

Updating and strengthening the consumer care guidelines

Decision paper

15 January 2024

Executive summary

Consumers are at the heart of everything The Electricity Authority Te Mana Hiko (Authority) does. Electricity is a crucial service in our everyday lives and one that is helping us innovate for future generations.

Consumers can and should benefit from a secure and reliable power system, have more control over their energy use, receive a standard and consistent level of care from their electricity provider, and have confidence that regulatory and policy decisions are informed by accurate and up-to-date data.

Earlier this year we consulted on four options to strengthen and update the Consumer Care Guidelines (Guidelines). These options ranged from maintaining the status quo to mandating large parts of the Guidelines. We received over 1,000 submissions during the consultation period, the large majority of which came from consumers, highlighting the importance of a standard and consistent level of care to be provided by electricity retailers to their customers.

Submitters largely supported our approach to strengthen consumer protections and agreed that the voluntary nature of the Guidelines is not providing effective protection. On the whole, submitters agreed that mandatory safeguards are required, but that the options presented inadequately addressed the complexities of mandating the Guidelines and would not produce the desired outcomes.

Acknowledging the initial options presented in the consultation were not entirely fit-for-purpose, we have reevaluated our approach to ensure a robust and more nuanced approach that prioritises the well-being of consumers.

The Authority has decided to replace the Consumer Care Guidelines and establish mandatory minimum standards

In response to feedback and our commitment to improve consumer protections in the electricity market, the Authority has decided to establish mandatory minimum standards to replace the Consumer Care Guidelines.

However, before making the Guidelines mandatory, respondents have urged us to do a thorough review and unpack what has worked well, and more importantly to resolve the challenges that retailers have experienced in their implementation. This review is critical to ensure the new requirements enhance consumer protections, improve clarity, and reduce ambiguity and other issues imposing undue costs and inefficiencies in the electricity market.

This approach aligns with our additional objective and function to protect consumer interests. This significant step forward aims to deliver better outcomes for consumers, especially the most vulnerable, including those medically dependent on electricity. Establishing minimum standards ensures an enforceable framework, promoting a consistent and supportive standard of care for all New Zealanders from their electricity retailer.

Recognising retailers' pivotal role, the Authority values their work done to ensure alignment with the Guidelines. Their lessons learned from the implementation of the Guidelines will be a key input into the development of mandatory minimum standards. Collaboration and an active engagement with the industry will be essential in developing effective, coherent, workable, and enforceable obligations.

The Authority would like to thank all those who provided feedback on the Guidelines during our consultation period.

Next steps

Our immediate focus will be to conduct an in-depth analysis of the Guidelines. This examination will pinpoint existing challenges and areas for improvement. Subsequently, we will reengage stakeholders to shape the future of consumer protections standards. We recognise the importance of involving all stakeholders in this process and will be facilitation workshop sessions to provide a platform for industry groups consumer advocacy groups and other interested parties to have their say.

Following the engagement phase, we will begin the process to draft code amendments that reflect the refined Guidelines and stakeholder views and carry out a cost-benefit analysis to ensure regulatory framework achieves its objectives efficiently.

We intend to consult on the draft Code amendment and the cost-benefit analysis from end of September to end of October 2024. We are committed to achieving full implementation by the end of 2024 and will look to address issues outside of scope to the Guidelines in the second half of 2024.

Draft

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1. Purpose

1.1. This decision paper seeks to:

- (a) Explain the Authority's decision as a result of the consultation process from the consultation paper *Options to update and strengthen the Consumer Care Guidelines*.
- (b) Provide analysis of the stakeholder feedback gathered during the public consultation, particularly focusing on the refinement of our approach on how to reinforce consumer protections effectively.
- (c) Map out the way forward, outlining the Authority's actions for the prompt and effective implementation of the decision to increase consumer protections as well as fixing existing issues.

2. The Authority has decided to introduce mandatory minimum standards of consumer care

- 2.1. The Authority has decided to introduce mandatory minimum standards (Standards) of consumer care within the Electricity Industry Participation Code 2010 (Code). The Standards will replace the Consumer Care Guidelines (Guidelines).
- 2.2. The Standards will largely be based on the existing Guidelines, and will aim to provide clearer, more practical, and enforceable measures than currently exist. Our goal is to offer comprehensive consumer-care protections, improve clarity and mitigate potential costs or inefficiencies.
- 2.3. By including these Standards into the Code, the Authority seeks to establish a consistent and easily communicable regulatory framework for all electricity industry participants to provide a consistent and supportive minimum standard of care for New Zealand's domestic consumers.

3. We sought to improve the Guidelines to address concerns about their effectiveness

The Guidelines were introduced to address domestic consumer vulnerabilities

- 3.1. The Authority published the Guidelines in March 2021, to support electricity retailers to deliver a consistent and supportive minimum standard of care to all New Zealand

domestic consumers. The Guidelines replaced guidelines for assisting vulnerable and medically dependent consumers, which had been introduced mid-to-late 2000s.

- 3.2. The Authority decided that the Guidelines would be voluntary at the time of publication. We also indicated that if voluntary guidelines did not satisfactorily deliver their intended outcomes, we would consider mandating them (or aspects of them) in the future.

The Authority has gained an additional, consumer-focussed statutory objective since the Guidelines were introduced

- 3.3. On 31 December 2022, a new section 15(2) and 15(3) of the Electricity Industry Act 2010 came into force. It introduced a new additional objective, which requires the Authority to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers, specifically in relation to the dealings of these consumers with industry participants.
- 3.4. We were also given a new function, under section 16(1)(ia) of the Act, to undertake measures aimed at protecting the interests of domestic and small business consumers in relation to the supply of electricity by industry participants.

Our reviews have shown implementation has not been as consistent as expected across the retail market

- 3.5. Our first review of retailers' self-assessed alignment with the Guidelines for the period 1 July 2021–30 June 2022 (published in June 2023) showed that retailers' stated alignment with the Guidelines was variable, and implementation has not been as consistent as we expected. This review showed us that retailers were interpreting clauses of the Guidelines in several different ways. The result of this is that the outcomes for consumers were likewise variable.
- 3.6. The Authority has recently completed the second review of retailers' alignment with the Guidelines. This is attached at Appendix C. In summary, the findings of this report were that, while alignment has improved since the previous review, there remains persistent partial alignment and non-engagement with the Guidelines from small retailers.
- 3.7. Consumer groups have expressed to the Authority on numerous occasions that the Guidelines should be mandated to protect vulnerable consumers.
- 3.8. The Energy Hardship Expert Panel Report¹ also considered that the Guidelines, as currently drafted and implemented, are not effective in delivering adequate protections to consumers and that retailers may not be following them.
- 3.9. The limiting nature of voluntary alignment, variable self-alignment responses, consumer feedback, and retailers raising issues with ambiguity, indicated that the Guidelines were not satisfactorily delivering their intended outcomes. Furthermore, the Guidelines were introduced prior to the introduction of a consumer protection objective and function for the Authority.

¹ <https://www.mbie.govt.nz/assets/energy-hardship-the-challenges-and-a-way-forward-energy-hardship-expert-panel-report-to-minister.pdf>, Section 9.2, page 109

- 3.10. As a result of the above, the Authority decided to consult on options to update and strengthen the Guidelines.

