VIOLENCE

#### Draft decision

Our consultation highlighted the challenges customers and their support workers face when communicating to their creditors about their experience of family violence. The Royal Commission reported that a common theme among victims trying to access hardship programs across utility providers was the lack of empathy and understanding of family violence.

The lack of dedicated staff meant victims had difficulty making disclosures about their abuse and were often required to tell their story several times. Feedback from community organisations during our consultation was that the process of customers having to repeat their family violence story often had a traumatising effect, with customers ‘re-living’ the experience of family violence. In addition, customers were not always able to provide details of their circumstances, as the perpetrator may be either present or monitoring the call.

Other feedback included the need for continuity of service for victims of family violence when they contact their utility provider. Water businesses that already offer a direct point of contact for victims of family violence noted benefits to both businesses and customers, as staff are better able to assess the specific needs of their customer when tailoring support, and customers had a greater level of trust in the support they received.

Clause (f) sought for water businesses to include in family violence policies how customers experiencing family violence and their support workers access ongoing support in a manner that does not require them to re-tell their family violence experience or to needlessly re-negotiate support options that water business staff have previously offered. During the consultation we heard about various initiatives that enable a consistent point of contact for when a customer or a support worker reconnects with the business. We recognise that there is no single approach that suits the needs of all regional and metropolitan businesses and have drafted the code with this in mind. In our draft decision, we proposed that:

## Draft amendment

As a minimum the policy must:

- (f) provide for a process that avoids customers having to repeat disclosure of their family violence, and provides for continuity of service;

## Feedback on the draft decision

Feedback at our public forum was strongly supportive of this clause in the draft decision. Wannon Water submitted that there is no one size fits all approach to communication pathways between customers experiencing family violence and family violence trained staff. WEstjustice, a community legal centre whose advocacy work focusses on communication pathways with victims of family violence, noted the phrasing of this clause was appropriate for small contact centres, such as many of the regional water businesses.

## Final Decision

Discussion at the public forum clarified that businesses are not required to provide a single contact with an individual within a businesses but that a single pathway to an appropriately trained team is sufficient. By being outcome focused, we believe that this clause provides organisations with an appropriate level of flexibility in how they manage communication with victims of family violence.

Due to the positive support we received during consultation, we are implementing this clause as proposed in the draft.

## Final amendment

**As a minimum the policy must:**

- (f) provide for a process that avoids customers having to repeat disclosure of their family violence, and provides for continuity of service;**

### 3.2.5 PROVIDING CUSTOMERS WITH REFERRALS TO EXPERTISE

#### Draft decision

Our consultation highlighted the importance of specialist family violence referrals given the complexity of the issues victims of family violence face. A recognised impact of family violence is isolation. The Royal Commission noted that accessing support services can be difficult for those living with, or escaping from, family violence. Isolation caused by family violence means that victims of family violence may be unaware of appropriate services that are available. It also noted this isolation is heightened for regional customers, Aboriginal and Torres Strait Islander customers, and those from culturally and linguistically diverse backgrounds.

This clause seeks to recognise that as providers of an essential service, water businesses are well placed to provide referral information about other support services available to customers impacted by family violence. It is not expected that water businesses will become experts in the field of family violence or provide a counselling service.

Nevertheless, water businesses understand the demographics of their community, as well as the geographical and social barriers their communities face. They can and should use this information to develop appropriate referrals and to promote these support services using means that are accessible to customers who are experiencing family violence.

In identifying and providing referrals, water providers strengthen existing links or develop new ones with local service providers. One water business spoke of building a new relationship with a local family violence service provider that it has since engaged to provide training and to advise on its family violence initiatives. In our draft decision, we proposed that:

## Draft amendment

As a minimum the policy must:

- (g) provide a means for referring customers who may be affected by family violence to external assistance.

### Feedback on the draft decision

Feedback at our public forum strongly supported this clause in the draft decision. No submissions suggested major changes or the removal of the clause. Kildonan's submission strongly supported the inclusion of this clause, and also suggested we modify the draft clause to specify appropriate external assistance<sup>13</sup>.

