

EWOSA's position statement on family violence



October 2024



EWOSA receives and investigates complaints that sometimes involve family violence and has an important role in identifying and assisting customers affected by family violence.

This document aims to provide practical guidance for how EWOSA approaches and resolves complaints by customers impacted by family violence. In particular, the document details our approach to:

- identifying customers affected by family violence
- engaging with and supporting impacted customers
- handling common complaints such as liability and consent, joint accounts, affordability assistance, debt recovery, and privacy.

Defining family violence

A customer affected by family violence (the affected customer) means any customer, including a former customer of a retailer, who is or was a small customer and who may be affected by family violence.¹

The *Intervention Orders (Prevention of Abuse) Act 2009* (SA) section 8(1) provides that abuse “may take many forms including physical, sexual, emotional, psychological or economic abuse”. Specifically, per section 8(2) of the Act:

An act is an act of abuse against a person if it results in or is intended to result in:

- physical injury; or*
- emotional or psychological harm; or*
- an unreasonable and non-consensual denial of financial, social or personal autonomy; or*
- damage to property in the ownership or possession of the person or used or otherwise enjoyed by the person.*

Family violence can happen to any individual regardless of their age, community, culture, profession or circumstance.

Identifying affected customers

EWOSA will recognise any behaviour as being family violence when it involves behaviour towards a family member that is:

- physically or sexually abusive
- emotionally or psychologically abusive
- economically abusive
- threatening or coercive

- controlling of a family member in any other way which causes them to fear for their safety or wellbeing.

We consider the meaning of ‘family’ to include an individual’s current or former domestic partner, as well as ‘family-like’ relationships such as a carer, who may be the perpetrator of the family violence.

Individuals affected by family violence are sometimes reluctant or unable to disclose their circumstances. For example, someone affected by family violence may not be forthcoming because they:

- don’t consider their experiences to be family violence
- feel they might not be believed
- have feelings of self-blame and/or shame
- have a sense of distrust in other people.

We need to understand what displayed indicators look like so to identify someone who may be affected by family violence. For example, a customer:

- may directly state they have experienced family violence behaviour
- references behaviour which indicates a concern for their safety
- is concerned about a family member or joint account holder accessing their personal information
- mentions an intervention order, or similar
- has urgently relocated
- is in temporary housing
- requests EWOSA implement extra security or identification measures when speaking to them
- incurs a debt in their name despite being financially dependent on someone else.

¹A rule change by the AEMC in May 2023 provides that family violence means domestic abuse under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA).

Safety and privacy

After we identify a customer affected by family violence, we then establish whether there is a risk of immediate danger. If there is, we will contact the relevant emergency services.

If there is no risk of immediate danger, we may refer the customer to 1800 RESPECT (1800 737 732) – a 24-hour national sexual assault, family and domestic violence counselling line for any Australian who has experienced, or is at risk of, family and domestic violence and/or sexual assault – or other support services that may be relevant in the circumstances.

It is important that we establish a safe method of communicating with the customer and therefore at first contact we will confirm:

- The best and safest method for us to communicate with them
- The best and safest form of ongoing contact
- If they require any additional steps to protect their security or require any additional support as part of our case handling.

We securely handle personal and sensitive information in accordance with our privacy obligations under the *Privacy Act 1988* (Cth). This involves only requesting and holding information that is relevant to the complaint and ensuring the information is only disclosed with those authorised to receive it. If a customer discloses personal information relating to family violence, we will only include this information in the case file or provide this information to the provider with the customer's agreement.

Our general approach and considerations

When assessing and investigating complaints to reach a fair and reasonable outcome for both parties, we have regard to:

- the legal and regulatory requirements including but not limited to legislation, regulation, industry rules, codes and guidelines
- good industry practice in the industry relevant to the circumstances
- the provider's relevant policies, procedures and conduct
- the individual circumstances of the customer, including any special circumstances.

Our approach is that customers impacted by family violence constitutes a special circumstance and this informs our consideration and decision-making.

We generally do not require a customer to provide information to support family violence. We accept the disclosure at face value and will tailor how we engage with and support the customer affected by family violence based on their individual needs.

We will also make reasonable adjustments to our standard case handling processes based on the individual circumstances of the customer. This may mean we adjust our timeframes, the standard of proof or other reasonable adjustments for customer's impacted by family violence. For example, we recognise that customers impacted by family violence may:

- find it difficult to engage with their provider or us and therefore consideration should be given to this during the complaint process
- have less access to relevant documentation to support their complaint such as where the customer left their home and property given the risk to their safety.

Critically, no complaint is the same and we consider each complaint on its individual merits and with regard to all the circumstances of the complaint.

Common scenarios and our approach

The following section provides general guidance on how we will approach the most common complaints by customers impacted by family violence. In the context of utilities such as energy and water, family violence will usually take the form of economic abuse.

Liability for debt

- We will ask for evidence of explicit informed consent to show that the customer impacted by family violence bears sole responsibility for the account.
- We may expect a provider to start an account in the impacted customer's name at the date when:
 - i. The abusive partner moved out; or
 - ii. The affected customer became responsible for the premises.
- If the affected customer is no longer at the property, but remains the account holder, we may expect the provider to finalise the account at the date the affected customer left the premises.
- If a debt has been transferred from one account to another, we will consider the basis and the legality of the transfer, and whether it was fair and reasonable in the circumstances.