The Authority released a consultation paper seeking views on options to improve the Guidelines

- 3.11. The consultation paper was released on 4 September 2023, and sought feedback on options to update and strengthen the Guidelines. The consultation period closed Monday 2 October 2023.
- 3.12. The paper outlined the Authority's view that the Guidelines could be strengthened and presented four options the Authority was considering:
- (a) **Option One:** Maintain the status quo.
 - (b) **Option Two:** Keep the Guidelines voluntary but clarify interpretation issues in some areas. This option could be undertaken on its own or alongside options three and option four.
 - (c) **Option Three:** Codify (i.e. make mandatory) parts two, six, seven, and eight of the Guidelines. These parts provide key consumer welfare protections around financial difficulty, disconnection, and medically dependent consumers.
 - (d) **Option Four:** Codify parts one to nine of the Guidelines.
- 3.13. Options three and four also included resolving interpretation issues as described in Option two.
- 3.14. The Authority outlined **Option three** as its initial preferred option. It was the Authority's view that this option would protect the interests of domestic consumers facing financial difficulty, disconnection, and medically dependent consumers. We also considered this would minimise any potential negative impacts on innovation, competition, and efficiency – considerations which align with the Authority's statutory objective.
- 3.15. The consultation paper sought feedback from stakeholders on these options and the Authority's initial assessment of how best to achieve the Guidelines' purpose and intended outcomes. This decision paper is the outcome of that consultation.

4. Feedback revealed shortcomings with the proposed options

- 4.1. We received a substantial number of responses to the consultation paper. In total there were 128 formal submissions and nearly 1000 responses to our online consumer survey. A summary and analysis of the submissions received is attached at Appendix A.
- 4.2. After carefully considering the feedback received, it has become evident that none of the presented options – Options two, three and four – stand as a fully suitable solution to update and strengthen the Guidelines going forward.

The scope of option two is too narrow to effectively address the issues with the existing Guidelines raised in submissions

- 4.3. Option two proposed to keep the Guidelines voluntary but amend their wording to address issues noted by stakeholders about varying interpretations of parts of the Guidelines. Examples given in the consultation paper included:
- (a) the definition of a 'severe weather event'
 - (b) when a disconnection could be interpreted as endangering the wellbeing of the customer or any customer at the premises (clauses 66(c), and 73(a)(i))
 - (c) what 'reasonable' means in various parts of the Guidelines
 - (d) any other wording raised by stakeholders through this consultation that needs clarification but does not significantly amend or extend the Guidelines.
- 4.4. As shown in Appendix B retailers outlined substantial challenges tied to the Guidelines, including clarity, workability, and even cost/effectiveness concerns. The need to eliminate ambiguities, inconsistencies and anomalies emerged as a common theme.
- 4.5. Feedback revealed that Option two would be a significantly more substantial undertaking than originally anticipated. This is because the number and magnitude of issues reported with the current Guidelines is a lot more complex than simply amending the wording in the Guidelines (as was proposed in the consultation paper).
- 4.6. We have concluded that it is important that the concerns raised by retailers are effectively addressed before minimum standards are introduced. Industry participants have also stressed the importance of a collaborative approach to resolve these complexities, emphasising the need for comprehensive resolution to ensure robust consumer protections.
- 4.7. This option would only be feasible if the issues raised by respondents were primarily minor wording issues regarding interpretation. Given the range and substance of issues raised with the Guidelines by respondents, and the scope of these being beyond that proposed by Option two, we consider this option would not achieve the desired outcomes.

We consider Option three risks undermining the Guidelines as a whole

- 4.8. Option three proposed to codify (make mandatory through the Code) parts two, six, seven, and eight of the Guidelines.
- 4.9. Our initial preference for Option three was grounded in our belief that making these parts mandatory would effectively mitigate harm to domestic consumers. However, after reflecting on the submissions received, the Authority's position on this has changed. The Authority now considers that having some parts of the Guidelines mandatory, and others voluntary, will create significant issues that will undermine the effectiveness of the Guidelines as a whole.

- 4.10. While respondents agreed that parts, two, six, seven and eight of the Guidelines are the parts that prevent greatest harm from occurring to consumers, consumer advocacy groups commented that this option would create significant shortfalls in the protections provided. This means that the harms occurring to domestic consumers could not be prevented if these are the only parts made mandatory.
- 4.11. For example, many consumers and consumer advocacy groups mentioned how part nine (Fees and Bonds) is critical for consumers. Part four (When a customer signs up or is denied a contract) and part five (Business-as-usual accounts management) were also highlighted as foundational aspects of the Guidelines that provide adequate protections for Consumers.
- 4.12. Some parts of the Guidelines contain important foundational processes such as information and records (part three) and the business-as-usual account management (part five). These parts are essential for realising the desired outcomes of parts six, seven, and eight and their consistent implementation.
- 4.13. After further consideration, we have also concluded that Option 3 could inadvertently reverse the progress made by some retailers who have implemented the entire suite of Guidelines. A segmented approach might create perverse incentives, leading retailers and new entrants to prioritise compliance with mandatory parts while overlooking the voluntary components.
- 4.14. In essence, the Authority's view reflects the need for a more nuanced perspective than Option three, recognising the interdependence of the Guidelines and a cohesive, comprehensive regulatory framework.

There are significant shortcomings with progressing Option four

- 4.15. Option four proposes to codify parts one to nine of the Guidelines. This option was favoured by consumers and consumer groups. These groups expressed concerns that the voluntary nature of the Guidelines leads to consumer harm due to inconsistent retailer adherence, especially for vulnerable groups.
- 4.16. Many consumers submitted that the key benefits of mandatory Guidelines will:
- (a) reduce variability in outcomes, ensuring a consistent and reliable quality of service as well as safety for vulnerable consumers (such as those who are medically dependent on electricity)
 - (b) allow the Authority to enforce the consumer protection standards as they will be Code obligations.
- 4.17. Stakeholders in general supported mandating the Guidelines, however, some (particularly those from industry) expressed that an adequate option requires improvements in clarity, coherence, consistency, and enforceability.
- 4.18. Retailers opposed Option four, citing the need for significant changes to the current Guidelines to improve workability. Consumer advocacy groups also stressed the need for the Guidelines to be better aligned to the Authority's statutory objectives.
- 4.19. Based on the feedback received, the Authority believes the Guidelines need to be thoroughly examined to address the various issues raised in submissions before they can be made mandatory. As noted above, retailers provided the Authority with a large number of issues with the Guidelines – included as Appendix B.

- 4.20. However, as discussed above, the scope of any changes to the Guidelines proposed by Option two (and thereby included in Option four) is too narrow for the Authority to include in this process. This is particularly true if the conclusion of any further analysis is that some clauses of the Guidelines should be removed and/or significantly altered.

5. The Authority has decided to progress an alternative to Option four

- 5.1. Considering the feedback received, the Authority believes it is imperative to explore a fit-for-purpose alternative that better aligns with our policy objective than the options consulted on in the consultation paper.
- 5.2. This alternative will maintain the principle of Option four but will include a greater examination of the existing Guidelines to address issues greater than purely those of interpretation and clarity.
- 5.3. Pursuing an alternative also allows us to address the various concerns raised by stakeholders as a part of the process of mandating the Guidelines, offering a practical and efficient solution that includes the views of both consumers and retailers.

