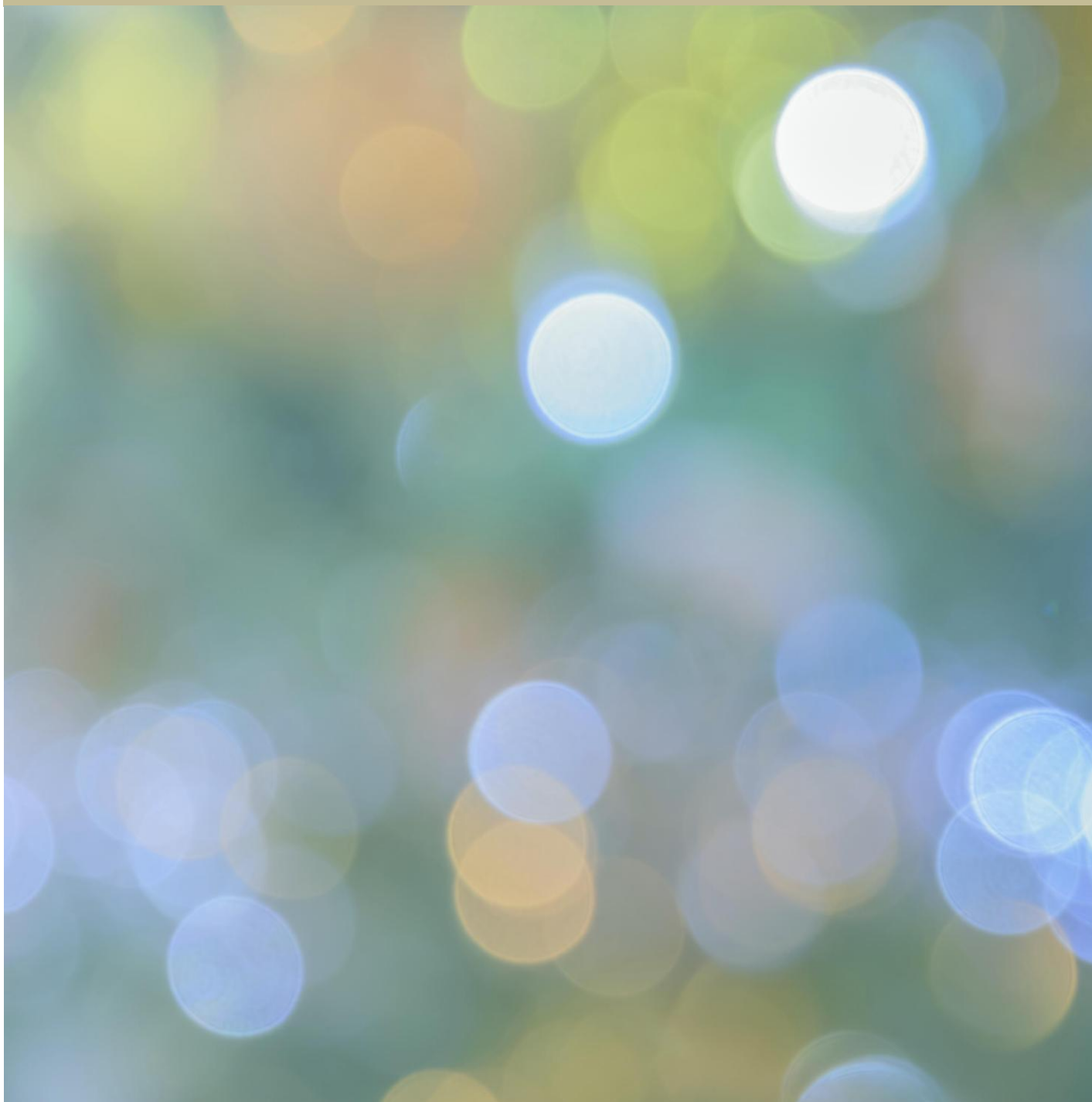


# Helping Not Hindering: Uncovering Domestic Violence & Utility Debt

A CUAC RESEARCH REPORT

August 2014



The Consumer Utilities Advocacy Centre Ltd. would like to acknowledge the contributions of all the research participants who took part in the research for contributing their expertise and time to this report. We would like to thank Kildonan UnitingCare for providing the case studies.

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# EXECUTIVE SUMMARY

This report assesses the legal and operational framework that currently applies to the payment of utility bills in the context of domestic violence, specifically where domestic abuse leads to a breakdown of a household, and victims are at a point of crisis. It also considers the factors utility providers ought to take into account when modifying processes designed to assist victims in these circumstances. CUAC provides recommendations based on the report findings, insights from a literature review and the feedback from research participants.

This report focuses on two commonly experienced domestic violence outcomes:

1. Victims being solely pursued for utility debts incurred by their abusive partner (or both of them jointly) during and after the relationship – in other words, being pursued for bills that are not properly their own to pay (in whole or part); and
2. Victims being pursued for their own debts, but because of the crippling nature of domestic violence and economic abuse, they are unable to pay their bills – in other words, being pursued for debts they simply are unable to pay.

*Chapter 1* explores domestic violence in the context of economic abuse. It outlines five scenarios that are common to women who are victims of domestic violence who are also experiencing economic abuse as it relates to managing their debts with utility providers. These scenarios are explored further in *Chapter 2* in the context of the legal framework, to better understand the laws and regulations that apply to utility providers directly pursuing debts in each of the scenarios. *Chapter 3* outlines the policies of the utility providers that are applied in practice to people experiencing hardship and payment difficulty. *Chapter 4* outlines the policies and practices of utility providers as they apply to women in the circumstances outlined in the scenarios, and highlights the experiences of agencies in the community sector and women who are victims of domestic violence. *Chapter 5* outlines an industry best practice approach that exemplifies what CUAC believes utility providers can do to go beyond the basic legal requirements in their policies and practices to best assist women in these scenarios. Finally the *Conclusion* provides CUAC's recommendations for changes to the internal policies and practices of utility provider, potential changes to law, and a list of 'next steps' towards implementing policy change, which are based on input from research participants and a literature review.

The aim of this research is to guide policy and prompt a dialogue within the utility industry, the Essential Services Commission (ESC), the Australian Energy Regulator (AER), the Energy and Water Ombudsman (Victoria) (EWOV), other regulators and ombudsman schemes, the Victorian Government, and other jurisdictional legislators to encourage collaboration with key stakeholders to develop processes that can make an impact in these circumstances. CUAC also intends for this report to serve as an additional resource to add to the body of information available on domestic violence and economic abuse.

# INTRODUCTION

As essential services, energy and water play a unique role in a domestic household. All modern domestic households are unable to function in everyday life without utility services, and the costs can present unique challenges to households experiencing difficulties. With the current and expected rising costs of utilities, the incidence of people finding themselves in domestic economic hardship such that they struggle to pay their bills has and is likely to increase.

Domestic violence can create unique circumstances of financial hardship when there has been a breakdown of the domestic setting and a victim is at a point of crisis. Often when such a breakdown occurs, victims of domestic violence also suffer economic abuse. Given the effectively mandatory nature of utility bills (both before and after the breakdown of the domestic household), economic abuse in these circumstances can include the imposition of household debts on victims of domestic violence, and in some cases, liability for significant debts that are not properly their own to bear. The economic stress can hinder the ability of victims to free themselves from the abusive setting, and contribute to a cycle of violence.

Regulation plays a critical role in protecting economically vulnerable consumers generally, and holding utility providers accountable as providers of essential services.

However, there is a prevalent stigma of an often unspoken nature associated with domestic violence. The victims of domestic violence, and women in particular, are often overlooked in society. Relevantly, the current policies and practices of utility providers aimed at vulnerable populations do not specifically account for, and are therefore not sufficiently adapted to, women customers who are victims of domestic violence.

For such women, navigating the current utility provider's policies in order to address utility debts can be challenging, if not impossible. Conversely, utility providers, in the absence of considered policies, are equally unprepared in their response to such women, as they often do not fit within their 'risk matrix', leaving the utility providers debts that are hard to recover.

How a case is managed by a utility provider can make the difference between contributing to the economic stress that causes a woman to return to her abusive partner, or enabling the woman to re-establish herself independently as a paying utility customer.

## About the Report

The Consumer Utilities Advocacy Centre Ltd. (CUAC) is a specialist consumer organisation established in 2002 to represent Victorian energy and water consumers in policy and regulatory processes. Feedback from the community organisations represented on CUAC's Reference Group<sup>1</sup> identified domestic violence and economic abuse as it relates to the payment of utility bills as a priority area for research and advocacy in CUAC's 2013/14 Work Plan.

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<sup>1</sup> See *Appendix D* for a list of CUAC's Reference Group.

Although CUAC acknowledges that women are not the only victims of domestic violence, the Reference Group recommended that the research focus on women as a particularly vulnerable group that is susceptible to domestic violence and economic abuse.

Economic abuse is an area of research that is gaining recognition in the discourse of family violence in academic circles worldwide. In May 2013, Kildonan UnitingCare and Good Shepherd Youth & Family Service released a report<sup>2</sup> on economic abuse as part of their *Spotlight on Economic Abuse Project* which explored experiences with economic abuse Australia-wide. However, there is a limited body of research about economic abuse as it relates to managing utility debts both in Australia and internationally.

The increased prevalence of domestic violence in Australia has been recognised at all levels of government. In Victoria alone, there has been a reported 20 per cent increase in domestic violence reports over the past two years, with Victoria Police dealing with more than 60,000 domestic violence incidents in 2012-13.<sup>3</sup> While governments struggle to address the broader issues associated with domestic and family violence, our research shows that utility debt has potential to prolong a crisis situation and hinder a woman's ability to 'move on' from domestic violence or economic abuse.

This report was written with the intention of addressing issues that are specific to the State of Victoria including the relevant codes, concessions and schemes that are Victoria-specific; however it is our hope that it can inform industry policy in all jurisdictions and Ombudsman schemes as well as other financial institutions (e.g. the banking and telecommunications industry).

### ***Terms used in this report***

Throughout this report, the term 'domestic violence' is used to refer to the abuse that occurs in the nuclear family within a household, whereas the term 'family violence' is used to refer to a combination of the relatives and family members as connected by blood and marriage. The term 'victims' is used to refer to both victims and survivors of family violence. The term 'abusive partner' is used to refer to both male and female perpetrators. While the primary focus of this report is women, CUAC acknowledges that the scenarios outlined could equally apply to men or circumstances of family violence that involve extended family members.

The term 'utility providers' is used to refer to energy retailers and water businesses in Victoria. The term 'agencies' is used to refer to community service providers such as financial counsellors, lawyers, emergency relief workers and domestic violence refuge workers who assist domestic violence victims in crisis. The term 'financial counsellor' refers to professionally qualified workers who provide free and independent counselling services, and work for community organisations, community legal centres and some government agencies. The term 'emergency relief worker' refers to community service workers who are first responders and/or a referral point for victims of family violence, including over the phone services and volunteers. The term 'refuge worker' is used to refer

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<sup>2</sup> Good Shepherd Youth & Family Service, Kildonan UnitingCare (2013), *Economic Abuse: Searching for Solutions*.

<sup>3</sup> Elder, John (2014), 'The Brutal Price of Domestic Violence,' *The Age*.

to a person who works in a family violence refuge. Finally we use the term 'economic abuse' to refer to financial abuse within the household.

# METHODOLOGY

This report is based on the findings of an extensive literature review, guided in part by the information gathered through semi-structured interviews.

## **Literature Review**

The project involved a comprehensive literature review of domestic violence and economic abuse both in Australia and overseas, the regulatory framework and legislation that is applicable to utility providers in Victoria, and the hardship policies of a range of utility providers in Victoria. This review enabled a greater understanding of the circumstances in which women are most vulnerable to economic abuse with respect to utility debt.

## **Semi-structured interviews**

Semi-structured interviews were the primary data collection method for the research. Twenty-seven interviews were conducted over a four month period. CUAC endeavoured to speak to a range of agencies in Victoria that are key contact points for domestic violence victims in crisis. This included financial counsellors, emergency relief workers, caseworkers at refuges, specialist legal services, conciliators at the EWOV and representatives from the hardship departments of utility providers. A list of the organisations that participated in the research can be found in *Appendix A*.

## **Recruitment**

Research participants were invited to participate via email. CUAC contacted peak body organisations and asked them to circulate interview requests to their membership and networks. Our intention was to speak to agency workers in the community sector who assist women in these circumstances. We contacted Domestic Violence Victoria as the peak body for women and children's family violence services in Victoria, Emergency Relief Victoria as the peak body for the emergency relief sector, and the Financial & Consumer Rights Council (FCRC) as the peak body for financial counsellors in Victoria.

CUAC contacted a diverse sample of representatives of the hardship departments of tier one and two energy retailers, as well as regional and metropolitan water businesses in Victoria. CUAC also directly contacted the EWOV.

CUAC promoted the project at the Emergency Relief Forum in Melbourne in April 2014, the Financial & Consumer Rights Council's Utilities Working Group meetings, the steering committee meeting for the Women's Health in the North and Women's Health Goulburn North East's project *Living Longer on Less*, and at the reference group meeting of the *Restoring Financial Safety Project* hosted by Wyndham Legal Service.

### ***Interview Process***

A majority of the interviews were conducted face-to-face and some by phone. Interviews ranged from 30 minutes to two hours. Prior to each interview, research participants were provided with a project brief that outlined the key findings of the literature review, and a list of common scenarios of domestic violence and economic abuse in the context of utilities. Research participants were encouraged to consider further scenarios not identified by the literature review. A list of the scenarios given to the research participants can be found in *Appendix B*.

