

New Zealand Association of Citizens Advice Bureau

Appendix 2 - Submission on Proposed Changes to the Guideline on arrangements to assist vulnerable consumers.

Background

In 2005 the Electricity Commission issued *A guideline on arrangements to assist low income and vulnerable consumers*. It outlines the standard for electricity disconnection due to non-payment. It has been updated twice since then (most recently January 2008) and submissions are now sought on proposed changes including several in relation to Medically Dependent Vulnerable Consumers (MDVC). Two key issues are;

- a) How to define MDVC, and
- b) What processes should be followed to identify a MDVC and support them

In describing the reasons for the proposed changes the Commission cites an increase in the number of MDVC and implies that this is one reason for the proposed changes. The Commission further implies that there are issues with the process because it is a 'self-selection' process and because the DHB is applying the process inconsistently.

Precautionary Approach

The New Zealand Association of Citizens Advice Bureaux (NZACAB) submits that a precautionary approach should be taken when creating these Guidelines which, by their very definition, relate to vulnerable consumers. Extreme care must be taken to ensure that the Guideline does not become so prescriptive, in the interests of the business efficiencies of the retailers, that the true purpose of the Guideline is lost.

NZACAB does not consider that an increase in the number of MDVC of itself shows a 'risk of unintended consequences from the Guideline' (Pg 8 of discussion document on the proposed changes). It may also be a result of consumers becoming more aware of their rights and options, which NZACAB submits is a positive outcome.

Essential Service

NZACAB applauds the recognition of electricity as an essential service in the proposed Guideline. However we submit that the phrase 'is likely to be' be deleted from proposed Part 7. Background

NZACAB Recommendation

That proposed Part 7 Background, Clause 8 read as follows;

"Electricity is an essential service that is a necessity for individuals and household groups..."

Overriding Emphasis

NZACAB considers that, in seeking to address the issues identified as reasons to change the Guideline, the Commission has changed the overriding emphasis of the Guideline.

For example, the Introduction to the existing Guideline (Jan 08) includes explicit intentions as follows:

- That no consumer who meets the definition of vulnerable consumer is inappropriately disconnected for non-payment.
- That minimal disconnections for non-payment occur, with standards for such disconnections.

In the proposed Guideline these fundamental intentions are no longer upfront. In fact, the emphasis is now shifted such that the proposed Introduction states that part of the purpose of the Guideline is to:

- Define standards for disconnection of vulnerable consumers for reasons of non-payment

The NZACAB objects to the implication that vulnerable consumers will be disconnected for reasons of non-payment.

In relation to this, NZACAB does not consider that a statement of policy objectives is appropriate to be included in the Guideline. NZACAB submits that the general statements of intention and the objectives of the Guidelines are better placed in the Introduction. Proposed Part 6, Introduction already contains clauses that are similar in purpose to the intentions that NZACAB wishes to see re-instated in the Introduction. For example, Clause 6 (no intention to protect bad-faith or fraudulent consumers) is of this kind. NZACAB submits that a strong statement of intention in the Introduction is necessary to set the tone of the Guideline.

NZACAB Recommendation

That the proposed statement of policy objectives is removed.

NZACAB Recommendation

That a new paragraph is inserted in proposed Part 6, Introduction, above the proposed clause 4, to read as follows

The Guideline intends to ensure:

- (a) That no consumer who meets the definition of vulnerable consumer is inappropriately disconnected for non-payment.*
- (b) That MDVC are protected from possible critical consequences of electricity disconnection due to non-payment.*
- (c) That minimal disconnections for non-payment occur, with standards for such disconnections”*

Statement of Principles

NZACAB agrees that a statement of principles is appropriate to provide context to the Guidelines.

NZACAB considers that, despite the discussion about the proposed changes identifying a lack of facilitating long term solutions for MDVCs as an issue (Pg 4 of the discussion document), there are no proposed principles that address this. The principles continue to focus on the short-term issue of disconnection. NZACAB considers that it is important to express principles that cover the full range of issues covered by the Guideline.

NZACAB agrees with Principles (a), (b), (d), (e) and (f).

Balance of Responsibilities

NZACAB is opposed to a shift in responsibility from the retailer to the consumer, without sufficient balance of responsibility on the retailers.

The Commission indicates that there is anecdotal evidence of individual consumers using self-serving interpretations in order to identify themselves as MDVC. The implication is that consumers are somehow gaining a 'benefit' that they are not entitled to, by claiming this 'status'. If the 'benefit' is that an individual facing electricity disconnection participates in a fair process, then NZACAB is opposed to any change in the Guideline that reduces that number of individuals who gain this benefit.

It is the submission of NZACAB that there must be a balance of responsibilities between the retailer, DHB and consumers.