The Authority will develop mandatory minimum standards for consumer protection

- 5.4. The Authority considers the best approach forward is to develop a set of mandatory minimum standards for consumer protection (Standards) within the Code, based on the Guidelines.
- 5.5. These Standards will aim to address stakeholders' concerns and create workable, practical, and enforceable standards that ensure consistency of outcomes for consumers without creating unnecessary costs or ambiguity. The Authority believes this approach will ensure clear service standards for retailers are set, while also facilitating effective monitoring and enforcement.
- 5.6. While this is a new approach, it is strongly informed by the options in the consultation paper and does not entail recreating the Guidelines. The Guidelines will form a foundation of the new Standards, which will be refined through the experiences of consumers and insights provided by retailers who have implemented the Guidelines.

This approach will allow the Authority to address the issues raised in consultation

- 5.7. This approach will require the Authority to rigorously analyse the Guidelines in light of the feedback received in submissions. This will build on our earlier analysis of the Guidelines and will allow us to engage with industry groups and consumers to inform the design of the Standards.
- 5.8. We believe this approach will best achieve the desired policy objectives and update the Guidelines in line with the Authority's statutory objectives – particularly the

additional objective. This option will also ensure the Authority addresses the views of both consumer facing and industry facing stakeholders, which is likely to have the effect of creating shared commitment across the board to enhance consumer protections.

6. Our desired policy objective of improving the Guidelines

Our statutory objectives drive our work and how our decision meets our statutory objectives

- 6.1. The consultation paper presented our desired policy objective as ensuring that the Guidelines' purpose and intended outcomes are consistently being delivered, in line with the Authority's statutory objectives. Our main policy objective is to enhance consumer protections in alignment with our statutory objectives.
- 6.2. In considering whether any changes are required to ensure that the purpose and intended outcomes of the Guidelines are being consistently delivered, we need to ensure the Authority acts consistently with its statutory objectives:
 - (a) to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers (the main objective)
 - (b) to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers (the additional objective) – the additional objective applies only to the Authority's activities in relation to the direct dealings of industry participants with domestic consumers and small business consumers.
- 6.3. As the minimum standards will largely be based on the Guidelines, the Authority's view is that they promote the additional objective, and they are not inconsistent with the main objective. In addition to being consistent with the statutory objectives, the minimum standards would need to be necessary or desirable to do so in order to promote the protection of the interests of domestic consumers in relation to the supply of electricity to those consumers. This is because section 32 of the Act provides that the Code can only contain provisions that are consistent with the objectives of the Authority, and are necessary or desirable to promote any or all of the following:
 - (a) Competition in the electricity industry.
 - (b) Reliable supply of electricity to consumers.
 - (c) Efficient operation of the electricity industry.
 - (d) Protection of the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.
 - (e) Performance by the Authority of its functions.
 - (f) Any other matter specifically referred to in the Act as a matter for inclusion in the Code.

Our stated policy intent

- 6.4. We received feedback from a submitter that the “guidelines do not adequately meet the Authority’s new objective. First, there are significant shortfalls in the protections they provide for consumers. Second, the guidelines’ intended outcomes are aimed at achieving a “balance” between consumer and retailer interests, which we believe conflicts with the protection function mandated by the act.” A legal opinion was obtained to support the submitter’s view that such a “balancing” approach as outlined in paragraph 4.3 of the consultation paper was inconsistent with the Authority’s objective in section 15(2) of the Electricity Industry Act 2010. We note that this argument has been supported by other consumer advocacy groups as well.
- 6.5. In response to the first comment, the Authority is of the view that the Authority’s decision to introduce mandatory minimum standards following a consultation process with stakeholders will help the Authority understand how the protections in the Guidelines can be refined. In response to the second comment, the Authority’s intention was to confirm that it has taken into account its main objective of promoting a competitive, reliable and efficient electricity industry as well as the additional objective when considering how the proposal impacts consumers as consumers are referenced both in the main objective and the additional objective.

7. Responses to matters raised in the submissions

- 7.1. The Authority acknowledges the vast number of issues raised in this consultation, many of which relate to the content of the Guidelines. These are outlined in Appendix B and will be addressed in conjunction with developing the Standards. We acknowledge that addressing these matters is vital to resolving current ambiguities and impracticalities present in the Guidelines.

Additional issues that are outside of the scope of the Guidelines will be addressed following the creation of mandatory minimum standards

- 7.2. The Authority considers progressing the strengthening of consumer protections a priority, and therefore the creation of mandatory minimum standards for consumer care within the Code. The Authority will therefore prioritise the process of redrafting the Guidelines into these mandatory minimum standards in early 2024 and will consult with stakeholders in due course.
- 7.3. The issues that lie beyond the scope of this consultation, presented in the section above, will be considered further with an aim to include them in our work programme starting the second half of 2024.

There is a wider consumer-care work programme to address additional issues

- 7.4. While the Authority will prioritise the process of redrafting the Guidelines into mandatory minimum standards, issues raised that are outside the scope of this consultation will be addressed after the conclusion of the creation of mandatory minimum standards.
- 7.5. The Authority notes work is being done on several concurrent work programmes that may address some of these issues. The outcomes of these workstreams will be

considered ahead of revisiting out-of-scope issues from the Guidelines consultation. These workstreams include:

- (a) **Improving the Authority's collection of retail data** – which will provide the Authority with substantial data on consumer debt, disconnections, complaints, and other issues. This will allow the Authority to make more informed decisions and improve monitoring of how retailers are treating their customers.
- (b) **Designing an updated registration form and emergency response plan to assist medically dependent consumers** – the Authority is working with Te Whatu Ora Health New Zealand on a project designing an updated registration form for medically dependent consumers and an updated emergency response plan to assist medically dependent consumers in emergency situations – such as planned or unplanned outages. The outcome of this project will inform the overall review of the Guidelines.
- (c) **Options to support consumer plan comparison and switching** – the Authority is considering a range of options for the best means to support consumers to compare and switch electricity plans and retailers. This will canvass several options, including forms of website delivery and supporting services, including an option regarding requirements for retailers to provide best plan comparisons of their own products.

8. Respondents also raised several other issues that were outside the scope of this consultation

- 8.1. A number of other issues were raised, many of which were outside the scope for the Authority to consider with regards to the objectives of this consultation. The Authority will consider the issues, discussed below, after resolving the outcome of this consultation.

Processes and fees for disconnection and reconnection

- 8.2. Most consumers and consumer advocacy groups emphasised the importance of addressing fees and bonds (part nine of the Guidelines, which were proposed to remain voluntary under Option three). These respondents raised concerns around the lack of mandatory rules governing bonds and fees, and how this could lead to excessive costs of electricity.
- 8.3. Of particular concern was the processes and fees around disconnection and reconnection, where respondents highlighted that these create significant equity issues for low-income householders that are the most likely to face disconnection due to non-payment. Several consumer advocacy groups asked for these fees to be banned.
- 8.4. The Authority will need to conduct further analysis on this issue. The banning of disconnection and reconnection fees is a complex issue that would require its own analysis and consultation. Of note, the Guidelines currently indicate that fees should be reasonable (paragraph 109 of the Guidelines), but there is likely not a common

understanding of what this entails. This issue may be addressed in part through the creation of mandatory minimum standards for consumers.

The Guidelines' approach to pre-pay plans

- 8.5. Submitters commonly raised matters of equity issues regarding pre-pay electricity plans. Consumer advocacy respondents suggested that the Authority should address the disparities in tariffs and fees across prepay plans.
- 8.6. Most consumer advocacy groups highlighted the lack of information around prepay disconnections. These respondents also suggested the Authority should collect and publish data on pre-pay plans and the varying associated costs.
- 8.7. Further information would be required before the Authority could address these issues. As with the issue of disconnection and reconnection processes and fees above, this is also a complex issue that is outside the scope of the current Guidelines and will need further analysis.

