

Proposed Consumer Care Obligations

Consultation paper

6 August 2024

Executive summary

As a kaitiaki of electricity in Aotearoa New Zealand, consumers are at the heart of everything the Electricity Authority Te Mana Hiko (the Authority) does. Mandating the Consumer Care Guidelines (Guidelines) will be a significant milestone, underscoring our commitment to ensuring consumers receive the care and protection they need in a world where electricity is vital to achieving healthy and prosperous lives.

Our use of, and need for, electricity continues to grow and change. The Authority is responding by ensuring our power system evolves alongside this. We want to safeguard a secure, resilient and reliable future for Aotearoa where consumers have choices in accessing the energy they need and confidence in the system.

Protecting the interests of consumers is an integral part of our operations. In 2022, we were given an additional statutory objective that bolstered our ability to do this. The objective, to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers, ensures that, as the electricity market continues to evolve, consumers know we are keeping our focus tightly on protecting what's important to them.

Consumer Care Obligations

Since the Guidelines were introduced in 2021, our journey to improve consumer protections has progressed steadily. In early 2024, we made the decision to mandate the Guidelines – making these consumer protections enforceable from 1 January 2025.

To mandate these protections, the Electricity Industry Participation Code 2010 (Code) needs to be amended to include the Guidelines as obligations. In this consultation, we propose the Guidelines be renamed to 'Consumer Care Obligations' to reflect their proposed mandatory status.

We are proposing to introduce a new Part in the Code, Part 11A, which will include the Consumer Care Obligations as a Schedule.

Impact on consumers

The proposed Consumer Care Obligations will significantly enhance consumer protections for an increasing number of consumers as our population continues to grow.

By mandating the Guidelines, we will create a solid regulatory framework that ensures consistent and supportive protections for all residential consumers across the electricity sector. This will be particularly crucial for those consumers who need it the most, such as medically dependent consumers and consumers facing hardship.

As part of this process, we are proposing operational improvements to the existing Guidelines to ensure the Consumer Care Obligations are clear and workable rules. These changes will clarify what the proposed Consumer Care Obligations cover, address some gaps in the Guidelines, and give retailers some flexibility to best protect consumers.

Impact on retailers and distributors

The proposed Consumer Care Obligations will apply to all retailers as defined in the Electricity Industry Act 2010 (Act), which means that any business selling electricity to residential consumers will be subject to the Consumer Care Obligations. Additionally, some of the proposed obligations will apply to distributors, highlighting their responsibilities and the coordinated efforts required between retailers and distributors to promote consumer protection. These obligations will come into force on 1 January 2025.

The proposed operational improvements will give retailers and distributors better clarity of their consumer care responsibilities and make it easier for them to achieve the protections set out in the Consumer Care Obligations by improving practicality and providing more operational flexibility.

In summary, the proposed Code amendment will ensure:

- enhanced protection for residential consumers, especially for medically dependent consumers or for those facing hardship
- clear, practical, and enforceable obligations on retailers, improving transparency and accountability.

We want to hear from you

This consultation seeks feedback from all stakeholders on the Authority's proposal to include the Guidelines into the Code as the Consumer Care Obligations.

Due to their original voluntary nature, we recognised the need for some operational improvements to ensure the obligations are clear and workable once they become enforceable provisions of the Code.

Over the past six months we have conducted a detailed review of the Guidelines and engaged stakeholders in two workshops to refine the proposed Consumer Care Obligations. During this process, we have made sure to maintain the policy intent and consumer protections present in the Guidelines.

Included in this consultation is our regulatory statement for the proposed Code amendment, which includes our evaluation of the costs and benefits of the proposed changes. We welcome your feedback on this.

[We have developed a consultation quick-guide to support consumers to have their say.](#)

Next steps

Consultation is open now and closes at 5pm on 10 September 2024.

Following consultation, we intend to release a decision paper in December 2024. We will continue to prepare monitoring, compliance, and education strategies to support the implementation of the proposed Consumer Care Obligations from 1 January 2025.

Our commitment to improving and strengthening protections for consumers doesn't end here. The Authority is committed to the continuous improvement of the proposed Consumer Care Obligations to ensure they stay fit for purpose as the electricity industry evolves.

