



Good Shepherd  
Microfinance

# Essential Services Commission Victoria

## Inquiry into the Financial Hardship Arrangements of Energy Retailers

Submission prepared by  
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Essential Services Commission  
Level 37, 2 Lonsdale Street,  
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**Re: Inquiry into the Financial Hardship Arrangements of Energy Retailers: Our Approach**

Good Shepherd Microfinance welcomes the Essential Services Commission's Issues Paper: Inquiry into the current policies, practices and procedures of energy retailers to assess whether they reflect best practice, and whether the current regulatory framework represents regulatory best practice. We are grateful for the opportunity to contribute to the consultation process.

Good Shepherd Microfinance commends the Essential Services Commission for the steps they have undertaken to understand and take action to address the rise in the level of wrongful energy disconnections as well as the increase in consumers seeking hardship arrangements in Victoria.

The Essential Services Commission Issues Paper identifies key elements of the current hardship arrangements that may need improvement, and it is obvious that care has been taken to seek out existing best practice solutions that may be appropriate to improve the system for the future.

Through our experience working with vulnerable consumers Good Shepherd Microfinance considers that there is significant room for improvement in the delivery of hardship programs by energy retailers.

Firstly, a concerted effort should be made to better understand the precursors to financial stress and the best way to implement early identification procedures. These findings should inform improved efforts to raise awareness of the hardship entitlements available, more explicit and standardised codes of conduct and independent and external auditing and greater enforcement of breaches or regulations.

Improving the delivery of hardship arrangements is in the best interests of both customers and energy retailers, with the prospect of significant economic and social benefits for both groups. As has been highlighted in the Issues Paper, improving the assistance provided by energy retailers to customers in hardship is financially prudent for energy retailers themselves as the cost of disconnections decreases and the cost of repayment of arrears increases.

Good Shepherd Microfinance would also be interested in exploring possible partnership arrangements with the Essential Services Commission and energy companies, to develop a collaborative knowledge exchange and offer people on low incomes access to safe and affordable credit options to manage money effectively and to access energy efficient household goods.

The responses we have provided reflect our values of human dignity, respect, social justice, compassion, audacity and reconciliation. Good Shepherd Microfinance is committed to informing stakeholders and taking action to provide increased and improved access and services to realise financial inclusion for all Australians.

We look forward to the next stage of this process and the release of a draft report in August 2015.

Please do not hesitate to contact Dr Gillian McIlwain if there is any further information we can provide (03 9495 9644).



Adam Mooney  
CEO  
Good Shepherd Microfinance

## **Summary**

Good Shepherd Microfinance's submission is directly informed by our work with financially vulnerable people in Victoria and ultimately advocates for vast improvement in the delivery of hardship arrangements by energy retailers. Our microfinance workers, located in over 100 locations across Victoria, consistently see customers that are not aware of their rights and entitlements and have reached a point of financial crisis exacerbated by negative experiences with energy retailers when they have sought assistance.

As the statistics referred to in the Issues Paper suggest, this issue appears to be evolving as growing numbers of non-concessional customers feel the financial strain of increased prices and lower incomes. We know that these customers are at risk of turning to high cost credit through payday lenders to pay utility debts rather than approaching their energy retailer for assistance, and we feel that this is not good enough.

The key point we make in our submission is that it is the responsibility of energy retailers to identify customers before they reach a point of crisis, and we believe this is easily within their capacity to do so given the resources they possess. We believe that this is in the best interest of energy retailers, as experience in other industries shows that well designed and implemented hardship arrangements are economically and socially beneficial for both parties.

Also, energy retailers and the Essential Services Commission should put in place more explicit regulations, better procedures and enhanced marketing efforts to raise awareness of hardship entitlements among customers, and that this must be matched by a sensitive and compassionate approach to vulnerable customers who are genuinely in need of assistance.

## **About Good Shepherd Microfinance**

Good Shepherd is a national community organisation established by the Sisters of Good Shepherd. Since 1981, the organisation has worked to address financial exclusion through the innovative delivery of microfinance solutions and through providing support to financially vulnerable consumers through financial counselling and financial education.