Liability for debt – joint accounts

We will ask for evidence of explicit informed consent to show that the customer impacted by family violence bears joint responsibility for the account.

- We may expect a separate account to be set up in the impacted customer's name only from the date the abusive partner left the property.
- We may expect joint responsibility for the account to end on that date the impacted customer moved out of the premises.
- We may require a provider to pursue part of the debt with the other account holder, even though the provider may have the legal right to pursue the whole debt from the affected customer.
- We expect a provider will work with an individual customer who is requesting assistance, without requiring the consent of the other account holder.
- The provider should not require the affected customer to contact a joint account holder to obtain information or consent in relation to a request for assistance.
- The fact that each customer on a joint account is jointly and severally liable to repay the full amount of the debt does not, in our view, prevent a provider from agreeing to settle or waive a debt with one customer only, while retaining its right to pursue the other customer(s) for the remaining balance.
- If a debt has already been outsourced or sold to a third-party collection agency and the provider subsequently agrees to a settlement with one customer, it should work with the collection agency to effect options such as buying back the debt.

Affordability and hardship assistance

- We recognise that family violence may have hindered the affected customer's participation in a payment plan or hardship arrangement.
- We expect that appropriate, relevant and tailored hardship assistance and payment support is offered to customers who have experienced family violence.
- We will generally expect a higher level of support for customers who have experienced family violence than for customers who have not, including when the account is closed.
- We expect a provider to take a customer's experience of family violence and the consequences of that experience into consideration when assessing what support to offer.

Debt collection, default listing and disconnection

- We will establish whether the debt collection was appropriate and whether any listing was made according to the legal and regulatory requirements. Any consent or liability issues will be considered as part of this process.
- We expect that providers will not unnecessarily or unreasonably place barriers to supply for customers affected by family violence.
- Where a provider does agree to settle a debt with one customer on a joint account, it should not outsource collection of the debt or sell the debt to third party debt collection agencies. This is because there is a risk that the collection agency will attempt to pursue both customers for the full amount of the debt, which would be in breach of the settlement that the provider reached with one of the customers.
- An affected customer may have been default listed because of circumstances beyond their control. For example, the customer may be sleeping in a car, or in a refuge, so they do not have a permanent address. The customer will not receive any notices the provider sends to the customer's last known address.
- We acknowledge that because joint account holders are jointly and severally liable for debts and one customer stops paying the bills, both customers are at risk of being credit listed.
 - i. The provider should not default list a customer affected by family violence
 - ii. This does not prevent the provider from lodging a default listing against the other customer, if appropriate.

Privacy and safety issues

- We expect that any issues giving rise to privacy breaches are addressed as quickly as possible, and that information is provided to confirm what action has been taken to address the breaches.
- We may also expect recognition of customer service issues because of privacy or safety issues. For example, when a provider's actions cause or contribute to an alleged perpetrator finding out the location of a consumer impacted by family violence, we may consider it fair and reasonable for a provider to contribute towards or pay for emergency accommodation or provide other financial compensation to recognise the impact on the customer.
- We also expect the provider to treat the matter more urgently than for customers who have not experienced family violence.
- As safety considerations will be particularly important, a provider should ensure that any discussions or correspondence that it has with the other account holder, or with third parties such as collection agencies, protects the confidentiality and safety of the affected customer.

Customer service and experience

- We recognise that poor customer service can adversely affect someone experiencing family violence in a disproportionate way. For example, having poor contact notes can require a customer to repeat intimate and difficult details to numerous members of the provider's staff.
- When we investigate a complaint where the customer has experienced family violence, we will consider the provider's actions and record keeping in this regard.

Referral services

1800 RESPECT (1800 737 732)

This is a 24-hour national sexual assault, family and domestic violence counselling line for any Australian who has experienced, or is at risk of, family and domestic violence and/or sexual assault.

Individuals can also access local support services and search the internet using Daisy, a free app developed by 1800RESPECT that protects user privacy.

Lifeline (13 11 14)

Anyone across Australia experiencing a personal crisis or thinking about suicide can call 13 11 14, or text 0477 13 11 14 at night (6pm-midnight AEDT). Someone will help put you in contact with a crisis service in your state or territory.

MensLine Australia (1300 789 978)

Supports men and boys who are dealing with family and relationship difficulties. 24/7 telephone and online support an information service for Australian men.

National Disability Abuse and Neglect Hotline (1800 880 052)

Anyone can contact the Hotline, including family members, friends, service providers or a person with disability. The Hotline works with callers to find appropriate ways of dealing with reports of abuse and neglect of people with disability.

Blue Knot (1300 657 380)

Blue Knot provides information and support for anyone who is affected by complex trauma. Complex trauma is repeated, ongoing, and often extreme interpersonal trauma (between people) – violence, abuse, neglect or exploitation experienced as a child, young person and adult.

The National Debt Helpline (1800 007 007)

The National Debt Helpline is a not-for-profit service that helps people tackle their debt problems. They're not a lender and don't 'sell' anything or make money from callers. Their professional financial counsellors offer a free, independent and confidential service.

13 YARN (13 92 76)

We are here to provide crisis support 24/7 to yarn with you without judgement and provide a confidential, culturally safe space to yarn about your needs, worries or concerns. We will work with you to explore options for on-going support. You know you will be connected to another Aboriginal and Torres Strait Islander person who will understand where you are coming from and value knowing HOW to listen, without judgement or shame.

Please note: all of these services have websites, which offer further detailed information and support.