We would like to acknowledge the petition received from Common Grace Aotearoa, as part of the Everyone Connected Campaign, which was signed by 8,047 people and delivered to the Authority on 24 July 2024.

As stated in our February 2024 decision paper, issues not covered already by the Consumer Care Guidelines are currently being considered to inform our work programme and priorities moving forward. We are exploring the potential benefits and implications of banning disconnection and reconnection fees, with the aim to ensure any policy changes we implement are sustainable and equitable for all. We intend to communicate and consult on potential work programmes related to continued consumer care in due course. Our retail data project will also gather data on fees and prepay prices.

Thank you to the retailers and consumer advocates who have worked with the Authority in our journey to update the Guidelines into Code obligations. Your knowledge, insights, and perspectives have helped ensure the proposed operational changes in this consultation address the clarity, workability, and enforceability issues raised without losing the intended protections for consumers.

Together, we can ensure every consumer receives the care and respect they deserve. We look forward to your feedback and to continuing our collaborative efforts for a more consumer-focused electricity market.

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This consultation paper and all appendices are available on [our website](#).

1. What you need to know to make a submission

What this consultation is about

- 1.1. The Electricity Authority Te Mana Hiko (Authority) is consulting with interested parties on the proposal to introduce Part 11A: Consumer Care into the Electricity Industry Participation Code 2010 (Code).
- 1.2. The proposal will mandate the recommendations in the existing Consumer Care Guidelines¹ (Guidelines), with operational changes to resolve clarity, workability and enforceability issues identified with the Guidelines.
- 1.3. The proposed Consumer Care Obligations will primarily apply to retailers who contract with residential consumers, with a small number of obligations on distributors. We want to hear from retailers and distributors on whether the proposed Code amendment is clear and workable.
- 1.4. We also want to hear from consumers. Consumers can either respond to the questions in this consultation paper, or for an easier option, read through our [consultation quick-guide](#) and complete the [consumer survey](#).
- 1.5. This paper explains the Authority's proposed Code amendment, sets out the regulatory statement for the proposed Code amendment, and seeks feedback on both.²

Our terminology

- 1.6. In this paper we use the term 'Guidelines' when referring to the existing, voluntary Consumer Care Guidelines. We use the term 'Consumer Care Obligations' when referring to the proposed Code obligations, that we are proposing replace the Guidelines.

How to make a submission

- 1.7. If you are providing feedback by responding to the questions in this paper, please provide your submission in electronic format (Microsoft Word) in the format provided in Appendix D. Submissions should be sent to ccc@ea.govt.nz with the subject line "Consumer Care Consultation Paper – Submission from [Name / Organisation]".
- 1.8. For consumers responding to the consumer survey, please note these will be recorded as formal submissions.
- 1.9. If you cannot submit electronically, please contact us at the email provided above or on 04 460 8860 to arrange an alternative method.

What happens to your submission

- 1.10. The Authority intends to publish all submissions it receives, including those received via the consumer survey. If you consider the Authority should not publish any part of your submission, please:
 - a. indicate which part(s) should not be published,

¹ Consumer Care Guidelines: <https://www.ea.govt.nz/documents/2093/Consumer-Care-Guidelines.pdf>

² As required under section 39 of the Electricity Industry Act 2010.

- b. explain why you consider we should not publish that part, and
 - c. provide a version of your submission that the Authority can publish (if we agree not to publish your full submission).
- 1.11. If you indicate part of your submission should not be published, the Authority may discuss this with you before deciding whether to not publish that part of your submission.
- 1.12. Please note all submissions received by the Authority, including any parts the Authority does not publish, can be requested under the Official Information Act 1982. This means the Authority would be required to release material not published unless good reason existed under the Official Information Act to withhold it. The Authority would normally consult with you before releasing any material that you said should not be published.

When to make a submission

- 1.13. Please submit your feedback by 5pm on 10 September 2024.
- 1.14. We will acknowledge all submissions electronically within two business days. If you do not receive an acknowledgment, please contact us.