Information and enforcement

- 8.8. The vast majority of consumers, consumer advocacy groups, and retailers suggested that the Authority should invest in collecting and publishing greater information and insights on the residential electricity sector.
- 8.9. Consumer advocacy groups also suggested that greater monitoring of the retail sector is necessary to enforce the Guidelines – particularly if parts of the Guidelines remain voluntary.
- 8.10. The Authority is currently undertaking a work programme to increase the amount of retail data available to improve our monitoring functions.

Other matters

- 8.11. Other matters raised in individual submissions included:
 - (a) protections for consumers experiencing family violence
 - (b) expanding protections for consumers using alternative energy sources such as solar panels
 - (c) extending the Guidelines to include protections for small businesses as well as consumers.

9. Next steps in action: our year-ahead plan from policy to implementation

- 9.1. **Detailed analysis** – our immediate focus involves conducting an in-depth analysis of the Guidelines. This examination will pinpoint existing challenges and areas for improvement. Analysis will take place January-February 2024.
- 9.2. **Stakeholder engagement** – we recognise the importance of involving all stakeholders in shaping the future of consumer protection standards. Active engagement will involve workshop sessions, providing a platform for industry

groups, consumer advocacy groups and other interested parties to have their say. Stakeholder engagement will take place March-April 2024.

- 9.3. **Code drafting process** – following the engagement phase, we will begin the process to draft code amendments that reflect the refined Guidelines and stakeholder views. This stage involves translating the identified standards into actionable and enforceable provisions within the Code. We intend to finalise the drafting of the Code amendments by August 2024.
- 9.4. **Cost-benefit analysis** – to assess the impact of our proposed changes, a comprehensive cost-benefit analysis will be undertaken. This analysis aims to estimate the net benefits from implementing the mandated minimum standards for consumers. By weighing the costs against the anticipated benefits, we can ensure the regulatory framework achieves its objectives efficiently. We expect to have a cost-benefit analysis completed by the end of September 2024.
 - (a) We intend to consult on the draft Code amendment(s) and the cost-benefit analysis from end of September to end of October 2024.
- 9.5. **Monitoring and enforcing mechanisms** – in order to achieve full implementation for the Standards by the end of 2024, we will need to establish effective monitoring and enforcement mechanisms to implement the Standards.
- 9.6. **Issues outside of scope to the Guidelines** – the Authority intends to begin work on issues outside of scope of the Guidelines in the second half of 2024, once the mandated minimum standards work programme is settled from a policy perspective.

10. Attachments

- 10.1. The following appendices are attached to this paper:

Appendix A Submissions analysis

Appendix B List of issues provided by participants within scope of the Guidelines

Appendix C Alignment Report

Appendix A Submissions analysis

Consultation feedback demonstrated a need for the Guidelines to improve on consumer protections and resolve workability issues

A.1. Feedback to the consultation was significant and came from a wide range of stakeholders. Overall, the feedback we received demonstrated the need to significantly update the Guidelines. The submissions are published on the Authority's website.²

Submissions Analysis

A.2. The Authority received 128 written submissions from respondents listed in **Table One** below, including:

- (a) 100 from consumers
- (b) 12 from consumer advocacy groups
- (c) One social agency
- (d) One disputes scheme
- (e) One electricity distributor
- (f) 11 electricity retailers
- (g) One research organisation
- (h) One electricity retailer association

A.3. The Authority also received eight submissions from school children, who articulated the importance of electricity to everyday life and the need for New Zealanders' access to electricity to be protected. We noted these submissions, but they were not included as part of our formal submissions analysis (and do not feature in **Table One** below).

A.4. The Authority also received nearly 1000 substantive responses to the online questionnaire, primarily from individual consumers.

Table One: List of submitters to the consultation paper by category

Category	Submitters
Consumer advocacy groups	Anglican Advocacy, Child Poverty Action Group, Citizens Advice Bureau, Common Grace Aotearoa, Community Law Centres o Aotearoa, Consumer Advocacy Council, Consumer NZ, Disabled Persons Assembly NZ, Presbyterian Support New Zealand, The Salvation Army, New Zealand Council of Christian Social Services, Electric United Community Action Network
Social agencies	FinCap

² [Improving the Consumer Care Guidelines | Our consultations | Our projects | Electricity Authority \(ea.govt.nz\)](#)

Disputes scheme	Utilities Disputes Limited
Electricity distributor	Wellington Electricity
Electricity retailer	Contact Energy, Electric Kiwi, Electricity Networks Aotearoa, Entrust, Genesis Energy, Independent Retailers, Mercury, Meridian Energy, Nova Energy, Octopus Energy, Genesis
Research organization	He Kāinga Oranga
Electricity retailer association	Electricity Retailers Association New Zealand (ERANZ)
Social Enterprise	Toast / Sustainability Trust

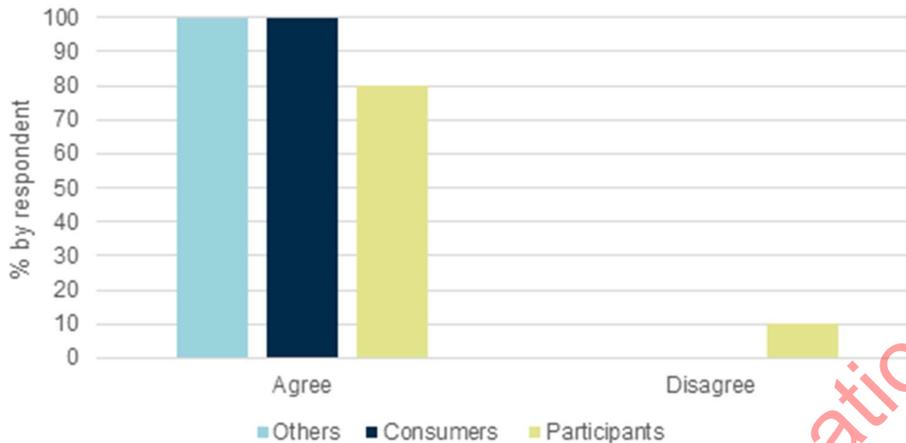
Key Themes

- A.5. Five main themes emerged from submitters responses to the consultation paper. These themes encapsulate the major feedback we received from respondents and as such have presented our summary of the feedback through them. These themes have provided a base to the Authority's decision to progress creation of a mandated minimum standards.
- A.6. These themes are:
- (a) The existing Guidelines fail to adequately protect consumers.
 - (b) Mandatory minimum standards are necessary to increase consumer protections.
 - (c) The current Guidelines require significant improvement to become workable.
 - (d) Retailers are unable to estimate possible impacts of mandatory Guidelines without knowing what changes will happen.
 - (e) Compliance monitoring requires substantial enhancement.

