

Submission on the Electricity Authority's Consultation Paper: *Options to update and strengthen the Consumer Care Guidelines*

Community Law Centres o Aotearoa, 2 October 2023

Background

1. Community Law Centres o Aotearoa (**CLCA**) welcomes this opportunity to submit on the Electricity Authority's consultation paper "*Options to update and strengthen the Consumer Care Guidelines*". The contact for this submission is Karen Hodgson, [REDACTED]
2. CLCA is the national body that coordinates and advocates for the 24 Community Law Centres (**CLCs**) across Aotearoa New Zealand. Our member CLCs work out of over 140 locations to provide free legal help to those who are unable to pay for a private lawyer and do not have access to legal aid. As well as around 240 staff, CLCs' services are supported by over 1,200 volunteer lawyers who run legal advice clinics and deliver free assistance. Each year, these CLCs provide free legal support to 47,000 clients and free law-related education to 30,000 people. In addition, we provide free legal information via the Community Law Manual (the digital version of which has 3,900 views per day on average) as well as an estimated 200,000 people who contact CLCs directly.
3. Our CLCs routinely advise and advocate for clients in the consumer space, and in relation to hardship matters or disputes with electricity retailers and other services.
4. CLCA also supports the submissions of Consumer NZ, FinCap, Common Grace, and the Consumer Advocacy Council.

Response to Questions

Q1. Do you agree or disagree with our view that the Guidelines are not delivering on their purpose or intended outcomes? Please provide any supporting evidence.

5. We agree. Our CLC's experiences in dealing with electricity retailers on behalf our clients is that they do not consistently act in accordance with the Guidelines; this is reflected in the self-reporting data in the consultation paper. Some retailers are better than others, and some do little to adhere to the Guidelines or their customer care policies. This inconsistency is unfair on consumers and means there is an unfair burden on those retailers who do chose to adhere to the Guidelines.

Q2. Do you agree the policy objective should be delivering the purpose and intended outcomes of the Guidelines? If not, why not? Q3. Do you consider the Guidelines' recommendations, purposes, and intended outcomes continue to reflect general industry consensus? Note in this question we are seeking your views on the Guidelines' content; not whether they should be mandatory.

6. We agree the policy objective should be delivering the intended outcomes. However, we take issue with the intended outcomes as they are currently drafted and interpreted. Given its links to adequate housing and health, we believe access to electricity should be treated as a human right. Electricity is an essential service and access to it is an essential human need, as recognised by the

Energy Hardship Expert Panel.¹ The intended outcomes should reflect this (the current Guidelines only state that electricity is “important”) and be interpreted in this context. We also consider that a mandatory code, as in option 4, covering all consumer protection issues (not just some parts of the Guidelines) would recognise that electricity is an essential service and human need.

7. The intended outcomes in the Guidelines currently put electricity retailers’ interests above that of consumers, by using rights language only for retailers: “Retailers have a right to be paid for services delivered and competition and innovation are supported”. Consumers also have rights, but they are not recognised as such in the Guidelines. It appears the view underlying the current intended outcomes is that consumer rights to the supply of electricity are only valid until the consumer experiences financial hardship. This is not right or fair, and there is a human cost to placing greater value on the right for electricity retailers to be paid. The intended outcomes also need revisiting in light of the Electricity Authority’s additional legislative objective to “protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers”.
8. In addition, our experience is that consumers are honest and want to pay for the services they use, but are sometimes unable to. A codified consumer care framework should recognise this assumption and be designed to support consumers, as opposed to setting up barriers to assistance.
9. We recognise that these views may not sit comfortably alongside the current business model of electricity retailers. A profit-driven model does not naturally lend itself to responding to hardship, needs and rights of consumers. It is also difficult to ignore that consumers are encouraged more than ever to use more electricity (for example healthy homes standards, encouragement of heat pumps, and electric vehicles). These are without doubt good initiatives that benefit consumers, but consumers are also bearing the cost of this increased usage while retailers make more and more profit.² These are further reasons why a mandatory code covering all consumer protection issues is our preferred approach (option 4).

Q4. What do you think about our approach to limit options to areas covered by the current Guidelines? Q5. What issues that fall outside of the current Guidelines would you like to see us consult stakeholders on in an issues paper to be released by mid-2024? If possible, please provide any initial evidence on these issue areas.

10. We appreciate that work needs to progress on codifying the aspects of the current Guidelines that are most important for consumer protection and that a staged approach may be necessary. We do however, support waiting for the final recommendations of the Energy Hardship Expert Panel so that those recommendations can be taken into account. A commitment to an issues paper on further work by mid-2024 is welcome, and we believe that ultimately a mandatory code as in option 4 represents the best approach.
11. In terms of other issues for consultation under question 5, CLCA supports the campaign by Everyone Connected to ban disconnection/reconnection fees, and to protect prepay customers by reining in unfair prices and tracking disconnections³. We are glad to see these issues mentioned in the

¹ [Te Kore, Te Po, Te Ao Marama - Energy hardship: the challenges and a way forward \(mbie.govt.nz\)](#), p 68.

² See for example, [‘We don’t see petrol stations giving away free gas’: Meridian to charge 50 cents per kWh at its public EV charging stations | Stuff.co.nz](#)

³ See [Our campaign \(everyoneconnectednz.com\)](#).

consultation paper. We also agree with the other issues listed at paragraph 5.2 as issues needing urgent attention, and in particular addressing domestic violence.