What happens next

- 1.15. The Authority will consider all feedback it receives and make a final decision on the Code amendment to mandate the Guidelines. Any Code amendments will come into effect on 1 January 2025.

Where to find supporting information

- 1.16. The Guidelines and supporting information are available on our website: [Consumer care & medically dependent | Electricity Authority \(ea.govt.nz\)](#).
- 1.17. This consultation paper is the latest in a series of papers that explore the need to update and strengthen the Guidelines. We refer to two papers in particular throughout this paper to avoid repetition. For more information on the issues discussed in this paper, please refer to:
- a. the 2023 consultation paper:
[Options to update and strengthen the Consumer Care Guidelines](#)
 - b. the 2024 decision paper:
[Updating and strengthening the consumer care guidelines](#)

2. Moving from voluntary guidelines to mandatory Code obligations

The Authority decided to mandate the Guidelines

- 2.1. After carefully considering and consulting on the different options to update and strengthen the Guidelines, the Authority decided to mandate the Guidelines, reflecting our commitment to improving consumer protections in the electricity market. This decision, the limitations of the current voluntary Guidelines, and the need for improvements are explained in the 2024 decision paper³.
- 2.2. By mandating the Guidelines, we will establish an enforceable framework that ensures comprehensive, consistent and supportive consumer care protections across the electricity sector.

Renaming the Guidelines the Consumer Care Obligations

- 2.3. We have proposed renaming the Guidelines to 'Consumer Care Obligations'. The term 'obligations' is more appropriate now we are amending the Code to impose obligations on industry participants. The term 'guidelines' is normally associated with non-binding advice or recommendations.
- 2.4. Renaming the Guidelines to Consumer Care Obligations also clearly signals the shift from voluntary guidance to mandatory obligations and will support effective implementation and compliance by ensuring all stakeholders understand these will be mandatory.

The Consumer Care Obligations will be included as a new Schedule to the Code

- 2.5. The proposed new Part 11A of the Code includes a new Schedule 11A.1: Consumer Care Obligations, which mandates Parts 2 to 9 of the Guidelines.
- 2.6. We explored different options for mandating the Guidelines, including the option of incorporation by reference. We consider including the Consumer Care Obligations as a Schedule to a new Part of the Code focused on consumer care is the best way to establish enforceable obligations on participants, and to ensure alignment with existing Code obligations.
- 2.7. We will also publish a consumer-focused summary of the Consumer Care Obligations, so consumers can easily access clear and simple information about their rights and what to do if they feel their rights have not been met.

We have proposed improvements to make sure the Consumer Care Obligations are clear and workable

- 2.8. In deciding to mandate the Guidelines, we recognised the need for operational improvements to some of the Guidelines. This ensures the Consumer Care Obligations will be clear and workable once they become enforceable provisions of the Code.

³ [Updating and strengthening the consumer care guidelines](#)

- 2.9. Over the past six months we have conducted a detailed review of the Guidelines to address operational issues. We engaged with targeted stakeholders in two workshops to refine the proposed Consumer Care Obligations while maintaining the policy intent and consumer protections present in the Guidelines.
- 2.10. By way of summary, operational changes proposed include:
- a. **Making the scope of some obligations clearer** so retailers can better understand and meet their obligations, consumers can better understand their rights, and the Authority can effectively enforce the Consumer Care Obligations where necessary.
 - b. **Improving definitions** to prevent misinterpretation. We have refined existing definitions, added new terms where necessary, and deleted unused terms and definitions of terms already defined in the Code.
 - c. **Simplifying some highly prescriptive recommendations** to give retailers some operational flexibility in how they comply with the Consumer Care Obligations. We have replaced some highly prescriptive recommendations with simpler obligations to achieve the same outcome and allow for operational flexibility in how this is achieved.
 - d. **Reducing repetition and removing unnecessary wording** by consolidating some overlapping clauses within the Guidelines. We have also removed wording that is not necessary to mandate the Guidelines, such as references to existing legal obligations.
 - e. **Improving practicality for some obligations** to ensure retailers can meet their obligations and consumer protections are preserved.
 - f. **Using clearer, consistent and simpler wording** to ensure the obligations are well understood and cohesive.
 - g. **Addressing some gaps in the Guidelines** to ensure the Consumer Care Obligations provide a comprehensive and cohesive set of protections and to ensure retailers are clear about their obligations. To do this, we have added and expanded some obligations to address gaps in some of the existing protections and processes set out in the Guidelines.
 - h. **Retaining flexibility where this best promotes consumer protection.** For example, retailers should continue to have discretion to decide whether to require confirmation of medical dependent consumer status from a health practitioner. We consider requiring confirmation in every case would impose unnecessary costs on consumers and retailers.