Current Guidelines fail to adequately protect consumers

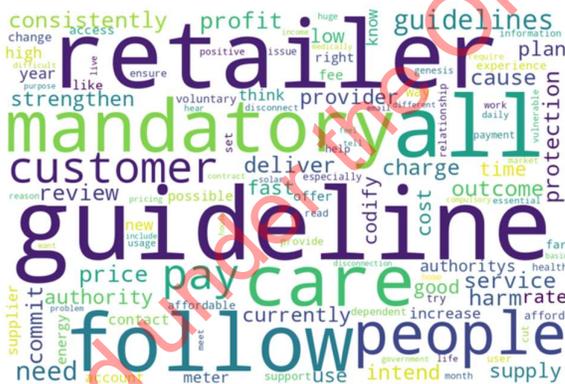
- A.7. Respondents largely agreed that the Guidelines fall short of their purposes and intended outcome. As shown in Figure 2, the vast majority of consumer submissions agreed with the Authority's view that the Guidelines are not delivering on their intended purpose or outcome.
- A.8. Many consumers submitted that retailers are not following the Guidelines with several submitters stating that the voluntary nature of the Guidelines enables this to happen. Several consumers highlighted retailers being able to not follow the Guidelines without any repercussion means consumers are not adequately protected and are being harmed under the status quo.

Figure 2: 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



A.9. The online survey showed consistent responses to the written submissions. Table 5 summarises the most common responses on why respondents believe that the Guidelines are not delivering on their purpose and intended outcome.

Do you think that the Guidelines are currently delivering on their purpose and intended outcomes? Can you tell us more to support your answer?



“No, the Guidelines are not currently delivering their intended outcomes”.

“The Electricity Authority’s own review showed that retailers are not consistently following the Guidelines”.

“That is causing harm to consumers”.

“The Electricity Authority should commit now to codifying and strengthening all protections in the Guidelines as fast as possible”.

A.10. Retailers, however, overall support the Guidelines, and emphasise the positive outcomes that the Guidelines have had for consumers. Some of the retailers’ responses added:

- (a) Electricity Retailers' Association of New Zealand stated: *“The independent retailers support the Guidelines. The independent retailers consider the Consumer Care Guidelines have an important role in articulating the Authority’s expectations about retailer conduct and how to protect the interests of consumers”*
- (b) Meridian stated: *“Meridian supports codification as we support better outcomes for consumers. It also seems clear that the Guidelines, as*

originally drafted by the Authority, were intended to eventually become Code at some point.”

- (c) Electricity Networks Aotearoa (ENA) stated: *“ENA and its members support the Consumer Care Guidelines (Guidelines) as they are a vital tool for ensuring and enshrining welfare protections for domestic consumers.”*
- (d) Genisis stated: *“We would also note that variable retailer alignment, cited as one of key reasons for considering mandating the Guidelines, can result from issues or ambiguities in the wording of the Guidelines resulting in variable interpretation, rather than reflecting genuine lack of alignment that could drive a suboptimal customer outcome”*

A.11. However, many retailers highlighted that there is a strong need to update and strengthen the Guidelines to ensure these are workable and better provide adequate protections to consumers.

Minimum mandatory standards are necessary to increase consumer protections

- A.12. Respondents largely agreed that the Guidelines fall short of their purpose and intended outcomes. As shown in Figure 2, the vast majority of consumer submissions agreed with the Authority’s view that the Guidelines are not delivering on their intended purpose or outcomes.
- A.13. As shown in Figure 4, while consumers agree that parts two, six, seven and eight are important, they view that making all parts of the Guidelines mandatory is necessary to deliver adequate protections for consumers (noting that existing shortfalls in the Guidelines will be addressed).
- A.14. While all the consumers and consumer advocacy groups expressed their support for making all the Guidelines mandatory, industry participants highlighted risks and possible unintended consequences of this option without first addressing issues with the Guidelines. Three quarters of industry respondents said that options three and four might not be likely to add any extra benefits for those consumers who already have a retailer who is fully compliant. Nearly 25% of industry respondents added that the benefits of mandating some or all parts of the Guidelines can be outweighed by the potential cost increased caused by the additional obligations.

Figure 1: 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?

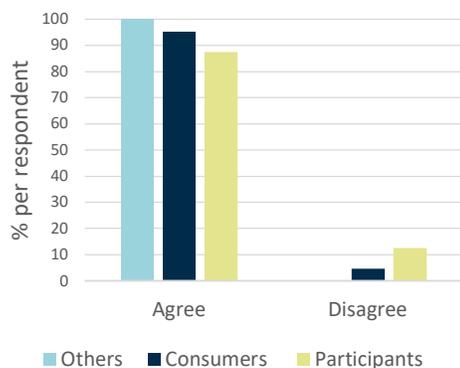
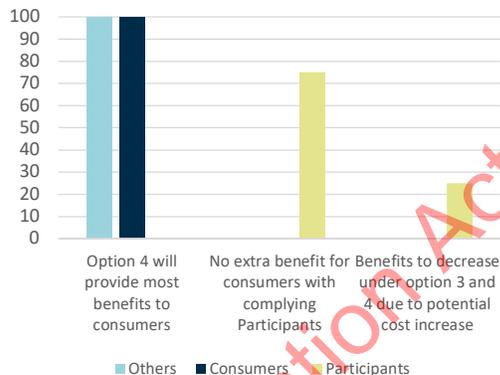


Figure 2: Question 15: What do you think the benefits to domestic consumers will be under options two to four?



A.15. The online survey showed consistent results to this theme. Most responses to the online survey answered:

- (a) “Yes, but the other parts are also very important”, and
- (b) “The Electricity Authority should commit now to making the full set of Guidelines mandatory as soon as possible”.

A.16. Many consumers who emphasised making all Guidelines mandatory also suggested, that if a staged approach is adopted, to include part nine (Fees and bonds) in the first stage of implementation.

The current Guidelines require significant improvement to become workable

A.17. Retailers consistently reported that the Guidelines require practical improvements to:

- (a) enhance the clarity of the Guidelines and fix ambiguities and other workability issues for retailers
- (b) reduce inefficiency and unnecessary costs (which if made mandatory may pass on additional costs to consumers)
- (c) increase protections to consumers.

A.18. Many industry participants supported having minimum standards of protections for consumers, but insisted strongly that these must be workable to ensure those protections can be delivered. Respondents provided detailed submissions outlining what issues they currently see present in the Guidelines. Appendix B provides a detailed list of issues raised by submitters on specific Guidelines.

Retailers cannot estimate impacts of mandatory Guidelines without knowing what changes will happen

A.19. We asked retailers to provide estimated costs to their business if the Guidelines were made mandatory (either partially or in full). As shown in Figure 6, most retailers generally responded that they would need to see a draft version of the updated

Guidelines before they could estimate any effects on costs. Retailers emphasised that such estimations would depend on what option is progressed and are too varied and uncertain to provide useful input at this stage.

- A.20. One submitter expressed that they might expect higher costs should options three or four be progressed, particularly for potential new entrants into the new market.
- A.21. Noted already, but related to this specific question, retailers across all questions voiced strongly for a collaborative approach between the Authority and stakeholders when updating the content in the Guidelines to ensure a workable set of Guidelines.

Figure 3: Q14. For retailers, broken down by Guidelines parts, 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)?



Compliance monitoring requires substantial enhancement

Respondents urge the Authority to publish data on the industry

- A.22. Most retailers and consumer groups emphasise the Authority's need to promptly publish information and insights related to the residential electricity sector. Some retailers noted that the 2022 – 2023 self-assessment reports have already been submitted but are not yet published. These respondents also urged the Authority to publish quarterly data on disconnections due to non-payment consumers.
- A.23. Most retailers highlight that the currently released data is insufficient for an adequate assessment of whether the Guidelines are achieving their intended outcomes. Some think it may be premature to evaluate the Guidelines' efficacy with only one year of data.