Other submissions focussed on how this clause would be implemented. North East Water's submission noted the need for water businesses to have a clear understanding on when and how to make referrals<sup>14</sup>. VCOSS's submission highlighted the additional benefits to water businesses who forge formal links with local referral agencies, both in terms of two way referrals, and for staff training and development<sup>15</sup>.

Between the draft decision and the final decision, the Commission attended community forums hosted by Coliban Water and Central Highlands Water. These forums were a good example of local water businesses strengthening links with their local community and identifying current family violence services. These types of forums also provide water businesses the opportunity to learn of new family violence initiatives as they emerge from Royal Commission recommendations still being implemented.

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<sup>13</sup> Kildonan Uniting Care 2017, *Submission*, March

<sup>14</sup> North East Water 2017, *Submission*, March

<sup>15</sup> Victorian Council of Social Services (VCOSS) 2017, *Submission*, March

## Final decision

We acknowledge Kildonan's comments and will specify that referrals be made to specialist family violence services. This modification recognises the intent of Kildonan's submission and provides water businesses greater clarity about the purpose of the referral.

We consider that water businesses are well placed to identify local referral agencies along with the state wide services that support individuals who experience family violence. To assist businesses to understand when and how to make referrals, in our guiding material we will provide better practice examples of the approach some water businesses are taking, including where water businesses have partnered with service providers to develop reciprocal relationships for the benefit of customers and staff.

## Final amendment

**As a minimum the policy must:**

- (g) **provide a means for referring customers who may be affected by family violence to specialist family violence services.**

## 3.2.6 MAKING CUSTOMERS AWARE OF ASSISTANCE AVAILABLE

### Draft decision

This clause sought to improve a customer's awareness of their water business's family violence policy. Through our engagement, stakeholders noted that it was important that customers affected by family violence are quickly able to access information on support available from the water business and organisations offering specialist services.

Publishing only the family violence policy may be counterproductive as it may be of little value if it is too difficult for a customer to identify contact information for the business, and a snapshot of the support a business may be able to provide.

Businesses should also consider publishing contact details for external specialist services such as the 1300 Respect line, and on-line resources such as the Domestic Violence Resource Centre Victoria. In our draft decision, we proposed that:

### Draft amendment

A water business must:

- (h) publish on its website, and keep up to date, the assistance and referrals available to customers affected by family violence and how customers may access such assistance; and
- (i) provide a copy of the family violence policy to a customer upon request.

### Feedback on the draft decision

Feedback from participants at the public forum and in written submissions, supported including these clauses within the code. No submissions suggested removal, or changes to the wording specified in the draft decision. EWOV's submission made reference to the need to 'periodically review their policies to ensure that necessary improvements can be identified'<sup>16</sup>, and suggested this as an area that had been overlooked on the draft proposal.

<sup>16</sup> Energy and Water Ombudsman (EWOV) 2017. *Submission*, March

## Final decision

We acknowledge EWOV's comments, and that the hardship provisions in the urban water customer service code include a clause requiring the periodic review of policies. We therefore intend to adopt a similar clause for the family violence provisions in the rural and urban customer service codes, requiring water businesses to review its family violence policy periodically.

## Final amendment

### A water business must:

- (h) **publish on its website, and keep up to date, the assistance and referrals available to customers affected by family violence and how customers may access such assistance; and**
- (i) **provide a copy of the family violence policy to a customer upon request; and**
- (j) **provide for a periodic review mechanism of the policy and its associated procedures.**

### 3.3 FLEXIBILITY IN PROVIDING BILLING HISTORY

Resulting from the proposed new family violence clause, there are two consequential amendments for the existing clauses on billing history<sup>17</sup>, and the contents of the customer charter<sup>18</sup>.