Q1. Do you have any feedback on our approach to making operational improvements to the Guidelines, to ensure the proposed Consumer Care Obligations are clear and workable?

3. Clarifying the application of the Consumer Care Obligations

- 3.1. Some clarifications to the application of the Consumer Care Obligations are proposed to ensure they capture the right participants and align with existing obligations in the Code.

Introducing a new term – ‘residential consumer’

- 3.2. We are proposing to use a new term for the Consumer Care Obligations, ‘residential consumer’, which means a person who uses electricity in respect of residential premises, and ‘residential premises’ means any premises used or intended for occupation by any person as a place of residence.⁴
- 3.3. The proposed Consumer Care Obligations will apply to all retailers who sell electricity to residential consumers.
- 3.4. We have preferred the term ‘residential consumer’ over the term ‘domestic consumer’ which is defined in the Act.⁵ Under the Act, a domestic consumer means a person who purchases or uses electricity for ‘domestic premises’. However, the term ‘domestic premises’ excludes certain categories of premises described in section 5(1)(c) to (k) of the Residential Tenancies Act 1986, which includes places such as hostels, homes for the care of sick, disabled or aged persons, and places providing temporary accommodation.
- 3.5. Adopting the term ‘domestic consumer’ in the Consumer Care Obligations would mean that, if a retailer sells electricity to a consumer who is living at one of those excluded types of premises (such as a consumer living in a unit in a retirement home), they would be excluded from the definition of ‘domestic consumer’, whereas that same consumer would be captured if they were living in a unit in a retirement village instead, as retirement villages are not excluded from the definition of domestic premises.
- 3.6. Using the term ‘residential consumer’ ensures all residential consumers who buy electricity from a retailer (and all residential consumers who live at a customer’s premises) have the same protections under the Consumer Care Obligations, avoiding any exclusions. This approach best promotes the policy intent of the Guidelines.
- 3.7. We note our additional statutory objective and corresponding function use the term ‘domestic consumer’. To the extent that ‘residential consumer’ captures a broader group of consumers than ‘domestic consumer’, we consider that mandating the Guidelines in relation to this group is consistent with our main statutory objective and with section 32 of the Act, which outlines what the Code may contain. We explain why we think the proposed Code amendment meets the Authority’s statutory objectives in section 12 of this paper.

⁴ See clause 11A.2 of the proposed Code amendment in Appendix A.

⁵ See section 5 of the Electricity Industry Act 2010.

The obligations will apply to all retailers who sell electricity to residential consumers

- 3.8. Like the Guidelines, the proposed Consumer Care Obligations will apply to retailers as defined in the Act. Under the Act, 'retailer' means a business engaged in retailing, and 'retailing' means the sale of electricity to a consumer other than for the purpose of resale.⁶
- 3.9. This definition does not distinguish between network types (that is, whether electricity is sold on a local distribution network or a secondary network that is indirectly connected to the national grid). This means that any person who sells electricity to residential consumers as part of their business is a 'retailer' and will be subject to the proposed Consumer Care Obligations. This will include, for example, a person who buys electricity and on-sells it to residential consumers on a secondary network such as an apartment building or retirement village.