In relation to proposed Principle (c) NZACAB does not agree that is appropriate to put the whole responsibility on the consumer to disclose relevant private or personal information. Often a consumer is not aware of what may be relevant. NZACAB submits that clause (c) should include a statement requiring retailers to prompt the consumer as to what is relevant.

NZACAB Recommendation

That a new sub-paragraph be added above proposed clause (c) (i) to read as follows

It is the retailer's responsibility to ensure that consumers know what types of information may be relevant to any disconnection decision.

Statement of Standards

NZACAB does not agree that the proposed statement of standards is appropriate to be included in the Guideline.

NZACAB submits that the proposed standard in relation to early intervention (Clause 12 (a)) is an important statement to make within the Guideline however it is more appropriate as a statement of intention rather than a standard.

NZACAB submits that the remaining standards (Clause 12 (b) – (e)) are directly related to whether an individual qualifies as a MDVC and are more appropriately placed within the definition of MDVC.

NZACAB Recommendation

That the proposed statement of Standards be removed.

That the proposed Clauses 12 (b) – (e) be incorporated into the definition of Medically Dependent Vulnerable Consumers (proposed Part 12)

Definition of Low Income Consumers

NZACAB agrees that low income consumers should be recognised as part of vulnerable consumers generally.

NZACAB disagrees that the definition of vulnerable consumers be placed after Principles and Standards. NZACAB submits that the definition should be placed immediately after the background part of the Guideline. This is because the Principles and Standards refer to vulnerable consumers and it is important that a reader understands who is included in the category when reading the Principles and Standards.

Recommendation 8

That proposed Part 11, Vulnerable Consumers, is moved to follow immediately on from Part 7, Background.

Definition of MDVC

Under the current Guideline a medically dependent vulnerable consumer is defined as 'a vulnerable consumer who is dependent on electricity for critical medical support'. The discussion document comments on the suspicion 'that this definition and the process of self nomination have contributed to some policy creep'.

As discussed above 'policy creep' (which we interpret as 'increased numbers') in itself is not a negative. There is very little evidence supplied by the Commission or retailers that the system is actually being abused in any way. NZACAB submits therefore that there is very little reason to change the definition.

Further, NZACAB submits that the definition should be placed immediately before the Principles and Standards parts of the Guideline (and after the proposed Part 11, Vulnerable Consumers (see NZACAB submission Question 14)). This is because the Principles and Standards refer to MDVC and it is important that a reader understands who is included in the category when reading the Principles and Standards.

NZACAB Recommendation

That the definition does not change.

That proposed Part 12, Medically Dependent Vulnerable Consumers, is moved to immediately precede proposed Part 9, Principles.

It is noted that the explicit statement at Clause 14 of the existing Guideline that 'Any consumer who is dependent on electricity for critical medical support (a medically dependent vulnerable consumer)' will not be disconnected for reasons of non-payment' has been moved from its prominent place in the existing Guideline. It now sits as a sideline comment in proposed Part 15, Disconnection and reconnection standards, Clause 43 and at proposed Part 15.4, Retailers' process for medically dependent vulnerable consumers, Clauses 60 and 61. NZACAB submits that this placement is inappropriate and submits that it should be inserted in proposed Part 12, Medically Dependent Vulnerable Consumers, after proposed Clause 19.

It is further noted that proposed Clauses 60 and 61 add to the complexity of the document and are redundant if NZACAB's submission in this respect is adopted.

NZACAB Recommendation

That a new clause be added in Part 12, Medically Dependent Vulnerable Consumers after proposed clause 19 that reads;

Any consumer who is a MDVC will not be disconnected for reasons of non-payment.

NZACAB Recommendation

That proposed Clauses 60 and 61 be deleted.

Responsibility for providing information to the electricity retailer on MDVC status.

NZACAB submits that, provided retailers comply very overtly and in a very transparent way with proposed Part 13, Identify a vulnerable consumer or a MDVC, Clause 22, that it is appropriate for the consumer to be responsible for disclosing information to the electricity on MDVC status.

Again, provided Proposed Part 13 is complied with NZACAB submits that the consumer should be responsible for informing a retailer of a change in their status of a MDVC.

If a retailer wishes to verify the consumer's status, they should be able to do so no more than once every 12 months where there are significant non-payment issues. The NZACAB agrees with Part 13, Clause 28 in this respect.

Electricity Consumer Code of Practice.

NZACAB absolutely agrees that the Guideline should be consistent with the Electricity Code of Practice.

Furthermore, in relation to proposed Part 7, Background, NZACAB notes the absence of the Electricity Consumer Code of Practice in the listing of 'Current institutional arrangements relating to consumer assistance and disconnections'

NZACAB Recommendation

That the Electricity Consumer Code of Practice be included in Part 7, Background, Clause 9 (d).

Restriction on retailer's disconnection of a consumer for non-payment of services other than electricity

NZACAB agrees that it is appropriate to have a restriction on retailer's disconnection for a consumer for non-payment of services other than electricity.