### ***Confidentiality***

Given the sensitive nature of domestic violence, CUAC determined early in the project that it would not seek specific case studies, and instead attempt to identify common issues and trends. CUAC welcomed case studies if research participants offered to provide them. In the interest of disclosure and confidentiality, CUAC has not specifically named utility providers<sup>4</sup> or research participants' sources. CUAC has instead used generic identifiers within the report.

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<sup>4</sup> CUAC has only specifically referred to Yarra Valley Water in *Chapter 5* to identify best practice. This was based on an interview with Yarra Valley Water and the experiences of research participants.

# CHAPTER 1: EXPLORING WOMEN'S EXPERIENCES OF ECONOMIC ABUSE IN THE CONTEXT OF UTILITIES

National statistics indicate that one in three Australian women will experience family violence in their lifetime,<sup>5</sup> and it is conservatively estimated that economic abuse occurs in at least 50 per cent of family violence cases. That means roughly two million women in Australia are victims of family violence and economic abuse.<sup>6</sup> In Victoria, economic abuse was found to be particularly prevalent, with one study reporting 80 per cent of domestic violence victims as also being victims of economic abuse.<sup>7</sup> The statistics indicate that due to the prevalence of this issue in the community, that regulators and utility providers should give consideration to the implications for law and process.

## Economic Abuse Defined

Economic abuse is a form of family violence that is recognised under Australian law,<sup>8</sup> and is broadly defined, often in terms of the behaviours of the person perpetrating the violence.<sup>9</sup>

A recent Victorian-based report<sup>10</sup> on economic abuse recommended the following formal definition<sup>11</sup>:

*Economic abuse is a form of family violence that is used to control a woman's ability to acquire, use and maintain economic resources, thus threatening her economic security and potential for self-sufficiency.*

Economic abuse can also be defined as<sup>12</sup>:

*Complete control of all monies, no access to bank accounts, providing only an inadequate 'allowance', using any wages earned by the victim for household expenses.*

Economic abuse is a long term problem that can often be perpetuated long after a woman has left a violent relationship.<sup>13</sup> It can undermine an abused woman's efforts to become economically

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5 Kildonan UnitingCare, *Economic Abuse: Utility Customer Financial Hardship*, p.i.

6 Ibid. Good Shepherd Youth & Family Service and Kildonan UnitingCare provided this estimate based on the statistic that one in three women in Australia experience domestic or family violence in their lifetime, and the Australian Bureau of Statistics reporting that in 2011, there were 11.2 million women living in Australia (Australian Bureau of Statistics 2012), and that 50 per cent of those women have experienced economic abuse.

7 Evans, I. (2007), *Battle-scars: long-term effects of prior domestic violence*, Centre for Women's Studies and Gender Research, Monash University, Clayton. A study conducted on 134 women.

8 Kildonan UnitingCare, *Economic Abuse: Utility Customer Financial Hardship*, p.1.

9 Macdonald, Fiona (2013), *Spotlight on Economic Abuse: A literature and policy review*, p.4.

10 Ibid.

11 Ibid. p.40.

12 Department of Social Services (2008), *Women, Domestic and Family Violence and Homelessness: a synthesis report*, p.5.

13 Good Shepherd Youth & Family Service, Kildonan UnitingCare (2009), *Economic Abuse: Searching for Solutions*, p.40.

independent<sup>14</sup> and can also be a means by which an abusive partner continues to control a woman's life after separation.<sup>15</sup> The inherently private nature of a couple's household finances, combined with the stigma of family violence, can make it difficult for women to identify and report economic abuse.<sup>16</sup>

Economic abuse can take many forms. It can include but is not limited to circumstances where an abusive partner has hidden jointly earned money, prevented the woman from having access to joint bank accounts, lied about shared assets, and withheld information about their finances.<sup>17</sup> All of these tactics are instrumental in an abusive partner's efforts to control a woman's ability to make use of her own or shared economic resources.<sup>18</sup>

*"With family violence often the partner can be quite clever. They will not put any bills in their name, even in circumstances where the woman earns no money and he is the sole earner."* – **Refuge Worker**

Financial dependence is a contributing factor that prevents a woman from leaving a violent situation. Studies have shown that economically dependent women are less likely to leave an abusive partner; that income is the strongest predictor of leaving or staying; and economic dependency is the primary reason women return.<sup>19</sup>

Economic abuse also affects women from all socio-economic groups, education levels and geographic locations.<sup>20</sup> Findings from CUAC's literature review suggest the demographics of vulnerability to economic abuse are similar to patterns of vulnerability identified for domestic violence more generally.<sup>21</sup> This includes:

- Young women aged between 18 and 24 years;
- Women in the periods prior to and following separation from a partner and during pregnancy; and
- Older women.<sup>22</sup>

Feedback from research participants revealed that women from middle class socio-economic backgrounds and women from Culturally and Linguistically Diverse (CALD) backgrounds, including recent immigrants, are particularly vulnerable to economic abuse.

*"Their self-esteem is so belittled and they feel so incapable that they've lost the way of how to control and run a household. I find if any woman will go back to their [abusive] partner it's [middle class] women."* – **Emergency Relief Worker**

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14 Ibid, p.1.

15 Macdonald, Fiona (2013), *Catalyst Paper 2: Credit, Debt and Economic Abuse*, p.2.

16 Good Shepherd Youth & Family Service, Kildonan UnitingCare (2009), *Economic Abuse: Searching for Solutions*, p.38.

17 Ibid.

18 Adams, Adrienne E. (2008), *Development of the Scale of Economic Abuse*, p.566.

19 Women's Health Goulburn North East (2013), *Financial Capability after Family Violence: Developing a Mentoring Response*, p.33.

20 Coorie, T., McGuire, M (2013), *Sharing Solutions Across Sectors: A Spotlight on Economic Abuse Research Report*, p.13.

21 Mouzous, J. & Makkai, T. (2004), *Women's experiences of male violence: findings from the Australian component of the International Violence Against Women Survey (IVAWS)*, Australian Institute of Criminology, Research & Public Policy Services, vol. 56, Canberra.

22 Macdonald, Fiona (2012), *Spotlight on Economic Abuse: a literature and policy review*, p.7.

*“A majority of our women come from a life where they had a husband, a good job, a mortgage and some investment properties. Seemingly they are normal households. They come in embarrassed with huge shame, and the fact that they can’t even pay their bills is a huge shame for them.” – Emergency Relief Worker*

In the long term, a woman’s inability to address and manage utility debts can further exacerbate her financial dependence by leading to a poor credit rating, insolvency or bankruptcy, and fees or penalties on the woman, even when part or all of the debt is a result of the abusive partner failing to meet their own liabilities.<sup>23</sup>

## **The Physical Impacts of Domestic Violence & Economic Abuse**

Domestic violence can have crippling psychological<sup>24</sup> and physical implications for a woman even long after she has left a violent circumstance. This includes affecting a woman’s sense of belonging, control and self-worth, self-confidence and self-esteem.<sup>25</sup> Relevantly, women often leave these relationships with limited experience or confidence in dealing with financial matters.<sup>26</sup>

For many women, the immediate effects of domestic violence and economic abuse are isolation from friends, family and community, and limited participation in the labour force. This inevitably affects a woman’s ability to generate independent financial resources to be in a position to leave their abusive partner and live an independent life.<sup>27</sup>

*“When you are going through the stress yourself, you don’t know where to start. All you know is the stress of getting away and not wanting to be abused anymore. They make you feel like you can’t survive without them, and you’re lost. You have people saying you need to do this or that. You’re in control, but at the same time, they make you feel that you’re so belittled, that you don’t know whether you are Arthur or Martha.” – Financial Counsellor*

Many women who escape an abusive relationship experience a decrease in their standards of living once they leave, end up living in poverty, depending on government assistance, or risk becoming homeless.<sup>28</sup>

Family violence related homelessness is a widespread and growing problem in Australia. The availability of housing for women fleeing domestic violence is limited as a result of economic conditions that have created a shortage of low-rent or affordable private housing and forced more people into the crisis, transitional or public housing system. The average waiting period for women seeking public housing after fleeing family violence is about two years.<sup>29</sup> Therefore, many women in

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23 Braff, Rochelle & Barrett Meyering (2011), *Seeking Security: Promoting Women’s Economic Wellbeing following Domestic Violence*, p.12.

24 Adams, AE; Sullivan CM; Bybee, D & Greeson (2008), *Development of the Scale of Economic Abuse*, p. 568 states: “Lower income women who endure chronic sources of stress have been shown to be at increased risk for depression, anxiety, chronic health problems, and poor general physical health.”

25 Ibid.

26 Macdonald, Fiona (2012), *Catalyst Paper 2: Credit, Debt and Economic Abuse*, p.2.

27 Department of Social Services (2008), *Women, Domestic and Family Violence and Homelessness, a synthesis report*, p.16.

28 Adams, AE; Sullivan, CM; Bybee, D & Greeson (2008), *Development of the Scale of Economic Abuse*, p.568.

29 Department of Social Services (2008), *Women, Domestic and Family Violence and Homelessness, a synthesis report*, p.43.

abusive relationships return to the abusive partner, and cycle in and out of homelessness and crisis accommodation.<sup>30</sup>

## **Economic Abuse in the Context of Utilities**

Substantial debts are often a consequence of economic abuse.<sup>31</sup> Research participants noted that it is common for an abusive partner to control utilities as a means to manipulate, control or punish a woman (e.g. cutting off the energy or water).

Avoidance of debts is also a common tactic among women who are currently living in a violent situation or who are recovering from a violent situation.

*“People won’t answer their phones when utility companies call, especially blocked numbers, and they will not respond to intimidating mail.” – Financial Counsellor*

This occurs for a variety of reasons, including that they have limited capacity to contact the utility providers and/or are overwhelmed when being confronted with paying household bills for the first time.

*“This woman came in with a big box that was wrapped like a present. After completing an assessment with her, she handed the box over to one of our workers just as she was walking out the door. She said, ‘I can’t deal with this, you do it.’ When we opened it we found it was a box full of unopened bills from the last three years.” – Emergency Relief Worker*

When women do make contact with utility providers it is usually at the stage of disconnection or when the account is with debt collectors.

*“Often we have people who have left the violent situation and down the track we get the call. In violent situations, we’re often the last ones who will hear about it.” – Tier Two Energy Retailer*

*“Clients first think of safety and often ignore the bills, it’s very common for us to see clients come in where they’ve racked up massive bills, fines and don’t know where to start. I’ve seen bills up in the thousands because debts have accumulated. The [Utility Relief Grants] don’t help, the bills will keep coming.” – Emergency Relief Worker*

Due to heightened vulnerability, research participants noted it is common for women to agree to take on the liability and debt when negotiating a new contract with their utility provider in order to move on from a violent situation or in order to establish a new residence and provide a safe and stable environment for their children.

## **Common Scenarios**

In order to investigate specific problems and identify solutions in relation to utility debts in the context of domestic violence, CUAC deemed it important to identify the scenarios that are most

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<sup>30</sup> Ibid., p.16.

<sup>31</sup> Macdonald, Fiona (2012), *Catalyst Paper 2: Credit, Debt and Economic Abuse*, p.1.

common to women in such a situation. CUAC has identified five scenarios commonly experienced by women who are victims of domestic violence and carry a utility debt. These scenarios are explored further in *Chapter 2* with respect to the legal framework that applies to them, and further in *Chapters 3 & 4* with respect to how utility providers structure their policies and apply them in practice to the women in these scenarios.

The scenarios include women who are victims of domestic violence who:

- **Scenario 1:** Are **still in the household**, their abusive partner has abandoned/disappeared from/been forced to leave the household and the **account is in the abusive partner's name**;
- **Scenario 2:** Are **still in the household**, their abusive partner has abandoned/disappeared from/been forced to leave the household, and they are **joint account holders**;
- **Scenario 3:** Are **still in the household**, their abusive partner has abandoned them/disappeared from/been forced to leave the household, and the account is **in their name only**;
- **Scenario 4:** Have **left an abusive household**, they are in living in a transitional situation (e.g. refuge), and the account is **in their name only**; and
- **Scenario 5:** Have **left an abusive household**, they are attempting to establish a new household; they are a **joint account holder** with their abusive partner from the previous household.

The above list was created based on findings from the literature review and the feedback received from research participants.

In **scenarios one through three**, the abusive partner may be 'forced to leave the household' for various reasons, including legal action such as intervention orders (IVOs) against them, the abusive partner being sent to jail, or being deported.

**Scenario two** was identified as the most common circumstance among all research participants.

With respect to **scenario three**, a majority of the participants noted that often women are unaware that the utility debt/account is in their name until after the abusive partner has left/abandoned the household. Feedback from research participants and a review of sources from the literature review indicated it is common for an abusive partner to put the utility bills in the name of the woman without their knowledge or consent.<sup>32</sup>

With respect to **scenario four**, women often flee an abusive household with no documentation of liabilities or utility bills, which can complicate the ability to track or manage debts.

A majority of research participants noted that women contact them at the point of crisis or during a relationship breakdown. Thus, none of the scenarios listed pertain to circumstances where a woman is currently living with her abusive partner. Research participants also noted that there is not much of

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<sup>32</sup> Preliminary findings from a Women's Information & Referral Exchange (WIRE) research project into financial abuse in the context of family violence in Victoria found that it was common for women who have experienced financial abuse to have their partner put the utility bills in their name; it was ranked 9 of the 10 most commonly experienced forms of financial abuse by respondents to the online survey. This report will be published by WIRE in August 2014.

a distinction between women who are currently living in a household with violence and when the violence has ceased insofar as it relates to economic hardship.

There are common themes and challenges that stem from each of these scenarios (e.g. consent or confidentiality) that will be explored further in *Chapter 4*.