#### Draft decision

Our draft decision highlighted that water businesses risk disclosing a victim's personal information, when they provide billing records to joint account holders who are perpetrators of abuse. Our draft proposed additional information to a pre-existing clause on billing history. We shaded this information darker to differentiate this from the existing clause. This amendment provides a water business greater flexibility about how it assists its customers when disclosure of personal information poses a risk to the safety of one of the joint account holders. In our draft decision, we proposed that:

#### Draft amendment

##### BILLING HISTORY

Upon request by a customer, a water business must provide the customer's account and usage history for the preceding three years within 10 business days, or other period by agreement. A water business may refuse to provide a customer with their account and usage history where the provision of such information is contrary to the information handling procedures set out in the water business's family violence policy and the refusal is not in breach of law.

#### Feedback on the draft decision

Discussion at the public forum was favourable about this clause and no submissions suggested changes or the removal of the clause. EWOV's submission suggested that if a case is lodged, water businesses should make EWOV aware of why billing

<sup>17</sup> Clause 12.7 of the Customer Service Code for Urban Water Businesses and clause 9.7 of the Rural Water Customer Service Code

<sup>18</sup> Clause 16 (g) of the Customer Service Code for Urban Water Businesses and clause 13 (f) of the Rural Water Customer Service Code

information has not been made available to an account holder, so that EWOV can best manage what information is provided to a perpetrator of abuse through EWOV's complaint process<sup>19</sup>.

### **Final decision**

Due to the support we received in feedback on the clause amendment, we intend to implement this clause as proposed in the draft. We encourage water businesses to work closely with EWOV on complaints involving family violence.

### **Final amendment**

#### **BILLING HISTORY**

**Upon request by a customer, a water business must provide the customer's account and usage history for the preceding three years within 10 business days, or other period by agreement. A water business may refuse to provide a customer with their account and usage history where the provision of such information is contrary to the information handling procedures set out in the water business's family violence policy and the refusal is not in breach of law.**

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<sup>19</sup> Energy and Water Ombudsman (EWOV) 2017. *Submission*, March

## 3.4 SUPPORT INFORMATION AVAILABLE IN CUSTOMER CHARTERS

### Draft decision

Customer charters outline a water business's service commitments and the rights and responsibilities of the water business and their customer. Through customer charters, water businesses communicate with their customers the terms of conditions of their supply, including service standards. We propose to add a subclause to clause 15 for the urban water customer service code and to clause 14 in the rural water customer service code, requiring water businesses update their customer charters to reflect their service commitments in relation to customers experiencing family violence. In our draft decision, we proposed the following clause should be added.

### Draft amendment

#### CONTENTS OF CHARTER

Information about how the water business will deal with customers (including joint account holders) affected by family violence, including the handling of customer information, billing and debt management.

### Feedback on the draft decision

Discussion at the public forum supported including this clause in the customer service code. We received no feedback suggesting changes to the draft decision.

### Final decision

Due to the favourable response we received in feedback on the clause amendment, we intend to implement this clause as proposed in the draft.

### Final amendment

#### CONTENTS OF CHARTER

**Information about how the water business will deal with customers (including joint account holders) affected by family violence, including the handling of customer information, billing and debt management.**

## 3.5 AMENDMENTS TO RURAL WATER CODE

### Draft decision

In our draft decision we proposed amending both the Customer Service Code for Urban Water Businesses and the Rural Water Customer Service Code to include the family violence clause as well as the two consequential amendments. Clause 11(e) in the Rural Water Customer Service Code references only payment difficulty programs as rural businesses are not required under this code to have hardship programs.

### Feedback on the draft decision

Discussion at the public forum supported including family violence provisions in the rural customer service code. No written submissions suggested it be removed or modified.

During the public forum, participants discussed whether rural water businesses should adopt hardship policies and whether the Commission should amend the rural customer service code to require them to do so. During our consultation on the family violence provisions, we became aware that all rural businesses have developed some form of hardship policy, and that the nature of the policies differ from urban policies as they involve rural enterprises rather than households. We urge rural water businesses to include family violence as an eligibility criteria for their rural hardship programs to ensure customers experiencing family violence can also access any relevant hardship support.