Good Shepherd Microfinance works with over 250 accredited agencies in over 650 locations across Australia. Since its establishment, Good Shepherd Microfinance has reached over 170,000 Australians through its loans and savings programs. Good Shepherd believes that individuals and families living on low incomes can make sustainable and responsible financial decisions if they have access to the right resources and are protected from exploitative lending arrangements.

Good Shepherd Microfinance has a range of programs, each providing safe, fair and affordable credit to people who are excluded from the mainstream financial providers. These programs include the No Interest Loan Scheme (NILS®); StepUp; Good Money; Adds Up and Debt Deduct. Our low and no interest loans programs enable people to build assets, engage in community life as well as find and keep jobs. Independent evaluations of our microfinance products have shown that they reduce the reliance on fringe credit and short term loans.

## Responses to Questions

### The Commission's approach

1. Are the principles of effectiveness, flexibility, consistency, efficiency and proportionality, transparency and clarity, and accountability (of all stakeholders) the most relevant principles for this inquiry? Are there other principles that should be included or used? Should some principles be given greater weight?

Good Shepherd Microfinance supports the approach taken by the Essential Services Commission and we believe each of the principles identified is important for this inquiry.

It is clear from the growing number of wrongful disconnections and the high proportion of people failing hardship programs that there is a need to improve the **effectiveness** of hardship arrangements.

It is important to increase the **flexibility** offered by these programs, with evidence that current payment plans leave little money for buying other household necessities, including food.

Increasing the prescriptiveness of regulations and standardising the hardship arrangement process would bring much needed **consistency** to regulations, to enable energy retailers, customers and financial counsellors to be able to understand their rights and responsibilities more clearly.

Requiring energy retailers to be far more thorough in their reporting of the outcomes of their hardship programs and publishing this material publically would improve **transparency**.

**Clarity** of the process could be improved by energy retailers proactively offering hardship arrangements to customers who have identified as being in need, asking every customer for their concession information and recommending entitlements, and making information easy-to-read for a linguistically diverse customer base.

Reducing the number of wrongful disconnections is a fundamental concern and placing far more burden of proof on retailers would improve the **proportionality** of this process. Wrongful disconnection is extremely distressing to households and families in financial crisis and far exceeds the inconvenience experienced by an energy retailer.

Increasing the sanctions on energy companies for breaching regulations, including the introduction of external and independent auditors and compliance officers will bring a much-needed increase in **accountability**.

## **Regulatory Framework**

2. Does the regulatory framework need to be improved to support customers who are unable to pay their energy bills in full and on time? If so, what improvements are needed? Are certain aspects of the framework ambiguous, unnecessary or ineffective? Are there other regulatory frameworks offering good examples that the Commission should examine?
3. What incentives could be introduced to the regulatory framework to promote innovation in assisting customers who are unable to pay their bills in full and on time?
4. Does the regulatory framework provide sufficient flexibility and discretion for energy retailers to assist customers in financial hardship effectively? Should the Commission's Code and guidelines be more or less prescriptive in order to facilitate best practice. If so, what should be changed and how?

It is clear from our work with vulnerable customers that there is significant room for improvement within the regulatory framework to make the responsibilities of energy retailers far clearer to understand and interpret for both customers and consumer advocates.

It is our belief that regulations must be more prescriptive about the expectations on energy retailers in regards to hardship arrangements. This will enable both customers and retailers to better understand their rights and responsibilities.

It also appears that there is a lack of external and independent investigation and enforcement of these regulations.

We believe an effective regulatory framework facilitates a balance between the rights and obligations of:

- External government regulators
- Energy regulators through independent compliance and self-regulation
- Customers, to understand their rights, advocate for themselves or supported by financial counsellors and other consumer advocates.

Implementing this balance encompasses realistically taking into account the resources, capabilities and the proportionate impact for each party.

In the context of the Victorian energy retail market this means increasing the power of external bodies to investigate and enforce breaches, and significantly increasing the ability of customers to have their legal entitlements applied, negotiate with retailers and to stand up for their rights.