# CHAPTER 2: SYSTEM DESIGN: LEGAL AND REGULATORY FRAMEWORK

## Applicable Laws

This chapter examines the legal principles that apply to each of the scenarios of domestic violence outlined in *Chapter 1*, with respect to the liability for utility bills. The scenarios include situations where a woman is in the household without the abusive partner and the bills are singly/jointly/or not in her name, and when the woman has left the household and the bills are singly/jointly in her name. The current legal framework applicable to utilities and the payment of utility bills in these complex situations of domestic violence is labyrinthine.

As will become clearer below, both the legal and operational procedures provide opportunities for utility providers to pursue debts from both or either party to the domestic breakdown, without regard to their unique circumstances. Relevantly, women in these circumstances are particularly vulnerable because of the economic abuse they are experiencing and the potential for that economic abuse to be perpetuated. Each jurisdiction has its own applicable rules, legislation and subordinate instruments that govern utility contracts.

## Energy & Gas

The applicable rules, legislation and subordinate instruments that govern contracts between energy retailers and consumers in Victoria include:

- *The Energy Retail Code* version 10a (December 2013)
- *The Energy Retail Code* version 11 (October 2014)
- *The Electricity Industry Act* (2000)
- *The Gas Industry Act* (2001)
- Australian Consumer Law
- Australian contract law, comprising of common law and equitable principles.

In this chapter CUAC will examine version 10a of the *Energy Retail Code* as it applies to energy contracts in Victoria. It is anticipated that Victoria will adopt the *National Energy Customer Framework* (NECF) at some point in the future with a view to national harmonisation of energy regulation. The NECF is a customer protection framework for the retail sale of energy to residential and small business energy customers. The NECF brings whole energy supply chains under regulation with the Australian Energy Regulator (AER) overseeing compliance and enforcement regime across all participating states and territories and the Australian Energy Market Commission overseeing the rules. It has commenced in the Australian Capital Territory, Tasmania, South Australia and New South Wales.

Version 11 of the *Energy Retail Code* which incorporates a significant number of the *National Energy Retail Rules*, “harmonised” for operation prior to the full NECF coming into operation, has been released by the ESC. Although version 11 does not become operative until 13 October

2014, the ESC has stated that retailers may be 'compliant' with either version 10a or 11 between 15 July 2014 and that date.

A high level review of version 11 of the *Energy Retail Code* reveals that there are areas which may create additional barriers for victims of domestic violence receiving financial assistance when experiencing financial hardship and payment difficulty. The changes contained in version 11 of the *Energy Retail Code* as it relates to consumer protections is an area that requires further review; CUAC will be exploring this further this year. This is relevant to the accessibility of financial hardship programs which is discussed further in *Chapter 3*.

CUAC has reviewed the regulations with respect to the NECF and how they would apply to the scenarios. The legal content of the NECF is contained in:

- *National Energy Retail Law, Rules & Regulations* (April 2014).

## **Water**

Unlike the energy and gas industries, the obligation to pay for water usage is governed by statute and the customer charter of a water business, as opposed to a contract. Specifically, the rights and responsibilities of the water businesses and customers are outlined in the customer charter of each water business. The water codes and *Act* impose obligations on water businesses as they relate to servicing a property, whereas the *Energy Retail Code* imposes contractual obligations between an energy retailer and a customer. This is an important distinction as it relates to the recovery of debts.

With a few exceptions, the provision of service by water businesses to domestic homes is managed upon the land being declared as a serviced property, and is then provided in accordance with statute. Generally, the statutes provide for a regime whereby the *occupier* of a property is liable for water usage, and it is the responsibility of the occupier to notify a water business when they have left the premises. Similarly, it is the responsibility of a new or remaining occupier to notify a water business that they currently occupy the premises. The landlord is not liable for any charges on the property unless otherwise contracted with the occupier.<sup>33</sup> In the event there is an outstanding balance on an account, the water business may pursue the previous occupant for the debt through legal action.<sup>34</sup>

The applicable legislation that applies to water businesses and their customers are contained in:

- *Customer Service Code for Victorian Urban Water Businesses* (July 2013)
- *The Rural Water Customer Service Code* (December 2012)
- *Water Act* (October 2010)<sup>35</sup>
- *Residential Tenancies Act* (1997).

## **Other Legal Principles**

Finally, it should be noted that there are various legal principles that may entitle the woman to make claims against her former partner with a view to recovering part or all of her utility debts. For

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<sup>33</sup> *Residential Tenancies Act* (1997), s. 53(2).

<sup>34</sup> *Customer Service Code for Victorian Urban Water Businesses* (2013), s. 7.1.

<sup>35</sup> These arrangements are not being changed under the *Water Bill* (2014).

example, equitable principles, contribution rights, family law, and/or restitutionary claims may apply in each of the scenarios. However, for the purpose of this report, these are not explored in detail because they are considered costly and slow solutions that are impractical and risky at a point of crisis.

What is relevant to this discussion is who the utility provider initially pursues for the debt, insofar as it relates to the perpetuation of economic abuse and hindering a woman's ability to re-establish herself. Accordingly, this chapter addresses the legal and regulatory frameworks that apply to utility providers directly pursuing debts in each of the scenarios.

## Dispute Resolution

When a customer has a dispute with their utility provider, they can lodge a complaint with the Energy and Water Ombudsman (Victoria) (EWOV). The EWOV oversees dispute resolution processes in accordance with its *Charter*, which relevantly provides:<sup>36</sup>

*"The Ombudsman, in handling complaints, must pursue them in a fair, reasonable, just, informal and expeditious manner having regard to the law and licences, industry codes, deemed contracts and good industry practice applicable to the relevant Participant."*

Upon receiving a complaint, the EWOV will investigate and attempt to facilitate a conciliated settlement. If a settlement is not achieved, the *Charter* provides that the EWOV "*shall resolve a complaint,*" by making a binding decision.<sup>37</sup> Binding decisions are automatically binding on the utility provider, but the complainant may elect not to accept the decision.<sup>38</sup>

The Ombudsman may publish a binding decision provided he/she does not identify the parties to the dispute.<sup>39</sup> It should be noted that the outcome of a binding decision can be a maximum of \$20,000 in value, or up to \$50,000 in value if both parties consent.<sup>40</sup> However, consent has rarely, if ever, been given by the utility providers and no binding decisions have been made by the EWOV since 2003.<sup>41</sup>

## Common Scenarios

In this section, CUAC will primarily focus on how the *Energy Retail Code* applies to each scenario. In most instances, the water codes, the *Water Act* and the NECF are similar in their treatment of these circumstances.

**Scenario 1: A woman is still in the household,** her abusive partner has abandoned/disappeared from/been forced to leave the household and the **account is in the abusive partner's name.**

In this scenario, often the abusive partner will leave with an accumulated unpaid debt in their name.

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36 Energy and Water Ombudsman (Victoria) *Charter* (2006), s.5.1.

37 *Ibid.* at s.6.1.

38 *Ibid.* at s.6.1.

39 *Ibid.* at s.6.2.

40 Energy and Water Ombudsman (Victoria) *Charter* (2006), s.8.1.

41 Found at: <http://www.ewov.com.au/publications-and-media/archive/binding-decision>.

With respect to energy bills, typically, the legal doctrine of privity of contract would apply. The privity of contract doctrine provides that, subject to exceptions, only persons who are parties to a contract are subject to its terms.<sup>42</sup> This means that, given the woman is not a party to the contract, she cannot be held liable contractually for the debt, and the transferring of the debt to the woman should therefore not be allowed.

Under the *Energy Retail Code*,<sup>43</sup> the *National Energy Retail Rules*,<sup>44</sup> the *Electricity Industry Act*,<sup>45</sup> and *Gas Industry Act*,<sup>46</sup> the woman may become liable for the utility usage incurred **after** the abusive partner has vacated the property by virtue of a 'deemed contract', also referred to as a 'default contract.' A *deemed contract* is a new contract that applies to a resident who commences living in a residence, and is using energy or gas but has not entered into a contract with a retailer; the *deemed contract* exists between the customer and the retailer with billing rights for the property.

While it could be interpreted that anyone who occupies the premises, and is not contracted with an energy retailer, could be subject to a *deemed contract*, the relevant laws provide that a *deemed contract* applies to circumstances where there is a change in residency such that the person contracted with the energy retailer no longer lives in the residence, and energy is still being consumed by a new resident. The *deemed contracts* are limited in time, and energy retailers are expected to seek to establish a standing offer or market contract with the occupants prior to their termination.

In summary, it would therefore seem that energy retailers cannot legally require a woman to assume liability for the previous debt in the abusive partner's name, or in other words, 'transfer the debt.' The energy retailer should seek recovery from the abusive partner, even if the woman was also residing in the household when the debt was accumulated. At the point of the abusive partner's departure, the woman's liability for ongoing usage would commence pursuant to a *deemed contract*, and the previous contract terminated.

Under the *Water Act* and codes, *deemed contract* provisions are not explicitly mentioned, as the obligation to pay is governed by statute. However, similar to energy, the registered account holder/occupier remains liable until the date they vacate the property and provide notice to the water business,<sup>47</sup> and the new occupant (or in this case the woman) becomes liable and must provide notice that they are occupying the property.<sup>48</sup> The water regime allocates the onus of giving notice to the party that has an incentive to give notice, namely, the departing occupier.

CUAC's research has revealed that, in practice, energy retailers have sought to transfer the debt to the woman at the point at which the woman seeks to enter into a new contract with the same provider in her own name at that same address (discussed further in *Chapter 4*). Our research did not reveal instances of the transfer of debt with water businesses. Once the debt has been transferred, it is practically the woman's sole liability. If down the line the woman discloses that there was domestic violence, and she accepted the transfer as a result of economic abuse and

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42 *Trident General Insurance Co Ltd. v. McNiece Bros Pty Ltd* (1988) 165 CLR 107.

43 *Energy Retail Code* (2013), cl. 7.6.(c): If the retailer and another customer enter into a new energy contract of the supply address (which may be a deemed contract), the date on which the obligation to pay for energy under the new energy contract is effective.

44 *National Energy Retail Rules* (2014), Rules 53-54.

45 *Electricity Industry Act* (2000), s.39(2).

46 *Gas Industry Act* (2001), s.46(1).

47 *Water Act* (2010), s.273B.8.

48 *Ibid.*, s.273B.6.

vulnerability, it is unlikely that the energy retailer will revisit payments already received.

**Scenario 2: A woman is still in the household**, her abusive partner has abandoned/disappeared from/been forced to leave the household, and they are **joint account holders**.

With respect to energy bills, in this scenario, when the woman is a joint account holder with her abusive partner, she is jointly and severally liable for the debts. This means the energy retailer is entitled to hold her liable for part, or the full amount of the debt, and that any allocation of that debt between the two joint debtors is a matter for them to address separately. In effect, joint and several liability provides flexibility to the energy retailer enabling them to seek debt recovery at the first instance via the easiest route, which is often solely the woman.

Furthermore, common law principles dictate that a joint account holder is not able to be removed from the joint account without the agreement of other parties (e.g. consent), including the other joint account holder.

With respect to outstanding debts, when this scenario is addressed through dispute resolution at the EWOV, they would have regard to the law, but would use an approach that reflects an equitable solution and consider what is "fair and reasonable."

*"In scenarios where there is a joint debt, we will apply the law as the minimum standard. From a legal perspective, yes she's jointly and severally liable, but we look at the customer's circumstances and might say, [the utility provider] can chase this guy for the debt because you know where he is. It's not fair to try to recover the full amount from her. What's fair is to halve the debt and follow up with him for his portion of the debt."* – **Conciliator at the EWOV**

However, such a negotiation position effectively circumvents the contractual legal principle of joint and several liability. Accordingly, an energy retailer may challenge and dispute the EWOV's decision on this basis, in which case, unless the EWOV escalates the case and makes a binding decision, the energy retailer is legally entitled to pursue only the woman. As mentioned previously, binding decisions are rare, as none have been made since 2003.

In the event that the abusive partner leaves, the woman would be liable for past and future debts pursuant to the existing joint contract or a new contract once her abusive partner is removed from the account.

Similarly, the *Water Act* does not explicitly account for liabilities of joint account holders, and the parties are expected to manage their liabilities and responsibilities in the event there is a relationship breakdown (e.g. either party can notify the water business that the abusive partner has left the property). As a joint account holder, she is still responsible for past debts incurred on the property, and upon the water business receiving notice that the abusive partner has left the property, she is solely responsible for future debts.

Relevantly, neither of the legal regimes that apply to energy or water bills explicitly address the process for the termination of the joint account upon the departure of one joint account holder, even though, particularly in the case of the water regime, liability is tied to continued occupation and a vacating occupier ceases to be liable after notifying the water business.

**Scenario 3: A woman is still in the household**, her abusive partner has abandoned/disappeared from/been forced to leave the household and the account is **in her name only**.

In this scenario, in accordance with basic principles of contract law, the woman is contractually liable for the energy debt, and the *Energy Retail Code* does not alter that position. The liability for the water debt is similarly imposed under the *Water Act*.

In circumstances where the account was set up in the woman's name without her knowledge, there may be scope for her to claim the contract is void against her as she did not voluntarily enter the arrangement. In some cases the contract may have been entered into as a result of fraud.

Nevertheless, this scenario presents as the most difficult for the woman, as she is legally liable to the utility provider for the entire debt and, as a result of economic abuse, might have limited capacity to pay.

In this scenario (and subsequent scenarios) the EWOV notes it would have regard to the law, but would still consider what is fair and reasonable. Depending on the situation, the EWOV may not consider it fair for the utility provider to recover the full amount from the customer, especially if there are questions about how the account was established in her name alone, and if the utility provider has contact information for the abusive partner.