12. We also mention additional the following additional issues for consultation:

- (a) Whether disconnection from electricity as an essential service should be allowed at all. Debt collection processes are already available for non-payment (we note that debt collection is an area that also needs reform because there is no regulation of debt collectors).
- (b) Our comments above in relation to the intended outcomes are relevant here. The consultation should include asking whether the intended outcomes need further work and, in particular, whether they adequately reflect the rights of consumers and the Electricity Authority's 2022 additional objective.
- (c) Electricity retailers display varying levels of willingness and understanding about working with client advocates. We find that electricity retailers do not understand their privacy obligations and that if our CLCs provide a privacy waiver from our client, the CLC is authorised to discuss the client's account with the retailer. Client advocates help clients to manage and pay their debts, and in this way their work also benefits electricity retailers (at no cost to them). A mandatory code should include a reference to electricity retailers agreeing to working with CLCs and financial mentors (and other client advocates) to resolve consumer issues. The consultation should include this issue.
- (d) The Guidelines are not written in a way that consumers can understand. Some thought needs to be given to how they can be better presented and publicised.
- (e) The standardisation of structure and content of power bills should be consulted on. It is currently very hard for consumers to adequately compare retailers. We support the campaign of the Consumer Advocacy Council to create a model bill.⁴
- (f) The content of the Electricity Authority's "contracting principles and minimum terms" on its website must also be included in any consultation, and be amended to reflect decisions made by the Electricity Authority on the Guidelines.⁵
- (g) Disabled people face a significant amount of energy hardship and poverty. Disabled people are more likely to live in cold, damp, mouldy homes which require a great deal more heating and cooling than places where non-disabled people live.⁶ Studies and data from the UK⁷ and New Zealand⁸ show that disabled people and people with health conditions need to consume more electricity to stay warm, cool down and charge or use disability-related equipment including power wheelchairs, hoist beds and breathing apparatus. We think that consultation should include questions about how electricity retailers can better respond to the needs of disabled people.

Q6. Are there other interpretation issues or areas of the Guidelines that you consider need to be clarified, that do not significantly amend or extend the Guidelines?

⁴ See [Developing a model electricity bill | Consumer Advocacy Council](#).

⁵ See [Retailers' obligations | Electricity Authority \(ea.govt.nz\)](#).

⁶ <https://www.nzherald.co.nz/nz/disabled-people-more-likely-to-be-in-cold-damp-rental-accommodation-statistics-nz-survey/6LP3RYABGLY2EATG7L5357SQLI/>

⁷ See <https://www.regen.co.uk/disability-and-energy/>

⁸ See <https://www.stats.govt.nz/reports/measuring-inequality-for-disabled-new-zealanders-2018>

13. The discussion document appears to cover the main interpretation issues, and we are aware that other NGOs have raised other important interpretation issues (in particular, FinCap).

Q7. Do you agree that parts two, six, seven and eight are the parts of the Guidelines preventing the greatest harm from occurring to domestic consumers?

14. Yes. However, Part 9 of the Guidelines should also be included here (fees and bonds). Fees can disguise a variety of unjustified charges and create financial hardship. There appears to be no reason why Part 9 should not be included in option 3.

15. We also think that Part 10 (information disclosure and monitoring), or something like it, should also be included in option 3, with the proviso that it needs amending to include enforcement powers and penalties. Including Part 10 would give the Electricity Authority the ability to monitor compliance with, and enforce, the parts that are made mandatory under option 3.

Q8. Are there any other options you think we should consider? Q9. Do you agree with our criteria to assess options? Are there any other criteria you think the Authority should use? Q10. Do you agree criteria four and five should be weighted less than the first three criteria?

16. Option 4 is the best option for ensuring that consumer interests are taken seriously, electricity retailers are made to be transparent, and they are held to the same standard across all consumer care matters. This could weed out retailers who are not performing well in customer care and do not see this as an important part of doing business. A mandatory code as in option 4 best meets the objective and intended outcomes, and would ensure that the Electricity Authority is meeting its additional objective to “*protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers*”. As mentioned, we appreciate the Guidelines may need to be made mandatory in stages (ie, option 3 followed by option 4).

Q11. Do you agree with our assumption that retailers already following the Guidelines should not experience a significant increase in their compliance costs if any part of the Guidelines is mandated? Q12. Do you agree that under the status quo, concerns regarding retailer alignment with the Guidelines are likely to continue?

17. Yes, we agree that if a retailer is already complying with the Guidelines, they should not experience a significant increase in costs. We are concerned that under the status quo, some retailers will continue to disregard the Guidelines and consumers will continue to experience hardship and poor customer service. Maintaining the status quo is not a satisfactory option.

18. We also do not accept that any increase in compliance costs should necessarily be passed onto the consumer. Rather, any increase in costs could be absorbed as the cost of doing business well.

Q13. What impacts to competition, innovation and efficiency in the retail market would you expect to see for options three and four respectively?

19. We think that holding electricity retailers to the same mandatory standard across all consumer care matters would either have no impact on, or lead to greater, competition, innovation and efficiency. Retailers would be on the same playing field and consumers would be comparing like with like when choosing an electricity retailer. We also note that our experience is that Genesis, which is one of the better retailers in terms of adhering to the Guidelines, is also a leader in sustainable innovation.

Q14. For retailers, broken down by Guidelines part, what would the estimated costs to your business be of codifying parts of the Guidelines under option three or four (for example implementation and compliance costs)? (Not applicable)

Q15. What do you think the benefits to domestic consumers will be under options two to four? Q16. Do you agree with our initial assessment of the options against the status quo? If not, what is your view and why? Q17. Do you agree with our preliminary view? If not, what is your view and why?

20. We have expressed our views about the options above. The evidence is clear that mandating consumer care is necessary. If the Electricity Authority decides to go with option 3, we urge it to consider this as a step towards option 4.