### Final decision

Due to the favourable response we had through consultation, we are implementing the family violence clause in the rural customer service code, along with the amendments referred to in section 3.2 and 3.3.

### 3.6 APPLICATION OF FAMILY VIOLENCE POLICIES FOR MELBOURNE WATER

Melbourne Water is not covered by the urban or rural customer service codes. In a submission to the Commission, Melbourne Water noted its support for the proposed code amendments and indicated it would voluntarily implement elements of the code changes where relevant to its business.<sup>20</sup> For example, they consider there is benefit in developing a policy for their Customer Service Centre and field officers who come into contact with customers.

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<sup>20</sup> Melbourne Water 2017, *Submission*, March



## 4 IMPLEMENTATION OF CODE CHANGES AND POLICIES

Our draft decision proposed that the code changes would take effect from 1 July 2017. Recognising that each water business is at a different stage of developing or implementing a family violence policy, we proposed to check that all water businesses have implemented a family violence policy by the end of 2017-18.

Participants at our public forum supported this transition period noting it afforded water businesses time to develop and then implement policies in a manner that is safe and effective for customers and staff.

As part of a holistic response to family violence, businesses may seek to go beyond implementing the family violence policies that will be specified in our customer service codes. Prevention strategies are an important part of the whole of community response to family violence and these are discussed in our better practice guiding material.

### **BETTER PRACTICE GUIDING MATERIAL**

In addition to our code changes, in April 2017 we will publish guiding material on better practice family violence initiatives to assist businesses develop and implement effective family violence policies.

The guiding material has been developed in collaboration with the water businesses and other service organisations which have already taken action on family violence in the form of work place and customer centred initiatives. These organisations include Yarra Valley Water, the Australian Bankers' Association and the Energy Water Ombudsman (Victoria) amongst others.

To assist businesses to develop their family violence policies the guiding material will include:

- family violence incidents that businesses such as Yarra Valley Water identified as the impetus for their work
- examples of current better practice for each of the key elements of family violence policies identified in the customer service codes, and which are specified in this final decision
- typical scenarios of family violence, which the community sector identified as an appropriate checklist for businesses wishing to evaluate the effectiveness and comprehensiveness of policies, and
- examples of family violence policies and links to policy templates.

Publishing examples of better and emerging practice allows businesses to learn from peers, and provides customers and representatives of the community sector with an understanding of the options available to businesses to address family violence. Not all better practice examples will be relevant to each water business. When implementing the requirements of the code, it will be up to each business to decide for itself what approach best suits the needs of its customers and its community. We note businesses will also have their own networks and sources of information to inform their family violence policies.