**Scenario 4: A woman has left an abusive household**, and she is living in a transitional situation (e.g. refuge), and the **account is in her name only**.

The woman would be legally liable to her utility provider for the debt up to the point of her departure and after giving notice, subject to what is discussed below.

With respect to energy, if the abusive partner is still in the household, under the *deemed contract* provisions, the energy retailer could then hold the abusive partner liable for energy consumption from the moment the woman has vacated the property.<sup>49</sup> However, it is necessary for the energy retailer to be notified that the account holder has in fact left (see, for example, *Energy Retail Code* cl. 7.6(c)). Further, the customer must provide a forwarding address for the final bill after they have left.<sup>50,51</sup>

As discussed above, under the *Water Act*, the onus is also placed on the woman as the departing occupier/account holder to give notice, and she would continue to be liable until she gives notice of her departure or the point at which a new/existing tenant notifies the water business that they are occupying the premises.

As will be discussed further in *Chapter 4*, women who have left an abusive household and are at a point of crisis face difficulties complying with these requirements, meaning that in practice, their liability to pay utility bills may continue to accumulate after they have left.

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<sup>49</sup> *Energy Retail Code* (2013), cl.7.6(c); *National Energy Retail Rules* (2012), Rules 53-54.

<sup>50</sup> *Ibid.* at cl.7.6(a).

<sup>51</sup> *Customer Service Code – Urban Water Businesses*, cl.12.10: A water business must use reasonable endeavours to keep each customer informed of the customer's material obligations under law including: (a) to pay charges incurred after vacating a property unless a water business is given at least 48 hours notice of the customer vacating the property.

**Scenario 5: A woman has left an abusive household,** she is attempting to establish a new household, and she is **a joint account holder with her abusive partner from the previous household.**

Similar to scenario two, the woman is jointly and severally liable for the debt up until the point she is removed as a joint account holder, and may be pursued for all of the outstanding bills.

However, in this scenario, the woman is attempting to establish a new household independently, and requires her liability for the previous joint account to cease at the point of her departure and her outstanding debts on the account resolved.

As above, with respect to energy bills, typically a joint account holder requires the agreement of the other parties to remove herself from the account, including the other account holder. In practice, in order to remove herself as a joint account holder, the energy retailer will generally require notification from her, as well as the consent<sup>52</sup> of the other joint account holder to remove her.

The legal position is not clear in this regard. Ideally the contract or applicable laws would address the question of requirements for termination where there are joint account holders, but this is rarely, if ever, the case. The *Energy Retail Code* does not address the issue.

Similarly, while the *Water Act* specifies that a 'vacating occupier' is no longer liable once notice has been given, the statutes do not address the issue of termination by one joint account holder upon that person vacating the property, with the man remaining.

Accordingly, women in such scenarios, generally face issues with uncertainty and consent – in that the abusive partner may be required to be involved. They also face risks associated with outstanding bills and confidentiality, in that the energy retailers require new addresses to follow up outstanding amounts on joint accounts (which is discussed in *Chapter 4*). In some circumstances disclosing a new address can pose significant privacy and welfare concerns for a woman leaving a violent situation.

## **Other Relevant Legal Principles**

The laws that address privacy, confidentiality, and consent are contained in:

- The *Privacy Act* (1988)
- Australian Privacy Principles (2014)
- The *Information Privacy Act* (2000) (Vic)
- Information Privacy Principles (2000).

### ***Privacy & Consent***

Energy retailers are required to protect account holders' personal information under the *Privacy Act 1988* (Cth) (the Privacy Act), *Australian Privacy Principles* and the *National Electricity Rules*.<sup>53</sup> For

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<sup>52</sup> The *National Energy Retail Law* (2013), rule 38 requires explicit informed consent for certain transactions relating to market retail contracts, however it does not address situations where there are joint account holders.

<sup>53</sup> *National Electricity Rules* (2014), s.8.6.1.

water businesses, the *Information Privacy Act* and the Information Privacy Principles impose similar obligations.

Research participants noted that, in circumstances where a woman wants to change or remove a name on an account, utility company representatives have referred to privacy policies when refusing to change account details.

*“When the abusive partner has been forced to leave and everything is under [the abusive partner’s name], that’s an issue for utilities because it becomes difficult for the client to access any hardship program. And it’s almost impossible to change the name on the account; [utility providers] will often cite privacy concerns.”* – **Financial Counsellor**

The *Privacy Act* sets standards for the collection and disclosure of personal account information, and requires energy retailers to publish a compliant privacy policy. In practice, this can include requiring security prompts to identify account holders (e.g. name, address, telephone number and email address), prior to discussing the account.

The requirements under the *Privacy Act* and the privacy policies of energy retailers can in some cases work for and in some cases work against women who are in circumstances of domestic violence. For example, in scenarios where a woman is a joint account holder, the energy retailer may require the consent of her abusive partner as a joint account holder to make changes to the account (e.g. remove her name from the account). In scenarios where the abusive partner has abandoned the household or disappeared, obtaining his consent to alter the account can be difficult and increase the risk of violence for women attempting to make a fresh start (as discussed further in *Chapter 4* and in scenarios 1, 2 & 5 above).

## **Comprehensive Credit Reporting**

In accordance with recent changes to the *Privacy Act*,<sup>54</sup> certain licensed credit providers will be permitted to share comprehensive credit information of their customers.<sup>55</sup> The previous laws limited credit providers to report *negative data* (e.g. payment defaults or serious infringements). The recent changes allow for more extensive personal, credit-related information to be reported to credit reporting bureaus, which is then shared with other licensed credit providers (e.g. the type of consumer credit information, the date an account is entered into and terminated, the terms and conditions of repayment, and repayment history information).<sup>56</sup>

The amendments currently only apply to entities that are defined as licensed credit providers by the Australian Securities & Investments Commission. Neither utility providers nor telecommunications companies currently fit within this definition. However, agencies raised concerns that there is scope for utility providers to eventually be able to obtain this information.

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<sup>54</sup> Effective 12 March 2014.

<sup>55</sup> *Privacy Act* (1988), PART IIIA.

<sup>56</sup> Office of the Australian Information Commissioner (2013), *Privacy business resource 3: Credit reporting – what has changed*.

*“There will be a trend of [the utility providers] doing more positive credit reporting. They are definitely moving towards that but it has not been blanket across the field. [The utility companies are] wanting to do more credit checks.”* – **Financial Counsellor**

*“People are worried about being denied access to essential services based on credit reports.”* – **Financial Counselling Australia**

Currently, it is not standard practice for utility providers to run background credit checks on women who apply to establish an account, however, there are some instances in which they will do so, prior to establishing an account. In these cases, only *negative data* (discussed above) would appear with respect to utility bills.

# CHAPTER 3: RETAILER PRACTICES: BARRIERS FOR PEOPLE EXPERIENCING HARDSHIP & PAYMENT DIFFICULTIES

## Introduction

This chapter assesses the feedback received from agencies and the hardship departments of utility providers as to common barriers for people experiencing hardship and payment difficulty.

Utility providers vary in their approach to hardship policies and practice. They each have their own methods of dealing with joint billing, payment methods, waiver of debt, billing cycles, late payments, disconnections, restrictions and reconnections, but are subject to regulation.

While *Chapter 2* discusses the legal framework and the legal options available to the utility providers, this chapter explores the hardship policies of the utility providers and how they are implemented in practice, as experienced by agency workers and women themselves. It begins by identifying key barriers to accessing the hardship departments of utility providers, and then identifies additional barriers for women seeking to 'move on' from domestic violence when they first make contact with their utility provider (key barriers for women who are victims of domestic violence are discussed in further detail in *Chapter 4*).

## Accessing Payment Difficulties & Hardship Responses

There are a variety of circumstances which can lead people to finding themselves in financial hardship. Financial hardship assistance is intended to cover a period of time from when a customer cannot meet their normal repayments of a bill, to the point when their financial position is restored.<sup>57</sup>

Some research participants noted that the responsiveness of a hardship department depends on the tier of retailer they are dealing with. With respect to the hardship policies themselves, circumstances of domestic violence would satisfy the criteria for payment difficulty of tier one energy retailers in order to be referred to a hardship department or be accepted in a hardship program. However, most energy retailers do not explicitly list domestic violence or family violence as a criterion for hardship.<sup>58</sup> Similarly, most tier two energy retailers use broad language that could encompass circumstances of domestic violence in their hardship criteria such as 'changes in personal circumstances.'

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<sup>57</sup> Australian Bankers' Association Inc. (2013), 'Doing it Tough?'

<sup>58</sup> Energy Australia's hardship policy permits someone to enter hardship when the customer is "suffering severe hardship or a major personal crisis"; AGL's hardship policy is more descriptive in its criteria relating to family violence, stating that their Staying Connected program is available to residential customers experiencing 'temporary or long-term financial difficulty' in circumstances where there is "separation, divorce or other family crisis"; Origin Energy's hardship policy has no set eligibility criteria for entering the hardship program.

Of the water businesses CUAC examined, only South East Water uses explicit language in their hardship policy, listing ‘family conflict and violence’ as a circumstance that can contribute to a person’s inability to pay. Similar to the energy retailers CUAC examined, a majority of the water businesses use broad language outlining their criteria for hardship in their policies.

Based on the experiences shared by research participants, the comprehensive nature of a hardship policy is not necessarily indicative of a utility provider’s staffs’ ability to identify hardship or address circumstances of domestic violence as a circumstance worthy of hardship.

*“We do see institutionalised mechanisms with some companies. Once we disclose family violence they will recognise it as a special circumstance and work with you. Lower tier (energy) retailers are less likely to.” – Financial Counsellor*

### ***A Matter of Proof: is it proof of payment difficulty or domestic violence?***

Utility providers varied in policy and practice with respect to requiring proof of payment difficulty in order to enter a hardship program. With respect to domestic violence, a majority of the energy retailers stated they would not require additional proof to be accepted in a hardship program, and will take the customer at their word and ‘at face value’ in the event it is disclosed. None of the water businesses CUAC interviewed require proof of domestic violence in order to be referred to a hardship department or to be accepted in a hardship program.

The hardship policy of a tier one energy retailer explicitly states that they “may need supporting evidence” to prove a major crisis. When CUAC spoke with this retailer regarding domestic violence, they indicated that they would take any proof of domestic violence as contributing to financial hardship, particularly if it is coming from a trusted source (e.g. police, financial counsellors or someone in the community with authority).

However, the feedback from agencies was mixed with respect to their ability to interact with utility providers on someone’s behalf as a trusted and respected source.

*“With one client I had to prove they were in crisis. Our letterhead should be good enough, we are not going to make up rubbish.” – Emergency Relief Worker*

*“Where there’s a will there’s a way, and you fight as much as you can...as long as you have supporting documents.” – Financial Counsellor*

As will be discussed further in the *Conclusion*, CUAC is of the view that no customer should have to disclose or provide proof of domestic violence in order to be referred to a hardship department and that an indication of payment difficulty should be sufficient. However, in circumstances where women do indicate violence as the basis for payment difficulty, companies should respond accordingly and treat it as a special circumstance that does not require proof, for the reasons outlined above.

### ***Agency Representation on Behalf of Clients***

Some agencies also noted procedural challenges with respect to being recognised as having the authority to act on someone’s behalf. Almost all of the financial counsellors interviewed had direct contacts within the hardship departments. However, a majority of emergency relief workers, refuge

workers, and lawyers had difficulty accessing or negotiating with hardship departments of utility providers.

*"A lot of times the authority to act form is not good enough. But it depends on the company."* – **Emergency Relief Worker**

Overall, it was noted that in circumstances where domestic violence is disclosed, providing the 'proof' of domestic violence to be referred to a hardship department or be accepted in a hardship program can be very challenging.

*"Often there is no proof of family violence. So we go to secondary things that the family violence may have caused such as health conditions, a reduction in income that was caused by the violence."* – **Financial Counsellor**

### **Long Processing Times**

For all utility providers, call centre staff are the first point of contact prior to accessing the hardship department. The ability of financial counsellors to access hardship departments quickly, in comparison to other agency workers was attributed to established and ongoing relationships in the hardship departments of utility providers that were developed over time.

However, a majority of emergency relief workers, refuge workers, and lawyers experienced lengthy wait times before their call reached the appropriate person within a hardship department (on average processing times ranged from 1.5 – 2 hours).

*"[An energy retailer] I dealt with was terrifying on the phone. It was so difficult to get through to anyone. They sent me from the credit department, then to the hardship team, and back to the credit department. At first they told me I had no authority to speak on the account even though I had sent letters, and not only that, I had called them in the previous week with regards to this account."* – **Lawyer**

The inability to be directed to the hardship department quickly creates additional challenges for women who are directly contacting the utility providers at a time of crisis who might have limited emotional capacity to endure long wait times. Pre-paid mobile phones were identified as an additional barrier for women who experience long wait times, as many of the women cannot afford to stay on the line long enough to resolve their debts.

*"A lot of women I see are living in a fair amount of chaos, and they may be living with friends or relatives. They are still traumatised. Often they have so many phone calls they have to make to crisis services, the children's schools...just so many people to contact to give information to."* – **Counsellor**

### **Agency Access**

For the agencies that advocate on behalf of women in these circumstances, there is also a limited capacity to manage lengthy calls and processing times. As noted above, the ability to access the hardship department of a utility provider often depends on pre-existing relationships. Financial

counsellors interviewed had more formal access to hardship departments, compared to lawyers or emergency relief workers.

Emergency relief workers were less likely to have formal access to hardship departments due to limited resources or ongoing relationships, or because they are often working in a volunteer capacity.

The inability of agencies to access hardship departments quickly has the potential to contribute to inconsistent results for the women themselves.