5. How could the Commission better monitor the overall effectiveness of the hardship assistance provided by energy retailers?
6. Are there better indicators the Commission could use to assess the overall outcomes for customers in financial hardship?

Current indicators do not provide reasons or context into the situation of the customer, the impact of the action or why customers may have been denied access to the hardship program.

It is for this reason that the Commission is unable to know why the number of disconnections has increased, and why the percentage of concession cardholders accessing hardship provisions has fallen.

Understanding the types of customers entering hardship programs, particularly the increased number of non-concession cardholders and the working-poor, is key to improving the effectiveness of the delivery of hardship programs.

It is reasonable to expect that energy retailers delve further into the statistics they are providing about their hardship programs, particularly as the numbers of effected customers increases and the demographics change over time.

The Essential Services Commission could also undertake ongoing independent monitoring of these programs to understand the changing demographics of those seeking hardship arrangements as well as to monitor the effectiveness of the programs.

It would also be useful to include indicators about how proactive an energy company has been in recommending hardship provisions to at-risk customers. This could include keeping data on the identification of at-risk clients, as well as how many of those clients were given information about hardship provisions.

7. Can the Commission improve how it monitors and enforces energy retailer's compliance with the regulatory obligations? If so, how?

As previously stated Good Shepherd Microfinance believes that industry self-regulation alone is not adequate, and that effective self-regulation should be matched with effective external regulation and strong consumer advocacy.

The increase in unfair disconnections and complaints against energy retailers indicates that the current system of self-regulation is not sufficient.

We believe that the hardship arrangements of energy companies should be required to be scrutinised by external and independent auditors and compliance officers. This will include improvement in monitoring and enforcement of retailers' compliance with their obligations, particularly in regards to hardship arrangements.

## **Best Practice**

8. Are energy retailers currently providing best practice assistance to customers who are unable to pay their energy bills in full and on time? What evidence is available to support this view?

Good Shepherd Microfinance takes the position that energy retailers are not always providing best practice assistance to customers who cannot pay their bills in full and on time. Our microfinance workers examine the household budgets of all of our clients, and we see many examples of customers who slip through the cracks including;

- Customers who are eligible for concession entitlements and who do not have them applied to their bill.
- Customers who have been victims of family abuse, including economic abuse, who are not eligible for hardship arrangements.
- Customers who have taken payday loans to pay for utility bills instead of seeking hardship arrangements.
- Customers who are unaware of the option of hardship arrangements under significant financial stress.

We believe that a key factor for improving the delivery of hardship arrangements is early identification of those at risk of financial stress.

Better understanding the types of customers that need hardship arrangements will understand why customers reach the point of payment arrears, and how arrangements can be targeted to best avoid this occurring. Energy companies have access to data that is key to this process and should be required to cooperate in research processes that investigate this.

Often by the time a customer applies for hardship provisions it is too late and understanding triggers and precursors and responding early would enable these arrangements to be most effective. This can allow for an element of prevention to be built into hardship arrangement programs where proactive contact of identified customers prior and during signs of payment difficulties may be effective.

This could include making customers aware of services like Good Shepherd Microfinance that may allow them to manage their money more effectively by accessing safe and affordable credit.

Every microfinance client we work with takes part in a budgeting exercise, and we consistently see clients that are entitled to concession discounts for utilities that are not accessing these entitlements. Energy retailers should be required to proactively seek out their customer's concession entitlement information, and providing Utility Grant Relief Scheme applications as soon as it is apparent that a customer may be eligible.

We would also like to see energy retailers investing, either through a reallocation of fines or their own corporate social responsibility activities, in preventative measures such as subsidising the purchase of energy efficient whitegoods where a person is at risk of, or a new entrant into a hardship arrangement.

The working poor and other customers without a concession card have been identified within the Issues Paper as two-thirds of all customers seeking payment plans. Payday lenders increasingly target these consumers by irresponsibly marketing small short-term loans to pay utility bills. Research finds that borrowing to pay for utility bills is one of the most common reasons to seek credit from payday lenders.<sup>1</sup> Our experience shows that many consumers seek high cost credit, as they do not want to seek welfare solutions and hardship provisions, and instead risk entering debt spirals with catastrophic impacts. It is safe to assume that there are many responsible consumers that do not seek hardship arrangements but are experiencing financial stress nonetheless and could benefit from being encouraged to use them before their financial situation worsens.