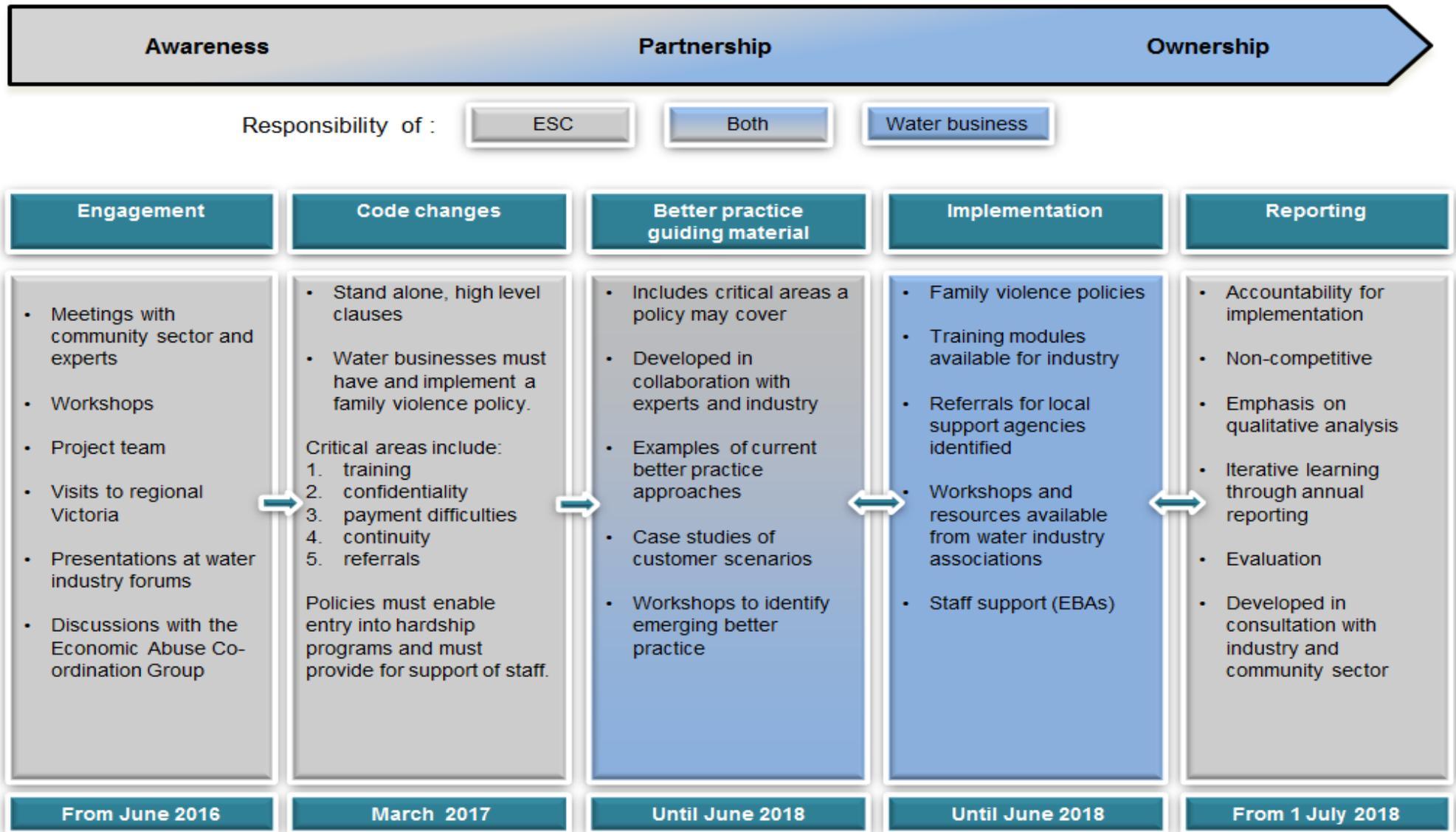
As shown in figure 1, it is then up to water businesses to develop and implement their family violence policies. We encourage businesses to do so in collaboration with industry bodies, with other businesses (or regional groups of businesses) and the community sector.

The Commission intends to continue to work with the water industry associations to support water businesses as they identify and share better practice approaches to family violence policies. This will include facilitating workshops to help water businesses understand and assist in implementing the code requirements.

## **MONITORING AND REPORTING**

After 30 June 2018, the Commission will review that all water businesses have family violence policies in place. Together with the water industry and the community sector, we will develop a monitoring and reporting framework to check that family violence policies have been implemented, and are delivering outcomes that are in the interests of water customers and the community.

Figure 1 Our implementation framework



## **GENERAL QUERIES**

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# APPENDIX– WRITTEN SUBMISSIONS

**TABLE A1 SUBMISSIONS ON THE COMMISSION'S DRAFT DECISION**

Name	Date of submission
Victorian Council of Social Service	20 March 2017
North East Water	17 March 2017
Joint submission from City West Water, South East Water & Yarra Valley Water	17 March 2017
Coliban Water	17 March 2017
Economic Abuse Reference Group	17 March 2017
Energy and Water Ombudsman (Victoria)	17 March 2017
Kildonan Uniting Care	17 March 2017
Melbourne Water	17 March 2017
VicWater	17 March 2017
Wannon Water	17 March 2017
Westernport Water	17 March 2017