*“Often I’m on hold for an hour before I can get to the right department. Demand is high and resources are limited, the longer we are on hold the less we can help other clients.” – Emergency Relief Worker*

*“Dealing with the energy companies is bad, I went to the hardship team of one company and they still said no. That complaint was circulated to a number of people. It took them three months to come back to us on this and in the end they said no. Most of the time they said they were not getting the letters I sent through. I made a point to stay on the phone as long as possible to resolve these issues to see how long it would take. I finally took it to the EWOV and they cleared the debt straight away.” – Lawyer*

A contributing factor to lengthy processing times noted by most agencies related to improper contact note collection. Contact notes are the notes taken by the staff of the utility providers in relation to an account. This poses two challenges for women in circumstances of domestic violence: it prevents account holders who have previously disclosed domestic violence from being directed to the hardship team in a timely manner, and it requires women and/or their advocates to re-tell their circumstances to multiple people. Having to re-tell a story is particularly concerning in circumstances of domestic violence for women in crisis (this will be discussed further in *Chapter 4*).

However, all utility providers who participated in the research noted that they do collect thorough contact notes to assist with their processes.

*“We need the [contact] notes for our own research so they don’t have to repeat a story. We try to build a rapport with someone if they ring and disclose that kind of information, we want to get it right.” – Tier Two Energy Retailer*

Based on the mixed feedback from research participants, it was clear that while utility providers may collect comprehensive contact notes, not all staff review them prior to speaking to customers or directing a call.

## **Poor Frontline Customer Service**

Research participants identified poor front line customer service as a key barrier to accessing hardship departments for women who are seeking to address utility debts.

### ***Understanding & Empathy***

An overwhelming number of research participants spoke of a general lack of empathy and understanding of domestic violence when interacting with utility providers. This experience is

reported notwithstanding the fact that many utility providers state a commitment to 'empathy' and 'compassion' in their hardship policies.

*"I've literally had someone say to me, we are not a charity. They don't understand the person could get physically abused if the perpetrator found out (the bills are high). The woman is trying to keep the place going, and the man is unaware they owe money."* –

**Financial Counsellor**

*"I had one woman at a call centre say, 'I've had a hard life too.'" –* **Emergency Relief Worker**

*"Quite often I speak to creditors and they say 'this woman is erratic.' They may be homeless and have nowhere to go, or in the house and panicking. Put yourself in their shoes and understand what it's like. It's not their fault their partner has chosen to control them like that. They are not the perpetrator; they are the victim. They need a little understanding of what it's like to be a victim so they can negotiate rather than dictate."*

– **Financial Counsellor**

This is particularly a concern with respect to the moment when women in crisis first make contact with a utility provider.

*"Often women want to deal with [utility bills], but when family violence happens they are emotionally drained and afraid. They may make contact initially with utility companies but get intimidated and drop off. That initial phone call where they want to talk to someone is critical."* – **Refuge Worker**

Circumstances where a woman is a joint account holder were also identified as particularly challenging to manage by research participants. One financial counsellor noted that there is a general lack of understanding of domestic violence as being relevant to the discussion.

*"When dealing with outstanding bills, they ask, 'What does the other person think about this? His name is on the bill, shouldn't he know about it?'" –* **Financial Counsellor**

Relevantly, and as discussed above, when assessing if a customer qualifies for a financial hardship program, a common experience among agencies was a significant lack of understanding of hardship and domestic violence by the hardship department of some utility providers. This poor understanding has produced inconsistent results for many women.

*"Once you speak to the right person, they are prepared to workshop solutions. Realistically, they do not get it."* – **Financial Counsellor**

*"The wrongful disconnection payment has been in place for ten years. That's a long time for retailers to get their head around what hardship looks like, and they still haven't in many instances."* – **Conciliator at the EWOV**

*"The frustrating thing I find is, even if it's in her name and the relationship breaks down, and you say it was because of family violence, there has been a decrease in income and the person needs a payment arrangement, they will just say it's only been in her*

*name, what's happened doesn't matter so she just needs to pay. They still don't take family violence into account.*" – **Financial Counsellor**

Consistent with these experiences, a common view expressed by some of the utility providers who participated in CUAC's research was that disclosure of domestic violence is not relevant to debt recovery.

Almost all agencies noted that water businesses generally have a much clearer understanding of hardship, payment difficulty and domestic violence as a circumstance worthy of economic hardship consideration.

*"Water is a lot easier to get assistance with. They will put an extension in place or arrange a lower payment plan, or for a customer to make ongoing payments over a long period of time. Overall they are more sympathetic."* – **Emergency Relief Worker**

### **Disclosure**

In order to be accepted in a hardship program of a utility provider, disclosing a change in personal circumstance is essential. As noted above in the section *A Matter of Proof*, CUAC is of the view that domestic violence need not be disclosed in order to be referred to a hardship department, and that payment difficulty should be sufficient.

Many of the utility providers interviewed noted that domestic violence is rarely disclosed. A tier one energy retailer declined to participate in CUAC's research, stating that domestic violence is not a common issue they encounter among their clients, and that it is not relevant to payment support. By contrast, a tier two energy retailer who participated in CUAC's research noted disclosure of domestic violence as among the top four reasons people request financial hardship assistance.

Many of the utility providers stated the potential reason for limited disclosure as being due to the fact that people will prioritise making contact with other creditors before contacting their utility provider.

*"People will contact the banks first [to handle mortgage issues] because people see it as losing the roof over their head as their first priority when in hardship. Even the financial counsellors [would prioritise us] later in the process."* – **Tier Two Energy**

#### **Retailer**

*"Usually they deal with their utility debts later; it can be up to six months later, because they will not identify family violence straight away."* – **Tier Two Energy Retailer**

The responses from the agencies varied as to whether women readily disclose circumstances of domestic violence when managing their utility debts.

*"For family violence survivors the biggest barrier is disclosure on their own behalf. It's pretty unlikely they will ring up a utility company and disclose the reasons they haven't paid the bill."* – **Financial Counsellor**

*"[Domestic violence victims] are identifying, and [utility providers] aren't listening."* – **Financial Counsellor**

*"I find it hard to believe they are not identifying. The amount of clients I've written letters for outlining abuse, I'm dumbfounded they can say that. We've had up to 25-30 cases in the last six months or less that outline domestic violence."* – **Emergency Relief**

**Worker**

In reflecting on the experience of their staff with managing calls, the EWOV attributed this experience as relevant to encouraging disclosure.

*"It's the more senior people with more experience who know to ask the questions, who hear things that sound like red flags to them, and ask further questions. We often will not just look at situations as black and white but examine all contributing factors. We acknowledge people will always have multiple issues (e.g. mental and physical health, fear of safety)."* – **Conciliator at the EWOV**

Many research participants identified the inadequate training of call centre staff as a clear factor in either encouraging or inhibiting disclosure of hardship or domestic violence. However, all utility providers interviewed noted that call centre staff are trained to identify triggers for economic hardship. All research participants also noted that call centre staff are less experienced in identifying these triggers as compared to the staff in hardship departments.

The reasons given for these deficiencies were in relation to high turnover of call centre staff, and in some circumstances, offshore processing of call centre staff.

*"With hardship specifically there is a lack of institutional memory with the frontline responders. They often last 9-15 months in their roles and have limited expertise on how to identify people and a general lack of experience and understanding."* –

**Conciliator at the EWOV**

The EWOV noted there are also limited monetary incentives for a call to be escalated from the call centre to a hardship department.

*"From a retailer's perspective there are costs involved when you escalate a call to an advocacy team and then up to a hardship team. It could be cheaper and more efficient for them to have a call dealt with in a shorter period of time."* – **Conciliator at**

**the EWOV**

However, it is the view of some utility providers that it is not their responsibility to encourage women to disclose domestic violence.

*"It is up to the customer to give us as much information as possible. We're not social workers or financial counsellors. We can only identify people based on triggers, could be hardship or could be their income, it's up to the customer to tell us."* – **Tier Two**

**Energy Retailer**

*"There are sensitivities around whether you want to ask probing questions. How many questions would you need to ask? Is it what the customer wants to be asked?"* – **Tier**

**One Energy Retailer**

A common response among energy retailers interviewed with respect to whether their call centre staff would ask a woman whether she is experiencing domestic violence outright was that either it is not relevant to debt recovery, or that they do not want to make assumptions about a person's circumstance. There are no noted limitations in the *Privacy Act* that prevent a utility provider from asking whether a person is experiencing domestic violence.

# CHAPTER 4: RETAILER PRACTICES: BARRIERS SPECIFIC TO VICTIMS OF DOMESTIC VIOLENCE

## Introduction

This chapter will provide a close examination of barriers to payment difficulty and hardship as experienced by women who are victims of domestic violence and the agencies that assist them. Some of the scenarios noted in *Chapter 1* outline unique circumstances of domestic violence and economic abuse that might fall outside current hardship criteria. However, to date there are no specific internal processes or guidelines aimed at enabling victims of domestic violence to be accepted in a hardship program, and even in some cases, the current processes can prevent the women from accessing hardship programs (e.g. when they are joint account holders).

## Transfer of Debts

As noted in *Chapter 2*, an overwhelming number of agencies noted that utility providers attempt to negotiate a transfer of the previous debts prior to allowing a woman to establish a new account, regardless of whether or not she was a joint account holder on the original account.

*"They usually present the option to transfer the debt. They put a fairly weak argument that the client circumstance does not factor into anything, they have the capacity to pay and had knowledge of the account."* – Financial Counsellor

*"Especially if she has been authorised on the account in the past and she rings up to get a new connection, they try to transfer the old account."* – Financial Counsellor

*"They try to make the person pay all of the debt, often the victim won't say no because of fear for their safety, that's part of the abuse. They don't say the partner made me put it in my name, and often they can have a bad credit rating after."* – Emergency Relief Worker

Accepting liability for past debts was noted as a prevalent issue for diverse communities such as CALD communities and the Aboriginal and Torres Strait Islander communities in particular.

*"A common issue with our Aboriginal clients is they will say yes to everything, even when they don't understand. People will take advantage of that."* – Financial Counsellor

*"[For] people with non-English speaking backgrounds and asylum seekers, often both parties will have extremely low incomes, and the abused partner is reluctant to pass the burden of the debt to the abusive partner."* – Financial Counsellor

One agency noted that utility providers are hesitant to split the utility debts of joint account holders, and therefore will not attempt to recover the debt from the abusive partner.

*“We’ve tried to say we will offer her half of the debt and that you can chase him for the rest, but to leave the client alone. In most cases they will say no, she is joint and severally liable.” – Financial Counsellor*

*“If it’s in both names it doesn’t matter, if they are stuck in the family home she’s stuck paying it. If you don’t pay it ends up on your credit report. Women say they want to maintain a credit report so they just pay it.” – Financial Counsellor*

## **The Transfer of Debts to Debt Collection Agencies**

Given that women will not immediately contact their utility provider when experiencing economic abuse or in the aftermath of a relationship breakdown, often their accounts are closed and sent to debt collectors.

In some instances, research participants reported that even when the woman is in a hardship program and making regular payments, the debt is prematurely transferred to a debt collection agency. CUAC does not generally recommend the use of debt collection agencies to recover debt (we note there is a variance in debt collection practices) and instead recommend that utility providers establish an ongoing relationship with their customer base to assist them with managing their debts. It is worth noting that a research participant preferred dealing with debt collectors over utility providers because they had more flexible debt collection arrangements. However, other participants cited a much more rigid approach.

*“Debt collectors are easier to deal with. I would prefer to go to debt collection agencies. They will say okay, the client can only afford \$10 a month and that’s it. Whereas the [energy] company says once the bill has been issued, they have six weeks until it can be paid in full, how does that happen? If a woman can only pay \$10 a month so be it. It’s acknowledging they have to take responsibility for the bill. You also will have given her a bit of dignity.” – Emergency Relief Worker*

*“It’s quite hard to access hardship for closed accounts. The minute the account is closed out it becomes difficult in all instances, and particularly for family violence survivors, to access hardship. I put in an application to waive the account but I have no idea how it will go.” – Financial Counsellor*

A clear limitation of having large utility-related debts managed by debt collectors in circumstances of domestic violence is that any contact notes outlining the history or context of domestic violence would not be provided to the debt collection agency for reasons of confidentiality. Therefore these special circumstances would not easily be taken into account when negotiating payments unless the woman re-tells her story.

*“I don’t think it’s appropriate for debt collectors to be handling issues of family violence. They do not waive the debt or consider anything I say.” – Lawyer*

## Confidentiality & Consent

### **Confidentiality**

Confidentiality is a critical concern in circumstances of domestic violence, given the manipulative nature of these relationships. Both confidentiality and privacy concerns are a primary issue in all of the scenarios listed in *Chapter 1*. They are particularly important considerations in scenarios where a woman has left an abusive household and is attempting to establish a new life.

*"It's absolutely essential for abusive partners not to know where they are and maybe utility companies need to be creative. We have persistent, high-level offenders who gain access to information."* – **Refuge Worker**

The privacy policies of the utility providers are fairly comprehensive with respect to verifying account information prior to releasing any pertinent information. This is to comply with the relevant rules in relation to confidentiality.<sup>59</sup>

However, where there has been a family breakdown, it can complicate matters, particularly where the woman and abusive partner are joint account holders. It was noted that abusive partners are often able to circumvent relevant privacy protections because they have the personal information necessary (e.g. date of birth, email addresses, and phone numbers) to gain access to information on the account.

A few of the agencies, the EWOV, and utility providers interviewed, noted instances of fraudulent behaviour by the abusive partner where they use the personal details of the woman in order to disconnect the utilities or to set up an account. This will be discussed further below in the section on *consent*.