Compliance monitoring will need to be resourced to ensure any updates to the Guidelines can be enforced

- A.24. Many respondents including retailers, consumers and others, stress the urgent need for improved and adequately resourced compliance monitoring to ensure the Guidelines can be enforced if made mandatory.
- A.25. A few respondents recommended that if certain parts of the Guidelines become mandatory, the provision of monitoring information in part ten, should also be

mandated. These submitters viewed part ten as essential to ensuring making the parts identified under Option 3 workable as a package.

- A.26. Overall, consumers supporting the Guidelines becoming mandatory, either in full or partially, raised that without effective compliance monitoring, the intended purpose and outcomes of the Guidelines are at risk of never being achieved.

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Appendix B List of issues provided by respondents within scope of the Guidelines

B.1. The table below provides an aggregated list from individual examples that some retailers provided as non-comprehensive lists of issues and limitations that the current version of the Guidelines should address as part of the next steps.

B.2. This list is illustrative of the magnitude of the issues raised by retailers and the extent of the workability issues that need to be resolved.

Clause no.	Submitter	Feedback
8	Independent Retailers	In relation to Part 2, retailers should have a Consumer Care Policy and the Guidelines should prescribe what must be included in the Policy but, if mandated, it should be the retailer's own policies and not drafted by the Authority e.g., clauses like clause 8 should not be mandated.
11	Contact	Parts of clause 11 are highly prescriptive in the way retailers communicate with customers. While we achieve the intent of these clauses there are often more efficient and customer centric ways to achieve the intended outcomes.
14	Contact	Parts of clause 14 are highly prescriptive in the way retailers communicate with customers. While we achieve the intent of these clauses there are often more efficient and customer centric ways to achieve the intended outcomes.
14	Independent Retailers	Data collection: Clause 14(a)(ii) requiring Retailers to document "a customer's preferred day(s) or the week to be phoned ... and the time(s) within (those) day(s)" is too prescriptive and is information which, if relevant to the customer at all, would likely become quickly out-of-date. The clause also does not appear to have any practical function. While the Guidelines require this information to be recorded, there are no provisions for when it should be applied e.g. what happens if the preferred day(s) don't correspond with a 24 hour disconnection notice? This clause should be deleted.
14(a)	Genesis	We do not agree that certain requirements under Clause 14(a), particularly with regards to how and when retailers communicate with consumers and customers, result in improved outcomes for consumers, while they also add undue costs for industry. We would therefore suggest they do not strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). Specifically, we

		would suggest removing the requirement to record a customer's preferred day of the week to be phoned (14(a)(ii), language preference (clause 14(a)(iii)), and requirement to record which communication methods are not suitable (clause 14(a)(iv)).
15	Contact	Parts of clause 15 are highly prescriptive in the way retailers communicate with customers. While we achieve the intent of these clauses there are often more efficient and customer centric ways to achieve the intended outcomes.
15(d)	Independent retailers	What practical function does recorded information on a customers "primary heating sources" serve (clause 15(d))?
17	Contact	Parts of clauses 17 are highly prescriptive in the way retailers communicate with customers. While we achieve the intent of these clauses there are often more efficient and customer centric ways to achieve the intended outcomes.
23	Mercury	Requiring retailers to advise every new post-pay customer of the existence of the retailer's consumer care policy and the retailer's commitment to offer support if the customer faces payment difficulties is irrelevant in many circumstances. Not all customers go into debt and even fewer get to the disconnection stage. It is not appropriate to presume that a new customer will not pay their account. • We recommend this clause be amended to require retailers to provide this information as appropriate.
24	ERANZ	Clause 24 – Retailers to consider financial mentoring when examining a credit history: This clause requires retailers to consider whether a potential new customers' poor credit rating is countered by their active participation in financial mentoring or whether it was the result of historic circumstances that have now passed. Satisfying both of these scenarios involves asking highly personal questions which retailers must then make judgement calls on, well outside their area of expertise. ERANZ recommends maintaining the principle Clause 24, but removing subclauses (a) and (b).
24	Mercury	Clause 24 – Retailers to consider financial mentoring when examining a credit history. This clause requires retailers to consider whether a potential new customers' poor credit rating is countered by their active participation in financial mentoring or whether it was the result of historic circumstances that have now passed. Satisfying these scenarios involves asking highly personal questions and then asks retailers to make judgement calls which are well outside their area of expertise. We recommend removing subclauses (a) and (b).

25	Genesis	We do not agree with Clause 25(a). It is unreasonable to expect retailers to have this information, and in any case this information is freely available to consumers including through channels like Powerswitch (which retailers are required to direct consumers to in most communications). - Clause 25(a)(i), which requires Retailers to provide consumers with whom they choose not to contract with information about other options generally available in the market; We would argue they do not strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). Genesis considers we are unlikely to be alone in being reluctant to encourage our competitors to discuss our offers with their customers.
25	Contact	Clauses 25 and 31 require retailers to represent pricing plans available by competing organisations. This raises considerable risk of mis-representing other organisations pricing and is better achieved by directing to PowerSwitch.
27	ERANZ	Clause 27 – Advising all new customers of arrears processes: Similarly to clause 23, requiring retailers to advise every new post-pay customer of the process for unpaid invoices is unnecessary. ERANZ recommends retailers should have flexibility to only do this on a case-by-case basis, such as there are evident signs of hardship. As an additional alternative action, retailers can advise of special conditions and support available when onboarding high credit risk applicants.
27	Mercury	Advising all new customers of arrears processes Similarly to clause 23, requiring retailers to advise every new post-pay customer of the process for unpaid invoices is unnecessary. Retailers should have flexibility to only do this where appropriate. • As an alternative action, retailers can advise of special conditions and support available when onboarding high credit risk applicants.
28	Electric Kiwi	We don't consider the Guidelines requirement (clause 28) that “the retailer should confirm with the customer that the customer is aware of: ... a. any cost differential between post-pay and pre-pay metering arrangements” or “b. that when credit for the pre-payment service is used up disconnection will occur” provides consumers, including vulnerable and medically dependent consumers, any meaningful protection.
31	Contact	Clauses 25 and 31 require retailers to represent pricing plans available by competing organisations. This raises considerable risk of mis-representing other organisations pricing and is better achieved by directing to PowerSwitch.

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31(b)	ERANZ	Clause 31(b) – Awareness of options generally available in the market: Retailers' contact centre staff cannot be realistically expected to have an accurate and up-to-date awareness of competitor options in the market that might be more suitable. In addition, this requirement potentially introduces competition issues if competitors are expected to talk about other retailers. ERANZ recommends retailers should, if required, refer to price comparison tools generally available in the marketplace such as PowerSwitch.
31(b)	Genesis	We do not agree with clause 31(b) (below). It is unreasonable to expect retailers to have this information, and in any case this information is freely available to consumers including through channels like Powerswitch (which retailers are required to direct consumers to in most communications). Clause 31(b), which requires Retailers, if a customer enquires about changing their pricing plan, to make the customer aware of any other options generally available in the market that might suit the customer's circumstances better than the plans offered by the Retailer. We would argue they do not strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). Genesis considers we are unlikely to be alone in being reluctant to encourage our competitors to discuss our offers with their customers.
32	Genesis	Requires Retailers to proactively notify customers if they become aware a customer's nominated alternate contact person no longer agrees to act in that capacity. We do not think this requirement is helpful or reasonable, and we think it fails to strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). We therefore suggest either removing this clause, or narrowing the scope of this obligation to only apply to medically dependent customers
41	Independent Retailers	In relation to Parts 6 and 7, while we consider electricity retailers should have processes/systems to identify and assist customers having difficulty paying their bills, and provide reasonable warning of unpaid bills and potential disconnection, we would caution against over-prescribing what these requirements should look like e.g., how many days should be allowed for payment or what happens on day 24 after a bill hasn't been paid (clause 41).
43	ERANZ	Rigid processes for customers in arrears: Clause 43 sets out a number of very detailed steps to follow when a customer is in payment arrears. The steps are excessive in many cases, sometimes people fall into arrears because they forgot to update their credit card details. Retailers should be able to tailor their approach to the situation and what they know of the customer. It is not always appropriate, for example, to refer customers to support agencies