We believe it is the responsibility of energy retailers to emphasise to clients that they have a right to seek assistance, and to make this process accessible and comfortable.

Good Shepherd Microfinances also emphatically supports the suggestion for targeted identification of potentially vulnerable consumers as mentioned in the Issues Paper, for communities that are at risk in general or due to a significant environmental or economic event. The Essential Services Commission, energy companies and other community organisations can all play a role in identifying at-risk communities, and the Essential Services Commission could distribute this information in a coordinated way.

We also believe that a far more sensitive approach is needed. We agree with suggestions that a more sensitive and flexible approach should be adopted by energy retailers towards vulnerable customers, and applaud the Essential Services Commission for highlighting best practice examples from related industries.

More sensitivity should be extended to the language used to alert customers to hardship arrangements. Using less formal terminology to build awareness of these rights will likely make them more effective.

9. Should retailer's hardship practices be more transparent? If so, how can transparency be improved?

Good Shepherd Microfinance believes that retailer's hardship arrangements could be more transparent through retailers becoming far more proactive in building awareness of these options, particularly for at risk customers.

As identified within the Issues Paper there is a definite need to improve access to information, including making information clearer on energy bills and on the website, making it easier to read and available in forms that cater for culturally and linguistically diverse customers.

While access to information is important, this does not go far enough to encouraging awareness of hardship arrangements. Providing much more prominent links to this information on websites, and

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<sup>1</sup> Banks, M., Marston, G., Karger, H., & Russell, R. (2012). *Caught Short: Exploring the Role of Small, Short-Term Loans in the Lives of Australians. Final Report*, Social Policy Unit. The University of Queensland, Brisbane.

providing information in a bill are both useful ways of communicating with clients, but we believe energy companies should be required to be far more proactive in generating awareness of this type of information, including voluntarily offering it.

Additionally, links for no-cost credit for energy efficient essential household goods through Good Shepherd Microfinance could be included on the websites of the Essential Services Commission and energy retailers.

Importantly, communicating electronically should not be considered the primary method of engaging with customers in hardship. Internet access should not be assumed as people living on low incomes are far less likely to have internet access at home, particularly if they are under financial stress. The Bureau of Statistics reports that only 57% of households with incomes below \$40,000 have internet access at home.

Finally, we believe that marketing by the Essential Services Commission could be undertaken to improve awareness of the entitlement to hardship arrangements. There are undoubtedly many people experiencing financial hardship that would be eligible for assistance that are unaware of the existence of these options.

10. What else could we learn from practices by firms operating in other jurisdictions and industries, nationally and internationally about best practice in hardship assistance?

Good Shepherd Microfinance has substantial experience providing low income consumers with information about reducing energy consumption and upgrading appliances to improve energy efficiency. During 2013-2014 we administered the Home Energy Saver Scheme (HESS) subsidy program in partnership with the Federal Government's Department of Social Service. This initiative enabled the purchase of subsidised energy-efficient appliances and was complimented by home energy assessments by expert community organisations. In less than 12 months \$4.3m in subsidies was administered, generating a wealth of information about delivering energy efficiency programs to people with low incomes.

Key things we learned included;

- Price matters. Consumers were happy to purchase energy efficient products because they were heavily subsidised, if they were more expensive than less efficient products this may not be the case.
- There is a risk of over-subsidising. Providing too much discount or subsidy encourages people to purchase goods that aren't suitable because they represent better value for money, for example fridges that are too big for a small family.
- The old appliance must be removed to enhance the energy efficiency benefits.
- The knowledge that we gained through this pilot program will be useful to energy companies genuinely wishing to help consumers to replace less efficient appliances for the purposes of saving money.
- The provision of a subsidy for the purchase of an item had a direct behavioural impact on decision making, leading to the purchase of a greater number of energy efficient items

The Issues Paper identified the cultivation of partnerships with community interest groups as an area of best practice for hardship assistance. Good Shepherd Microfinance would be keen to engage in a collaborative knowledge exchange with the Essential Services Commission and energy companies.