In circumstances where a woman has left a violent situation and is attempting to establish a new residence, agencies noted there is clear mistrust among women with respect to confidentiality.

*"I have seen situations where the woman has changed utility providers a few times while in the property and holds [a few] debts with top tier [energy] providers. When they are in a refuge they are worried about [which companies] they can connect with because they have old debts from [previous utility] providers. [They] don't want to connect with providers they were with, with the ex-partner because they are concerned about safety and their accounts getting mixed up."* – **Financial Counsellor**

The EWOV noted that when utility providers switch over their systems and have a data cleanse (e.g. establishing a new billing system or merging with another business), it can be problematic in the context of domestic violence, because errors can be made where bills are sent to an old address, or there is potential for a woman's current address to be revealed. This may pose a number of safety concerns for the women involved.

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<sup>59</sup> *The National Electricity Rules* require that the companies "use all reasonable endeavours to keep confidential any confidential information that comes into [their] possession or control," s.8.6.1(a).

Agencies discussed challenges when attempting to explain to utility providers why they cannot disclose the address of a refuge.

*“It was challenging for us to disclose where she was because she was living in a refuge. It took them a while to be okay with that. She made an arrangement for the bill to be sent to a post box of the refuge. They allowed for that but they acted as though this was all new to them.” – Refuge Worker*

Also, as one research participant explained, listing the contact details of the agency can result in an agency and its workers being threatened by an abusive partner when that information is disclosed to the abusive partner, either because they are able to access that information as a joint account holder, or the new forwarding address is detailed on the bill, and the bill is sent to the previous address where the abusive partner resides.

### **Consent**

The issue of consent is a primary concern in scenarios where a woman is a joint account holder with her abusive partner.

An overwhelming number of research participants noted that utility providers are not understanding of these circumstances or why obtaining consent is sometimes not only impossible (e.g. because the abusive partner has abandoned them or is in jail), but why obtaining that consent could be detrimental to the woman.

In circumstances such as **scenario five**<sup>60</sup> where the woman is a joint account holder, a first step for many agencies is to attempt to remove the woman’s name from the previous account and/or set up a new account in her name only. In these circumstances, agencies interviewed advised that utility providers often require the consent of the abusive partner before removing the woman’s name from the bill.

*“I had a client who had a relationship breakdown and had an intervention order out. I tried to get through to the energy company to get his name off the bill but had great difficulty. They said they needed to speak with him in order to do that. We then got the ex-partners name off the bill and the company wanted to move all charges over to the client.” – Financial Counsellor*

*“It takes a lot of work to get a name off an account, you have to provide a lot of documentation, even when we’ve provided police reports.” – Financial Counsellor*

The EWOV noted clear limitations in company processes that require the consent of a joint account holder, even in circumstances of divorce.

*“The utility companies are often not equipped within their hardship programs to mitigate that situation. It’s quite common that a divorced person does not want anything to do*

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<sup>60</sup> Scenario 5: a woman has left the abusive household, she is attempting to establish a new household, and she is a joint account holder with her abusive partner from the previous household.

*with their ex partner. In that way they are outdated in their policies.” – Conciliator at the EWOV*

An additional barrier for CALD communities and asylum seekers when it comes to the issue of consent is in relation to the use of interpreters. Research participants noted that utility providers are limited in their understanding of why it is necessary for an interpreter to be on the call to assist a client in negotiations.

*“I’ve been in a situation where I’ve had the interpreter in the room, I ring the company and they say they can’t be in the room. They just didn’t get it.” – Financial Counsellor*

Further, research participants noted situations where it was clear that a woman has had utility bills set up in her name unknowingly. In situations where a woman has limited capacity to negotiate, understand or consent to a contract (e.g. they have a limited understanding of the English language), an energy retailer should not attempt to hold her liable for a contract that could be legally void.

*“Women not consenting [to set up an account in their name] is quite common. I have a client in that exact situation. She had a utility debt and came to see me. She said she had no account but [the account] was in her name. She tried to ring the company but because of the language barrier she didn’t get anywhere. She didn’t understand why she owed a debt. They said she is liable because it’s in her name and it’s her address.” – Financial Counsellor*

*“I had one client who was disadvantaged because she could not speak English well at all, however, somehow the energy company went ahead and set her up with an account. According to them she had understanding enough to be able to pay.” – Financial Counsellor*

## **Accessing Concessions**

Agencies noted issues with accessing the appropriate concessions in order to assist clients in circumstances of domestic violence and economic hardship. In particular, numerous agencies mentioned clear inadequacies in the processing of the Utility Relief Grants Scheme (URGS) by utility providers.

This scheme is administered by the Department of Human Services (DHS), and is designed to provide assistance to low-income households in a financial crisis who are unable to pay for a utility account or an outstanding LP gas/bottled or carted water account.<sup>61</sup> Grant applications can apply to cover the cost of utility usage for up six months, at a maximum cap of \$500.

An overwhelming number of agencies noted that when they apply for the URGS on their clients’ behalf, there is often a delay in the processing of the URG, or in receiving the application. This is unfavourable to clients in crisis, particularly as their debt continues to grow.

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<sup>61</sup> Department of Human Services, *Utility Relief Grant Scheme Guidelines*, p.3.

*“Clients have to wait weeks and weeks for (the paperwork) to be sent out. If we call back it’s common for them to say they don’t know what happened. That means clients are waiting longer and longer and the next bill cycle will come and they will owe more. The turn-around time for clients’ needs is not quick or responsive.”* – **Emergency Relief Worker**

Some research participants noted that the burden of proof that utility providers require in order to receive the URG application is too onerous.

*“You have to give a blow by blow account of the client’s circumstance to get an URG. The companies would get their money quicker [through an URG] than they would get it from the clients, so they should be quicker about (their processes).”* – **Financial Counsellor**

Asylum seekers were also noted as a group that is particularly disadvantaged in their ability to apply and receive the benefits of the URGS.

*“We had a client who was an asylum seeker and a victim of family violence. It was really hard to get the URG sent out for her, in that they just didn’t have a way of sending out the URG without a healthcare card. Even when a worker explained the situation and contacted DHS, it still took us talking to the hardship department on two occasions and having the matter escalated for the forms to be released.”* – **Financial Counsellor**

Utility providers also varied in their flexibility and application of the URG. In order to maximize the use of the URG, one agency noted that water businesses will put an account on hold so that the full \$500 can apply over an extended billing period. Whereas the energy retailers will apply a limited amount of the URG to a limited bill cycle, thus allowing the remaining amount of the URG to go unused.

With respect to the URG criteria, there are some clear limitations for women who are in circumstances of domestic violence and require financial assistance to pay their utility bills. While the eligibility criteria notes “a recent decrease in income...caused by a breakdown of a household,”<sup>62</sup> it does not explicitly list domestic violence.

Some financial counsellors noted domestic violence is not a reliable basis on which to apply for an URG.

*“I’ve navigated the system for a few years so I know to focus more on the fact that there is a reduced income to the household. If I was calling to say a client is experiencing family violence, their response would not be as favourable.”* – **Emergency Relief Worker**

Another clear limitation to the URG relates to circumstances where a woman has fled family violence and is still liable for the utility debt at her previous residence. If a woman has abandoned the property, she is ineligible to apply for an URG in accordance with the DHS criteria.

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<sup>62</sup> Ibid., p.2.

*"It's a catch 22. A woman who has fled [her home] because of violence, [but cannot access concessions]. The utilities are in her name because the man is not stupid. There are real issues around timing. The reality is [the utility companies] will get their money. If they give slack to allow women to get back on their feet, as long as a financial counsellor is involved, they should allow it to happen."* – **Emergency Relief Worker**

# CHAPTER 5: BEST PRACTICE: AN INDUSTRY APPROACH

In an attempt to identify best practice with respect to how to manage utility debts for women who are victims of domestic violence, an overwhelming number of research participants remarked that Yarra Valley Water (YVW) is an industry leader. On this basis CUAC met with the YVW hardship team to discuss their policies and approach.<sup>63</sup>

Based on the feedback from the staff at YVW, CUAC has highlighted the following as key features of YVW's approach:

- **Taking People at their Word** - They do not require proof of domestic violence and will refer a woman to the hardship team as soon as the violence has been disclosed and work towards a solution in a timely manner.
- **Disclosure** - Once someone has reached the hardship team, they ask the questions that can provide a more comprehensive understanding of the circumstances surrounding hardship and encourage disclosure.
- **Establishing New Accounts** - The moment domestic violence is disclosed, they will create a new, private account in the woman's name and set up a payment plan that they can afford. In situations where the person is a joint account holder, if agreed they can split the debt, establish a new account in one of the party's names, and set up a sustainable payment plan.
- **A Flexible Approach to Hardship** - They will work with agencies (and especially financial counsellors) to reach favourable outcomes for clients. They are flexible to workshop solutions for the more complex scenarios (e.g. if the customer is identified as being in financial difficulty because of their unique circumstances at any point of the collection process they will be referred to the Customer Support Team [hardship team]). This flexibility is important given the often delayed disclosure that happens in circumstances of domestic violence. They are also flexible in their methods of contact with clients. This can be useful in sensitive circumstances of domestic violence where a woman may try to keep her interactions with them private (e.g. communication via email or text message).
- **Case Management** - They can case manage clients who have identified as victims of domestic violence. This enables a woman experiencing domestic violence to receive special consideration, consistency, and interaction with a single point of contact to manage her case. Additionally, the staff is trained in awareness and issues associated with domestic violence to handle calls appropriately. The staff are able to keep confidential

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<sup>63</sup> CUAC interviewed the staff at Yarra Valley Water. They also provided comment on this chapter of the report.

contact notes and have strong privacy processes to protect customers. This ensures that they are being managed appropriately and also prevents people from having to re-tell their story.

- **A Flexible Approach to Payment Difficulty** - They offer a diverse range of methods to help a person manage their debt. Their approach entails meeting a person half way in challenging circumstances to best maximise their ability to pay. For example, they offer structured payment plans for people experiencing hardship. After a person has demonstrated the ability to make regular payments, they may be able to work with the customer to reduce a portion of their outstanding debt. This is particularly effective in the domestic violence context because it incentivises women to make payments and empowers them at the same time.
- **Confidentiality** - They have an internal contact note system where they will list sensitive information for the more complex cases that only the hardship team can access. This is a protective measure to prevent sensitive information (e.g. addresses or phone numbers) from being released accidentally.
- **Training** - YVW offers ongoing training and development courses for all staff who interact with clients. They have worked with Kildonan UnitingCare to develop a training module for vicarious trauma<sup>64</sup> training for the hardship team. The module includes understanding how to manage difficult calls and recognising their own limitations. There are opportunities for secondment to the hardship team for members of the call centre staff, so that they are able to develop an understanding of some of the more difficult issues and how to manage them. This person is then rotated back into their existing role in the call centre where they can use their new skills and knowledge with a broader perspective. The hardship team also meets regularly with the call centre staff to provide training on different scenarios and have them listen in on calls to have appropriate conversations around a customer's financial capacity.
- **Staff Support** - Debriefing and support is an important facet of staff retention at YVW. If a person encounters a difficult or challenging call, they have the option to transfer the call to another staff member, or have another staff member listen in on the call to provide feedback and advice for that particular matter. They also have regular discussions about vicarious trauma as a team where they might replay a call and highlight what the staff could have done better to assist that person.
- **Accessibility** - They have a dedicated vulnerability phone number for customers to call to access supportive programs such as payment plans and concessions and a dedicated

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<sup>64</sup> Donald C. Murray, Q.C. & Johnette M. Royer (2008) *Vicarious Traumatization: The Corrosive Consequences of Law Practise for Criminal Justice and Family Law Practitioners*, defines vicarious trauma as a disruption of an ordinary level of the psychological and emotional functioning of a helping professional. The disruption has a negative effect on the professional's competence in performing professional tasks and seems to be caused by a professionally obligated involvement with traumatic events, or a professionally obligated close contact with persons who have been involved in traumatic events.

hardship phone number for financial counsellors and customers being managed by the hardship team. There is also a website for financial assistance (The WaterCare Hub<sup>65</sup>) which offers customers and community workers more streamlined access to YVW's support service.

- **Compassion & Understanding** - The staff at YVW display compassion, understanding and a non-adversarial approach to financial hardship. This is beneficial in circumstances of domestic violence because it encourages disclosure. It also enables the staff to explore circumstances surrounding hardship further in order to better understand how to assist people. This is an approach that is adopted at all levels of the organisation and is part of the company's culture.

*"The whole of our business embraces our approach to supporting and assisting customers. It is a key focus that underpins the culture of our business, regardless of whether a customer is on track with their bills or if they are experiencing financial hardship."* – **Representative at Yarra Valley Water**

- **Strong Relationships with Community Services** - YVW has established strong relationships with agencies in the community sector. This assists them to reach mutually beneficial outcomes with women in these circumstances. If a financial counsellor from one of these organisations discloses a circumstance of domestic violence, they are able to quickly assist that person without requiring them to re-tell the story. Overall, financial counsellors and emergency relief workers are able to access the hardship department at YVW with ease, and they also have a good understanding of the hardship program and how to best assist women who are clients of YVW.

General comments from research participants as to why YVW's practices are so effective in the context of domestic violence included:

*"They are not adversarial and they have an understanding of financial hardship. It is not something that is miraculously cured. They also respect our roles as financial counsellors. They work in a way that is complementary to the client [or agency] and negotiate on what the client can afford. They work to get the best outcome for the client, and ultimately, it is the best outcome for them (people are paying, less headaches for call centre staff). [YVW] generally has a better understanding of what hardship means and makes suitable plans in the long term. They don't let debts reach incredulous amounts."* – **Financial Counsellor**

*"We have one woman we speak to at [YVW] and she's just so compassionate. She always listens and works with us to assist clients. She knows we are genuine."* – **Emergency Relief Worker**

*"The great thing is you don't have to be put through to a hardship team to have someone resolve the issue. Whoever answers the phone is well trained and*

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<sup>65</sup> Found at <http://www.watercare.com.au/>.