		when they have forgotten to pay or just need to update a payment method. ERANZ recommends the Authority engage with retailers on how to amend this clause so it is more appropriate and useful for customers.
43	Contact	Requires that retailers pause disconnection if majorita customer has contacted a support or social agency. We would like it clarified that we can seek confirmation from the support agency that this support has been sought and an appointment booked. We note that this can only be done where the customer provides a privacy waiver.
46(a)	ERANZ	Monitoring increases and decreases in customer consumption: Many customers find their electricity retailer actively monitoring their usage and then asking them why their usage has either increased or decreased to be highly intrusive. As an alternative, retailers enable customers to view their usage data via website and mobile phone apps, including usage comparison charts on customer bills. ERANZ recommends limiting this requirement to retailers running high bill exception reporting and attempting to discuss potentially high bills with customers to prevent bill shock.
46(b)	ERANZ	Monitoring increases and decreases in customer consumption: Many customers find their electricity retailer actively monitoring their usage and then asking them why their usage has either increased or decreased to be highly intrusive. As an alternative, retailers enable customers to view their usage data via website and mobile phone apps, including usage comparison charts on customer bills. ERANZ recommends limiting this requirement to retailers running high bill exception reporting and attempting to discuss potentially high bills with customers to prevent bill shock.
46(d)	Genesis	Requires retailers to actively monitor increases and decreases in customer consumption, can be intrusive for customers. We recommend changing this requirement so that it only applies for retailers running high bill exception reporting and attempting to discuss potentially high bills with customers to prevent bill shock
57	ERANZ	High-cost communication methods: These clauses are the highest compliance cost clauses of the Guidelines, yet the evidence of effectiveness is mixed. For example, the requirement to use in-person visits and signed courier letters to warn of disconnections is costly, impractical, and ineffective – especially when customers are already unresponsive. Signed courier letters are not a guarantee that the account holder has received the letter. In retailers' experience, letters are left in mailboxes, returned to sender, or refused to be signed for. ERANZ recommends the Guidelines do not specify high-cost yet ineffective types of communications channels; instead retailers should be required to use

		communications channels that either the customer prefers, has used successfully in the past, or can be proven to have been received such as in-app messages with read receipts.
57	Contact	Clauses 57 require retailers to use a traceable form of contact. In our experience this is an expensive and ineffective way to engage with customers.
60(d)	ERANZ	Clause 60(d) – Advice on reconnection fees: This subclause requires retailers to detail all the charges a customer would need to pay for reconnection if they are disconnected. There is little evidence providing this information early in the process prompts action from customers. Retailers already include all such charges payable in later communication attempts, but whether doing this early has an impact on payments is not clear because most customers who are disconnected do not engage with their retailer. ERANZ recommends compulsory advice on reconnection fees is to accompany the final disconnection warning only. Retailers can still include reconnection fees elsewhere voluntarily.
61(c)	ERANZ	Requiring on-site contractors to provide advice on budgeting support agencies: Many retailers instruct on-site contractors not to provide advice to consumers on social support and budgeting services directly. This is because retailers want to ensure this advice is of a high standard and therefore prefer to provide it through trained contact centre staff instead. ERANZ recommends on-site contractors are instructed to advise customers to contact the retailer and advise them on how to do so, so trained staff can provide high quality advice taking into account the customer's circumstances.
61(c)	Mercury	Requiring on-site contractors to provide advice on budgeting support agencies. Service providers are trained to check the household for medically dependent customers prior to disconnection however they are not trained nor qualified to give out budgeting advice. Service Providers work with several electricity retailers and to memorise the specific offerings for each one is unrealistic. There would also be a risk factor attached to service provider interactions with customers especially when it's not good news. • Instead, service providers are instructed to advise customers to contact the retailer and advise them on how to do so, so trained staff can provide high quality advice with consideration of each customer's circumstances.
61(c)	Genesis	Clause 61(c), which requires retailers to arrange for their on-site contractors to provide advice to consumers on social support and budgeting services directly. We do not believe it is appropriate for third-party contractors to provide this

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		type of advice, particularly as it does not align with their capabilities or contractual role. We therefore recommend changing this clause to require contractors to provide customers with retailer contact information if requested by the customer so customers can be directed to customer service representatives with appropriate training
64	Contact	Clauses 57 and 64 require retailers to use a traceable form of contact. In our experience this is an expensive and ineffective way to engage with customers.
64	ERANZ	High-cost communication methods: These clauses are the highest compliance cost clauses of the Guidelines, yet the evidence of effectiveness is mixed. For example, the requirement to use in-person visits and signed courier letters to warn of disconnections is costly, impractical, and ineffective - especially when customers are already unresponsive. Signed courier letters are not a guarantee that the account holder has received the letter. In retailers' experience, letters are left in mailboxes, returned to sender, or refused to be signed for. ERANZ recommends the Guidelines do not specify high-cost yet ineffective types of communications channels; instead retailers should be required to use communications channels that either the customer prefers, has used successfully in the past, or can be proven to have been received such as in-app messages with read receipts.
66(c)	Child Poverty Action Group	The Guidelines have touched on aspects of energy hardship as examined by other institutes. However, the Guidelines tend to overlook the demographic disparity in energy hardship. Furthermore, the framing of customer's wellbeing should include their dependent children. Therefore, clause 66(c) concerning disconnections that may endanger the wellbeing of the customer should extend to the customer's children. Currently, retailers measure their own compliance of the Guidelines. Genesis Energy's non-compliance was reported within the media. Other retailers have taken an unacceptable position of refusing to engage with the Authority's request for compliance reports. The Authority needs to enforce compliance by making the Guidelines mandatory and track retailers' compliance through means outside of self-assessments such as independent audits.
66(d)	ERANZ	Ensuring a customer has "understood" notifications: Requiring a retailer to ascertain whether a customer "understood" a notification re non-payment and disconnection is an impossible standard to meet. Practically, this is only viable during a phone call by asking the customer whether they have understood. However, getting hold of customers on the phone is often extremely difficult. Many customers prefer communication through apps, email, text messages, postal mail, or courier letters – all of which cannot provide evidence of whether the customer has "understood". ERANZ recommends the wording "understood" is removed.