We are currently working in partnership with the Department of Social Service, Ernst & Young, and the Centre for Social Impact on the co-creation of Australia's first Financial Inclusion Action Plan program. To be launched in the second half of the year, this initiative is focused on action that works, resulting in large scale economic mobility of people on low incomes through inclusive finance.

This program will result in community, government, business, and academia working together on actions that realise economic mobility and financial resilience for large numbers of people experiencing financial exclusion and hardship. The long run outcome of this program would see 3 million people in control of their finances and with improved capability and confidence, by interacting constructively with financial service providers and other organisations that directly impact financial wellbeing. We have modelled the long run economic outcome of this program:

- \$51 billion increase in household wealth
- \$20 billion uplift in economic growth (GDP) – increased production and tax revenue
- \$2.6 billion saving to government through reductions in welfare, health and justice

To date we have had encouraging conversations with Origin, Energy Australia and AGL who have all expressed a willingness to be part of a national Financial Inclusion Action Plan program, making very real, tangible commitments as individual organisations toward building the financial resilience of their customers, staff, and the broader communities in which they operate. Energy providers are able to optimise environments such that there is the possibility of enabling financial inclusion at various customer touch points, to the long term benefit of both the energy provider and the customer.

Good Shepherd Microfinance would be keen to explore future solutions and ways that we can be actively involved in finding sustainable solutions for energy customers under financial strain. While we currently do not offer loans to people who do not hold a concession card, and do not offer cash loans to pay off debt, we see our programs as one of many tools available to vulnerable consumers to manage money effectively and reduce financial vulnerability. As already highlighted, we would welcome an opportunity to explore partnership options with energy retailers for aspects of their hardship arrangements, including subsidised assistance for in accessing energy efficient appliances with safe and affordable credit where appropriate.

However, any partnership entered into with community interest groups should be collaborative and should not replace reliable and effective internal systems for supporting clients requiring financial hardship arrangements.

11. Are there any other themes of best practice that we have not covered in chapter 5? Do some themes require higher priority in the regulatory framework administered by the Commission?

An important area that this inquiry can prioritise is the exploration of ways that hardship arrangements can incorporate the complexities of financial abuse of women following the breakdown of relationships.

Our experience demonstrates that current hardship programs of energy retailers are further disadvantaging women leaving family violence situations and abusive men often leave women with utility debts, which is a form of financial abuse.

Good Shepherd Australia and New Zealand recently investigated legal responses to economic abuse and have identified the essential services as an aspect of financial abuse that needs consideration.<sup>2</sup> The report found that essential services debts are used as a weapon by perpetrators of financial abuse, the lack of empathy and understanding shown by energy providers exacerbated the harm caused by financial abuse, and that the extent to which hardship provisions were extended to survivors of family violence depended on which retailer they used.

A review of hardship provisions should provide guidance on policies and procedures to deal with economic abuse, so that the rights of survivors are applied consistently, irrespective of the type of violence experienced or the service provider used.

## **Benchmarking**

12. What other matters should the Commission take into account when designing a benchmarking framework for assessing the effectiveness of retailers' hardship programs?

13. Which aspects of an energy retailers' hardship policies, practices and procedures should be given priority in the benchmarking framework?

Good Shepherd Microfinance supports any effort by the Essential Services Commission to improve the benchmarking of hardship arrangements.

However, we strongly feel that improvements in benchmarking requirements must be supported by more prescriptive regulation that has the effect of standardising the way energy retailers deliver hardship arrangements.

While benchmarking will assist retailers in identifying opportunities for improving performance, we feel that this must only complement stronger regulatory requirements that are firmly enforced.

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<sup>2</sup> Camilleri, O., Corrie, T. and Moore, S., *Restoring Financial Safety: Legal Responses to Economic Abuse*, (2015) Good Shepherd Microfinance & Wyndham Legal Service

## **Bibliography**

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