*brilliant to help with issues. [YVW] have a good culture, if just one of the power companies who are in a competitive field were like [YVW] you would see some change.* – **Emergency Relief Worker**

## **Different Approaches to Managing Debt**

In the context of domestic violence, long term solutions for financial hardship were regarded as favourable by research participants, as opposed to short term solutions, which have the potential to enable the economic abuse to continue.

Financial counsellors who participated in the research identified favourable methods for managing financial hardship and payment difficulty when negotiating with utility providers.

Many of these methods are adopted by YVW in their approach. They include:

- An approachable, well trained call centre staff that is able to readily identify hardship, payment difficulties and circumstances of domestic violence
- Directing calls that require assistance from the hardship team easily
- A comprehensive assessment of a persons' ability to pay - open and flexible discussions around affordability to pay
- Workshopping flexible solutions that can assist with payment difficulty (e.g. applying concessions such as URGS, setting up instalment plans, payment matching, creating incentives to pay bills that can result in wiping part or all of the debt)
- Workshopping flexible solutions that can apply to circumstances of domestic violence (e.g. splitting the utility debt for joint account holders, backdating a bill to the moment of a relationship breakdown, closing the joint account and establishing a new account in the woman's name)
- A clear explanation of concessions<sup>66</sup> (e.g. YVW has designed an easy to read questions and answers flyer on the URG process. The flyer has a simple step-by-step guide to help ensure the form is completed correctly. To make the process easier for the customer, specially trained consultants at YVW also offer to go through and complete the application over the phone, which means the form only requires the customer's signature).

With respect to a general approach to women who are victims of domestic violence, a majority of agencies indicated that utility providers should adopt an approach similar to YVW, by approaching them as though they want to manage their debt, and work with them to achieve that end.

*"People want to pay their bills, it's not a fact that they don't want to, they need [energy] and gas, and it's very humiliating [for them to not be able to pay]. Sure you get the odd one or two who abuse the system. People generally want to pay their bills and in some cases they can't. In particular with family violence, if they are found out that they can't pay the bill, they get beaten to a pulp. Or the mental stress and abuse is way worse."* – **Financial Counsellor**

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<sup>66</sup> Consumer Action Law Centre (2014), *Barriers to Accessing Utility Relief Grants*, p. 18.

*"I encourage my clients to take control of their own finances. If they can't talk, I do it for them. But I push them to do it themselves first. They've been told they are nothing for so long, and thinking they can't do it. When they do it, it boosts them and gives them encouragement."* – Financial Counsellor

## **Other Industry Approaches to Managing Financial Hardship**

In 2013 the banking industry underwent a reform to banking practices and approaches to hardship. Through consultation with consumers, financial counsellors, and agencies in the community sector, Australia's banks were able to develop a financial hardship package that promotes good practice, clearer hardship processes and useful information to support customers experiencing payment difficulties.<sup>67</sup>

*"The banks had such poor reputations and wanted to know why. The CEOs said they wanted to, and more importantly, said they would act on concerns. They wanted change. It was only when the CEOs and deputy CEOs said, we should be doing it. The utilities are making the mistake now, there are some good commercial reasons to treat people with respect and listen to them because you will end up getting more money back."* – Financial Counselling Australia

Similar to the banking industry, in order for meaningful reform to occur it must happen in consultation with consumer advocates and agencies in the community sector. This requires not only consultation, but relationship building between industry and agencies in the community sector to better understand mutual challenges and operational constraints. The learnings from reforms within the banking industry with respect to hardship should be considered.

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<sup>67</sup> Australian Bankers' Association Inc.(2013), 'Doing it Tough?'

## CONCLUSION & RECOMMENDATIONS

In undertaking the research and interviews for this project CUAC found clear opportunities for reform to the relevant laws, and the policies and practices of utility providers. CUAC examined each of these areas as they applied to the various scenarios for women experiencing domestic violence and household breakdown at a point of crisis. The major findings revealed **three key circumstances** that were problematic for victims of family violence, which can be solved with achievable reform.

1. A woman who is not originally listed on an account with her energy retailer is required to assume the previous debts of her abusive partner.

Women who were found to assume the utility debts of their abusive partners and were not originally listed on the account should not be required to assume previous debts under the privity of contract doctrine. Energy retailers cannot legally require women to assume liability for the previous debt in her abusive partners name (e.g. transfer the debt), and the research outcomes revealed that the current practices of some energy retailers constitute an abuse of the vulnerability of women in such circumstances. In practice, CUAC found water businesses were not likely to attempt to transfer previous debts in these circumstances.

2. A woman being a joint account holder with her abusive partner and facing difficulty terminating the account, and being joint and severally liable for previous debts.

Women who are joint account holders with their abusive partner face the dual barriers of an unclear legal regime that does not address the break-up of joint accounts, and financial hardship. Where the laws are silent, specifically in the context of the break-up of a joint account and the departure of one account holder, it was found that some utility providers apply policies that are not sensitive to or directed at a constructive response to women in circumstances of family violence.

For example, energy retailers require consent to remove a woman or her abusive partner from a joint account, in accordance with contract law. While the consent requirement was not found to be an issue with water businesses interviewed (as there is no contractual agreement), CUAC found scope for improvements to the practices of some water businesses to deal with family violence victims with more flexibility and sensitivity.

3. A woman who is liable for utility debts (in whole or in part) and is unable to pay.

Women who are experiencing financial hardship and payment difficulty for utility debts were found to encounter barriers accessing financial hardship departments, and ultimately the ability to move on from the point of crisis.

With respect to debt recovery more generally, there was evidence that in practice some energy retailers do not always apply what might be considered a fair and reasonable solution and will often attempt to pursue the woman only for the debt because it is an easier debt recovery route. Water businesses were not found to be specifically targeting the domestic violence victims for debt recovery.

It can be assumed that many of the barriers experienced by domestic violence victims in these circumstances would be common to all customers who may be seeking financial hardship assistance, indicating an urgent need to improve hardship policies and practices. Based on the findings in the report and feedback from research participants, CUAC has identified what it considers to be a best practice approach for industry to examine when considering financial hardship policies as well as circumstances of domestic violence. YVW has made a moral and business case for an approach that aims to work with a customer experiencing hardship and payment difficulty, and in circumstance of family violence, provide the flexibility necessary for a person to meet their obligations.

An approach that goes beyond the regulatory requirements to help, and not hinder a woman's ability to get on her feet, can be significant for women who have potential to fall into a cycle of dependency and violence. In order for industry-wide reform to be achieved, collaboration with government, industry and agencies in the community sector will be required.

CUAC provides the recommendations below in order to improve industry policy, practice and response to women who are victims of domestic violence and in crisis. We provide a summary of targeted recommendations, followed by a brief discussion of each recommendation. The recommendations include reforms to both the relevant laws and the policies and practices of utility providers that will allow for a smooth conclusion of joint accounts upon the breakdown of the household at a point of crisis as a result of domestic violence; a fair and reasonable allocation of previous debts; and greater accessibility to financial hardship programs.

## **Recommendations for Regulators**

- **Review of the Energy Retail Code** - The Essential Services Commission should conduct a review of the *Energy Retail Code* and consider reforms to address the breakdown of joint account holders and termination.
- **Develop an Industry-wide Best Practice Hardship Guideline or Principles** - The Essential Services Commission should develop industry guidelines or a comprehensive set of principles addressing the treatment of customers in circumstances of financial hardship, including specific policies for circumstances of household breakdowns (e.g. change in occupancy of one tenant, or at points of crisis).
- **Consider the Findings in this Report for a Review of Energy Hardship Policy & Practice** - The Australian Energy Regulator should incorporate the findings of this report in their current review of energy hardship policies and practices.
- **Consider Reforms to the National Energy Customer Framework** - The Australian Energy Regulator should consider reforms to the NECF to address the breakdown of joint account holders and termination, and necessary rule change application.
- **Investigate Cases of the Transfer of Debt** - The Australian Competition and Consumer Commission should conduct an investigation into cases where energy providers are wrongfully transferring debt.

## *Review of the Energy Retail Code*

The termination provisions in the *Energy Retail Code* do not mention or consider joint account holders. In the absence of clear regulation on the issue of joint account holders and termination, energy retailers require consent from the other account holder (e.g. in circumstance of domestic violence it would be the abusive partner) and otherwise do not act in a way that is sensitive to the realities of circumstances of domestic violence that can result in a household breakdown. The laws are designed to address a change in occupancy however, they do not currently address circumstances of domestic violence at a point of crisis where there is no new occupier, and one has left.

Accordingly, CUAC recommends the ESC review and reform the *Energy Retail Code* to provide for the termination of joint accounts when one account holder leaves to better assist with a domestic breakdown that has occurred as a result of domestic violence.

Specifically, there is uncertainty as to whether the *deemed contract* provision applies in situations where one joint account holder has abandoned the property, but one remains. As was discussed in *Chapter 2*, circumstances of domestic violence can be particularly troubling in this regard; women have encountered difficulties with respect to terminating a joint account upon the relationship breakdown, including being required to get consent from the abusive partner in order to terminate the joint account and resolve outstanding debts.

With respect to outstanding joint debt, in circumstances where the abusive partner has abandoned the woman, there is evidence that some energy retailers use the flexibility of the legal principle of joint and several liability and elect to seek to recover the entire debt from the woman.

### *Develop an Industry-wide Best Practice Hardship Guideline or Principles*

In consultation with the agencies in the community sector and industry, the ESC should develop a best practice hardship guideline or a comprehensive set of principles for customers experiencing hardship that goes beyond minimum legal contractual and statutory requirements and strengthens industry practice.

It should account for circumstances where there are joint account holders in a relationship breakdown due to domestic violence, as well as the challenges covered in *Chapter 2* such as *deemed contracts*. This would have the flow-on effect of assisting women who are victims of domestic violence who may be experiencing payment difficulty.

### *Consider the Findings in this Report for a Review of Energy Hardship Policy and Practice*

As part of its activities for 2014, the AER is currently undertaking a targeted review of the hardship policies and practices of energy retailers to provide a better understanding of how energy retailers identify and assist customers experiencing payment difficulties, and to share examples of good practice across industry.

While we recognise the review covers retailers with residential customers in jurisdictions that have commenced the NECF, we anticipate the learnings and outcomes from this review will have

relevance to the energy industry more generally, including in Victoria.<sup>68</sup> Accordingly CUAC recommends that the AER consider the findings in this report.

### *Consider Reforms to the National Energy Customer Framework (NECF)*

An examination of the scenarios in *Chapter 2* revealed that where the laws are silent with respect to the breakdown of joint account holders and termination, the practices of some energy retailers have resulted in victims of family violence accepting liability for all debts as joint account holders. The AER should consider reforms to the NECF to address the breakdown of joint account holders and termination, and any necessary rule change applications.

### *Investigate Cases of the Transfer of Debt*

The report findings revealed examples of women being required to assume the energy debt of their abusive partner, which is prohibited by the privity of contract doctrine. In some cases, energy retailers required victims of family violence to accept liability for the debt of their abusive partner prior to allowing them to establish their own account. CUAC recommends that the Australian Competition and Consumer Commission conduct an investigation to explore circumstances where energy providers are wrongfully transferring debt to prevent energy retailers from continuing these practices.

## **Recommendations for the Energy & Water Ombudsman (Victoria) (EWOV)**

- **Guidance on How to Resolve Utility Debts** - The EWOV should publish a guideline to provide clarification on their view of what is 'fair and reasonable' that assists retailers with resolving disputes involving outstanding joint account debtors and prevent the 'transfer of debt.'
- **Guidance on Managing Financial Hardship** - The EWOV should provide further guidance to utility providers on best practice to manage financial hardship and payment difficulty.

### *Guidance on How to Resolve Utility Debts*

The EWOV should provide guidance to clarify the 'fair and reasonable' standard and how it should be applied to joint debts following a domestic breakdown. Such guidance should include going above and beyond the flexibility provided by joint and several liability.

Additionally, the EWOV should provide guidance on circumstances where utility providers transfer debt from one account holder to another, particularly in circumstances where they are prohibited from transferring debt under the privity of contract doctrine (as noted above).

### *Guidance on Managing Financial Hardship*

In addition to an ESC review, there is scope for the EWOV to provide further independent guidance to utility providers on best practice to manage financial hardship and payment difficulty.

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<sup>68</sup> The AER expect to release a report by early next year and CUAC would encourage retailers to consider their hardship practices in light of findings from this review.

Other industry Ombudsman, such as the Telecommunications Industry Ombudsman, have developed guidelines and principles on hardship in conjunction with the community sector which highlight practices which can create sustainable outcomes for customers experiencing hardship.<sup>69</sup>

## **Recommendations for Utility Providers**

- **Energy Retailers Should Immediately Change Practices to Prevent the Unlawful Transfer of Debt** - Energy retailers should monitor and modify company practice to ensure women are not being required to unlawfully assume the debt of their abusive partner.
- **Review Customer Service & Hardship Policies and Procedures to Provide Special Consideration for Circumstances of Domestic Violence** - Utility providers should develop policies that give special consideration to victims of household breakdowns such that accounts can be readily and properly terminated and that confidentiality is safeguarded; these policies should be endorsed by senior management.
- **Heightened Security Measures** - Utility providers should develop processes and systems that protect confidentiality in circumstances of domestic violence.
- **Staff Training** - Utility providers should provide comprehensive and ongoing training of customer service staff to identify customers in hardship and develop an understanding of the impacts of domestic violence on their customers.