66(d)	Mercury	<p>Clause 66(d) – Ensuring a customer has “understood” notifications • Requiring a retailer to ascertain whether the customer “understood” the notifications re non-payment and disconnection notices is an impossible standard to meet. Practically, this is only viable during a phone call by asking the customer whether they have understood. However, getting hold of customers on the phone is difficult at the best of times. Often, customers require communication through apps, email, text messages, postal mail, or courier letters – all of which cannot provide evidence of whether the customer has “understood”. • We recommend the words “and understood” be removed from this clause</p>
72	Electric Kiwi	<p>We also do not consider clause 72 of the Guidelines is in any way appropriate or consistent with the Authority’s statutory objectives. Regardless of whether Part 7 is mandated this needs to be deleted.</p>
73(a)(i)	Child Poverty Action Group	<p>The Guidelines have touched on aspects of energy hardship as examined by other institutes. However, the Guidelines tend to overlook the demographic disparity in energy hardship. Furthermore, the framing of customer’s wellbeing should include their dependent children. Therefore, clause 66(c) and 73 (a)(i) concerning disconnections that may endanger the wellbeing of the customer should extend to the customer’s children. Currently, retailers measure their own compliance of the Guidelines. Genesis Energy’s non-compliance was reported within the media. Other retailers have taken an unacceptable position of refusing to engage with the Authority’s request for compliance reports. The Authority needs to enforce compliance by making the Guidelines mandatory and track retailers’ compliance through means outside of self-assessments such as independent audits.</p>
75	Contact	<p>Clause 75 states that pre-pay customers must be reconnected within 30 minutes after they purchase a credit. It should be clarified whether this is 30 minutes after payment is confirmed by our bank, or if there is some other event that starts the timer.</p>
78	ERANZ	<p>MDCs involved in deception - There is no method in the Guidelines for a retailer to deal with a customer who has attained medically dependent status through fraudulent means, for example, forging a health practitioner’s signature, or alleging that an MDC resides at the property when they do not. Additionally, the Guidelines are silent on a situation where a retailer is onboarding a new medically dependent customer and performs a credit check only for the credit check to return flags for fraud and deception.</p> <p>ERANZ recommends the Guidelines more clearly state that medically dependent consumer protections are for legitimate MDCs only who have a signed MDC authority from a medical practitioner.</p>

78	Mercury	MDCs involved in deception • There is no method in the Guidelines for a retailer to deal with a customer who has attained medically dependent status through lies or tricks such as forging a health practitioner's signature, or alleging that an MDC resides at the property when they don't, etc. • We recommend the Guidelines more clearly state that medically dependent consumer protections are for legitimate MDC's only.
79	Consumer Advocacy Council	In addition to the matters raised in our response to question 5, we consider the guideline's wording relating to the disconnection of MDCs needs to be strengthened. Clause 79 of the guideline states (emphasis added): Retailers should have and use processes and systems to request and record sufficient information on MDCs to make sure, as far as practicable, that no premises at which an MDC permanently or temporarily resides are disconnected for reasons of non-payment of a debt to the retailer. The inclusion of "as far as practicable" should be removed as it conflicts with the wording of clause 66 (b) that places a clear prohibition on disconnection which is undermined by clause 79
82	Independent Retailers	Clause 82(a) states that "Where an MDC who is not a customer, or an unverified MDC who is not a customer, has nominated: ... a support person, the retailer should contact the MDC/unverified MDC directly". This raises at least two ambiguities: (i) when should the retailer contact the consumer rather than the customer?; and (ii) if the consumer has nominated a support person why do the Guidelines specify that the retailer should contact the consumer rather than the support person? The first question also applies to clause 82(b).
84	Independent Retailers	We do not consider it would be appropriate to try and place regulatory obligations on customers or consumers in the Guidelines such as that "Customers engage with retailers in good faith and respond to retailer communications, to avoid or minimise non-payment issues" (outcome B(c)) and "the MDC needs to develop an individual emergency response plan to use during any electricity outages" (clause 84).
88	Wellington Electricity Lines Limited	WELL also disagrees with the statement that "[implementation/operating costs would] be minimal if [distributors] are already aligned with the Guidelines" for clause 88. Any changes that mandate the provision of data currently not provided would incur additional costs for both retailers and distributors, especially if the information is private and confidential.

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88	Independent Retailers	Clause 88 is a matter that should be addressed in the Default Distributor Agreement not the Guidelines.
88	Electricity Networks Aotearoa	Clause 88 asks distributors to not vary planned outage times without conferring with retailers first. This requirement is manageable across most situations. However, in some situations, there are safety reasons for the crew on site to vary an outage end time because a job is taking longer than expected to be completed safely. Given the unpredictable nature of some outage work, it is impractical to contact retailers before extending a planned outage. This would require the work to stop while conferring with a retailer, ultimately extending the length of the outage unnecessarily.
91	Independent Retailers	For example, in relation to Part 8, most stakeholders would agree medically dependent consumers should NOT be disconnected for reasons of non-payment, but we consider requiring retailers seek verification of medical dependence could harm consumers (including costing the consumer who may be suffering from hardship financially) if mandated and should be removed from the Guidelines (clause 91/91(b)(iv))
92	Genesis	Clause 92(a) and (b), which requires Retailers, when engaging with an unverified medically dependent Consumer who is temporarily or permanently resident at premises for which the Retailer is not responsible under the Code, to make reasonable attempts to determine who the Retailer is for the premises, advise the unverified MDC of the Retailer's name and contact details, and encourage the unverified MDC to contact the appropriate Retailer as soon as is possible. It is unclear when situations such as this would arise. Introducing a mandatory standard for what appears to be a rare and narrow set of circumstances would disproportionately increase costs relative to its benefits. Accordingly, assuming we are correct in concluding the situation this clause refers to is very rare, we think it fails to strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). We therefore would suggest removing this clause. We would also note that, for all of the above issues, the need for clarification and direction is significantly greater should any or all of the Guidelines be made mandatory.
97	Independent Retailers	Likewise, some forms of MDC are permanent. It would be insensitive and inappropriate to strictly follow the Guidelines and seek re-confirmation of MDC status potentially on an annual basis (clause 97).

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101	Wellington Electricity Lines Limited	WELL also disagrees with the statement that “[implementation/operating costs would] be minimal if [distributors] are already aligned with the Guidelines” for clause 101. Any changes that mandate the provision of data currently not provided would incur additional costs for both retailers and distributors, especially if the information is private and confidential.
101	Electricity Networks Aotearoa	Modify clause 101 to require distributors to notify an MDC’s retailer of an emergency disconnection and oblige the retailer to notify the MDC customer; or Exclude clause 101 from the codification.
126(b)	Independent Retailers	Clause 126(b) does not provide for the prospect that a retailer may not intend to fully comply with the VOLUNTARY Guidelines i.e. it requires retailers that are not fully compliant to provide “a plan and a commitment to achieve alignment”. A retailer may choose to not fully align with the new Guidelines for various reasons, including because the approach they adopt better protects consumer interests.
128	ERANZ	Clause 128 – Information requirements from retailers to the Authority Information disclosures to the Authority involve a material amount of cost and effort on the behalf of retailers. Yet, there is little evidence of how this information is used and little reciprocation of insights and intelligence from the Authority back to the retailers who supply the information. ERANZ recommends the Authority regularly publish summary reports on the information it collects from retailers.
111	Independent Retailers	Compliance with the Consumer Care Guidelines should not be contingent on other guidelines or legislation otherwise retailers will be subject to double jeopardy/inefficient duplication of regulation/overlap between different regulators e.g. clause 111 and the Fair Trading Act.
112	Contact	Clause 112 requires us to set Bond at a level that takes into account a customer's expected invoices. Meeting the letter of this requirement would require us to obtain information on past invoicing information from the past retailer. This would make the switching process more complicated and slower. We do not consider that this is a good outcome for consumers.

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**Appendix C Consumer Care Guidelines Annual
Alignment Statement Report 2022/23**

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