### *Energy Retailers Should Immediately Change Company Practices to Prevent the Unlawful Transfer of Debt*

Energy retailers should closely monitor and reform company practices to prevent women from being required to assume the debt of their abusive partners when they are not the original account holder. As noted above, the privity to contract doctrine prohibits such practices and they should immediately cease to occur. Utility providers should monitor these circumstances and ensure appropriate policies are in place and that staff are adequately trained to modify their approach when attempting to resolve debts.

### *Review Customer Service & Hardship Policies and Procedures to Provide Special Consideration for Circumstances of Domestic Violence*

Utility providers should make reforms to company policies that would allow special consideration for circumstances of domestic violence. For example, policies addressing the termination of joint accounts need to account for the breakdown of partnerships at a point of crisis.

CUAC strongly recommends a best practice approach (discussed in *Chapter 5*) in circumstances where joint account holders have a relationship breakdown such that a new and separate account can be established the moment a joint account holder discloses circumstances of domestic violence. We also recommend an approach that does not require a woman to provide proof of domestic violence in order to access a financial hardship department.

With respect to hardship policies, while CUAC is of the view that effective reforms to hardship policies and practice should be sufficient to identify triggers for payment difficulty more broadly, in circumstances where domestic violence is disclosed, a clear set of solutions should be in place to assist women in these circumstances. There must be long term, flexible solutions that are applied

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<sup>69</sup> Telecommunications Industry Ombudsman (2014), *Responding to customers in financial hardship: Principles and practice for telecommunications providers*.

with a view to encourage financial stability, and that account for the nuances of these complex circumstances (e.g. backdating bills from the moment of a relationship breakdown, splitting the debts for joint account holders, pursuing the abusive partner for his portion of the debt, closing the joint account and establishing a new account in the woman's name). CUAC also recommends incorporating best practice models such as workshopping solutions for women in these circumstances (discussed in *Chapter 5*).

### *Heightened Security Measures*

Utility providers should develop clear policies and processes to heighten security for women who disclose domestic violence in order to protect their confidentiality and ensure information is not shared with the abusive partner. As was revealed in the report, the hostile nature of a domestic breakdown has potential to create high risk situations for women (e.g. attempts by an abusive partner to locate the woman, using personal information tied to utility accounts as a means to continue to control women after a domestic breakdown). Heightened security measures might include requiring additional security prompts to increase security on an account, creating a separate system to store confidential account details (e.g. phone numbers, current address or the name of the agency providing assistance), and/or bypassing requirements of consent for joint account holders to remove a name from an account.

### *Staff Training*

Since the first port of call that customers or agencies encounter is typically the utility provider's customer service staff, comprehensive and ongoing training to improve customer service is critical to assisting vulnerable consumers who are experiencing hardship or payment difficulty, and to implementing the recommendations outlined in this report. Being able to readily identify the triggers for hardship is essential as the first point of contact for people experiencing crisis.

If call centre staff were better trained to identify payment difficulty and hardship, it would not be necessary for a woman experiencing domestic violence to disclose her circumstances. Call centre staff should be trained to ask the important questions that identify payment difficulty (e.g. 'are you experiencing difficulty paying your bill?').

Similarly, if all staff were better trained to read and understand contact notes in every department within a utility provider, it would prevent vulnerable customers from having to re-tell their stories. There is a compelling business case for greater efficiency in operational procedures that would be mutually beneficial for both the caller and the utility provider. Additionally, call centre staff should be trained on the prevalence of fraud in circumstances of domestic violence and economic abuse and consider these circumstances when assessing liability for accounts that may have been fraudulently set up in a woman's name.

## **Recommendations for the Victorian Government**

- **Reforms to the Utility Relief Grants Scheme** - The Department of Human Services should create an exception to the Utility Relief Grant Scheme guidelines, whereby concessions may be applied to utility debts incurred at a previous household in circumstances of domestic and family violence.

## *Reforms to the Utility Relief Grants Scheme*

As noted in *Chapter 5*, there are clear limitations to the Utility Relief Grants Scheme (URGS) as it relates to victims of domestic violence. Given the prevalence of domestic and family violence, the Department of Human Services should modify the URGS guidelines to apply to bills at a residence in situations where a woman has fled a violent situation and is no longer in the household. As it currently stands, the guidelines only permit this concession to apply to people who are currently residing in the property where the utility debt was incurred. In circumstances of domestic violence, this has potential to perpetuate economic abuse by preventing a woman from re-establishing herself.

## **Recommendations for Utility Providers & the Community Sector**

- **Enhanced Collaboration** - Industry and the community sector should develop stronger relationships to foster dialogue, greater understanding and collaboration and training.

### *Enhanced Collaboration*

Collaboration between industry and agencies in the community sector may include cross-learning such as inviting an agency to speak to staff on a particular subject matter or vulnerable group, or alternatively, inviting a representative from a utility provider to an agency for a day, to better understand the experiences and circumstances of clients in hardship. The exchange would have the additional benefit of the staff of agencies being better informed about utility providers' policies and practice, including how to best reach the hardship departments.

Stronger referral pathways between the industry and agencies would produce quicker results for vulnerable customers experiencing payment difficulties, and would ultimately overcome some of the accessibility issues agencies have with contacting hardship departments on a customer's behalf. This would be particularly beneficial for community legal centres and/or emergency relief workers who were found to not have established relationships with the hardship departments of utility providers as compared to financial counsellors.

Collaboration between the community sector and utility providers would also assist with developing more comprehensive hardship policies and practices to provide special consideration for victims of domestic violence. This is particularly important when working to workshop solutions that are sensitive to the circumstances of domestic violence and economic abuse. Further, there is potential for the agencies in the community sector to provide some training to the staff of utility providers on the circumstances of domestic violence and economic abuse as experienced by their clients.

Agencies can also work in conjunction with the utility providers to further understanding of the challenges within asylum seeker and CALD communities, and ultimately learn how to better assist them to manage bills and energy use. For example, it is clear that the current policy and practice of utility providers does not allow for the necessity of interpreters to assist with contractual negotiations. This issue is further exacerbated in the context of domestic violence.

## Recommendations for Government, Utility Providers & the Community Sector

- **Targeted Measures** - Targeted outreach to agencies in the community sector that assist asylum seekers and Culturally and Linguistically Diverse (CALD) communities is required.
- **Information Provision** - Customers experiencing domestic violence and financial hardship require succinct information including, where necessary, instructions and assistance with respect to the availability of concessions and financial assistance programs, including the No Interest Loan Scheme (NILS).
- **Empowerment of Women** - Adopt an approach and develop resources that empower women to take control of their finances.

### *Targeted Measures*

There is an apparent need for targeted outreach by government, industry, and agencies in the community sector to assist asylum seekers and CALD communities. These communities were identified as particularly vulnerable when experiencing payment difficulty. Providing information on the financial supports available to manage utility debts is necessary, particularly for women from non-English speaking backgrounds.<sup>70</sup>

### *Information Provision & Empowerment of Women*

A number of agencies noted that many women who are victims of domestic violence want to pay their bills and take control of their finances (as discussed in *Chapter 5*). It is therefore important for government, industry and agencies in the community sector adopt an approach that empowers women to manage their own finances.

Such an approach might include agency referrals to schemes such as the URGS and the No Interest Loan Scheme (NILS). The NILS is a state wide program that issues loans to women who have left a violent situation to help them get on their feet. It can be used to manage utility debts.

For government, industry and agencies this might include developing materials to assist and empower women when they are at a point of crisis (e.g. targeting legal services & refuges) to better understand their rights and how they might approach payment difficulty. These materials might outline first steps for assisting women with their utility bills and how to articulate hardship circumstances in order to gain access to the hardship departments of utility providers.

### **Next Steps**

Bearing in mind the necessary reforms and recommendations outlined above, CUAC suggests that government, industry and agencies in the community sector consider the following potential actions which we believe would be useful to further benefit women who are victims of family violence:

- Develop resources for agencies in the community sector to better assist and empower women with utility debts. CUAC is committed to exploring the best way to work with

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<sup>70</sup> Good Shepherd Youth & Family Service, Kildonan UnitingCare (2013), *Economic Abuse: Searching for Solutions*, p. 30.

agencies to develop resources for agencies and women on contacting hardship departments of utility providers or to assist women with understanding their liabilities and who to contact.

- Build financial literacy and capability to assist in other sectors.
- Host a forum with agencies in the community sector that assist women who are victims of domestic violence, industry and government to foster dialogue and compare policy and practice for hardship and/or circumstances of domestic violence and economic abuse.

# APPENDIX A: RESEARCH PARTICIPANTS

Research participants interviewed included:

- AGL
- Berry Street
- EnergyAustralia
- The Energy & Water Ombudsman (Victoria)
- Financial Counselling Australia
- Hope City Mission
- Kildonan UnitingCare
- Lumo Energy
- McAuley Community Services for Women
- St Luke's Anglicare
- Upper Murray Family Care
- Wannon Water
- Whittlesea Community Connections
- Women's Health Goulburn North East
- Women's Information Referral Exchange
- Women's Legal Service
- Wyndham Legal Service
- Yarra Valley Water

## **APPENDIX B: A LIST OF SCENARIOS GIVEN TO RESEARCH PARTICIPANTS**

Scenarios of utility debt where:

1. A woman is **currently living** in circumstances where family violence is present and is attempting to **access the financial hardship team**
2. A woman has **left her abusive partner**, is currently living in a transitional situation (e.g. a refuge) and making plans to set up a new household and utilities and has **no credit history**
3. Situations where a woman is in a household with domestic violence and the abusive partner has **disappeared/abandoned** her, and they share a **joint debt**
4. Situations where a woman is in a household with domestic violence and the abusive partner has **disappeared/abandoned** her and the **debt is only in her name**
5. A woman is in the **process of leaving** her household to escape an abusive partner and wishes to maintain **confidentiality** about her circumstances/intentions
6. A woman **has left** the abusive household and wishes to split her utility debts with her partner, but is required to seek the consent of the partner and has **confidentiality concerns** with respect to her partner knowing her whereabouts.

## APPENDIX C: CASE STUDIES

### Case study 1:

"I was always trying to keep track of all the money and financial affairs. He just bought what he wanted and never considered his financial responsibilities.

I gave him the money to pay the bills and just before Christmas we got the energy disconnected. He rang them and went burko saying he paid them and it was all their fault. He was going away anyway so he didn't care. Anyway the kids and I had no energy for all of December and January till I could save up and pay the bill again. It wasn't much fun, and when he got home he made a joke of it and it wasn't funny."

### Case Study 2:

'Clarissa' and 'Tom' met when they were at university, and married shortly after they graduated. Tom was deeply controlling of all aspects of their relationship. He dictated what Clarissa wore, who she went out with and how she spent her leisure time. He also controlled the couple's finances. Although Clarissa had a job, she was not able to access her money and did not have her own bank card. Instead, Tom 'allocated' her a small amount of cash to spend each week.

When the couple had a child, Elsie, Tom insisted that Clarissa pay for the majority of the costs of raising their daughter. This was in spite of the fact that he earned two and a half times more than his wife.

Clarissa and Tom separated when Elsie was in primary school. Clarissa had custody of their daughter and tried to support her off her meagre wage. Tom did not contribute to the costs of raising Elsie.

### Case Study 3:

Tae had that many debts she didn't know where to start. Every time she rings her energy and water company they don't believe her, because she had made so many 'promises' in the past. She says she has no money and doesn't know when she will be able to make a payment. The last conversation she just told them to cut it off. Last year she left a very violent relationship and went to stay somewhere new. The bills were the last thing on her mind. She needed to take an AVO to protect herself and her family although in the past it hasn't been successful. After 5 months she started to relax, and one night there was a knock on the door. Her ex partner was then and pushed his way in. She was hospitalised for many weeks as a result. When she was well as re-establishing a home again in a different location she rang the water business to get the water on. They asked her if she could pay her last bill with them as her 'husband' had confirmed her new address for the final bill to be sent to 'them'. She realised then this is how he found her.

## APPENDIX D: CUAC REFERENCE GROUP

Organisation	Representative
Alternative Technology Association	Damien Moyse, Energy Projects and Policy Manager
Brotherhood of St Laurence	Dr. Victoria Johnson, Research & Policy Manager, Equity in response to climate change
Consumer Action Law Centre	Janine Rayner, Senior Policy Officer – Energy
Community Information and Support Victoria	Minh Nguyen, Sector Development Officer
Council on the Ageing	Randal Harkin, Member, Victoria Policy Council
Council of Single Mothers and their Children Inc	Tenar Dwyer, Executive Officer
Country Women’s Association of Victoria Inc	Marie Vassallo, Social Issues Chairman
Financial and Consumer Rights Council	Peter Gartlan, Executive Officer
Ethnic Communities’ Council of Victoria	Elena Petreska, HACC Project Coordinator
Good Shepherd Youth and Family Service	Tanya Corrie, Social Policy Researcher
Kildonan UnitingCare	Joanna Leece, Senior Manager, Financial Inclusion and Energy
National Seniors Australia	Neville Daynes, Member Services Officer, Victorian State Office
Regional Information & Advocacy Council Inc.	Steve Doran, Chief Executive Officer
Springvale Community Aid and Advice Bureau	Rita Battaglin, Pathway and Support Services Manager

Victorian Council of Social Service

Dean Lombard, Senior Policy Advisor

Victorian Farmers Federation

Jacob McElwee, Policy Manager

Women's Health Goulburn North East Inc.

Karen O'Connor, Microfinance Project Worker

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