Some of the obligations will apply to 'traders' under the Code

- 3.10. We propose clarifying how some of the recommendations in the Guidelines operate when a retailer is not a 'trader' under the Code.
- 3.11. The Code imposes a number of obligations on retailers who are 'traders'. However, a retailer is only a 'trader' if they buy electricity from the clearing manager, rather than from another participant. Only traders can accept responsibility under the Code for the supply of electricity at an ICP. Traders are required to enter agreements with distributors when they trade at an ICP on the distributor's network (under Part 12A of the Code) and have arrangements with metering equipment providers (under Part 10 of the Code).
- 3.12. Some of the recommendations in the Guidelines relate to arrangements with distributors and metering equipment providers. We propose clarifying that these obligations will only apply to retailers who are traders, to align with their existing obligations under the Code.
- 3.13. To ensure these obligations are workable, we propose clarifying that other retailers who have a contract to supply electricity to a residential consumer must share the necessary information with the trader responsible for the supply of electricity at the ICP. This clarification will simplify the obligations on those retailers who do not already have arrangements with distributors and metering equipment providers, without compromising consumer protection.

Distributors will also have some obligations under the Consumer Care Obligations

- 3.14. Under the Guidelines, the term 'retailer' is deemed to include any distributor that directly invoices its customers. The Guidelines refer to the provision of distribution services throughout. However, we understand that, in practice, distributors do not direct invoice residential consumers, only large commercial or industrial consumers. On that basis, we do not propose to apply the Consumer Care Obligations to distributors in the same way as retailers who have a direct contractual relationship with residential consumers, as it is unnecessary.

⁶ See section 5 of the Electricity Industry Act 2010.

3.15. Instead, we propose including some limited obligations on distributors, which are discussed in section 11.

Q2. Do you have any feedback on the proposals to clarify the application of the proposed Consumer Care Obligations?

4. The purpose of the Guidelines remains

We propose maintaining the purpose of the Guidelines

- 4.1. Part 1 of the Guidelines outlined the purpose, overarching principles and key outcomes of the consumer care guidance package, including the Guidelines, when it was introduced in 2021.
- 4.2. The Authority is satisfied the purpose of the Guidelines remains appropriate for mandated obligations and meets our statutory objectives. We have repeated the Part 1 purpose statement in clause 11A.1 of the proposed Code amendment, alongside a reference to our statutory objectives. We have also strengthened the purpose statements in each part of the proposed Consumer Care Obligations to assist with the interpretation of the obligations in each part.
- 4.3. We have not included the remainder of Part 1 in the proposed Code amendment as the overarching principles and intended outcomes are explanatory only and do not need to be included to mandate the Guidelines.
- 4.4. We are also conscious that since the Guidelines were first published, the Authority has been given an additional objective and function to protect domestic consumers in relation to the supply of electricity to those consumers. Our focus in developing the proposed Code amendment has been on ensuring the proposed Consumer Care Obligations meet our statutory objectives and deliver better outcomes for consumers as well as introducing clear obligations for retailers.

Q3. Do you have any feedback on the purpose statement for the proposed Part 11A of the Code?

5. We propose strengthening our monitoring of consumer protections

Proposed obligations will give the Authority the tools to ensure compliance

- 5.1. The proposed Code amendment includes a compliance reporting framework that will replace the current voluntary alignment regime under Part 10 of the Guidelines.
- 5.2. In our earlier papers⁷ we had envisaged compliance monitoring being addressed under a separate project on improving the Authority's monitoring of the retail market (discussed below). However, as we developed the proposed Code amendment and considered retailer feedback on the proposed clause 2.16 information notice, we reached the view that a mandatory compliance reporting framework to replace Part 10 of the Guidelines should be the primary tool used to monitor compliance. This will be supported by enhanced monitoring of key outcomes through the *Improving retail market monitoring* project.
- 5.3. The compliance reporting framework is outlined in clauses 11A.4 to 11A.11 of the proposed Code amendment and is similar to existing compliance reporting regimes under other parts of the Code. It includes the following obligations and mechanisms that will give the Authority the necessary tools to ensure compliance with the proposed Consumer Care Obligations:
 - a. **Annual compliance reporting and certification:** Retailers must annually report to the Authority on their compliance with the Consumer Care Obligations, including a summary of any non-compliance and corrective actions taken. Compliance reports must be accompanied by a certification signed and dated by a director or chief executive officer of the retailer (or by a person holding an equivalent position).
 - b. **Providing information on request:** Retailers must provide details about their relevant policies, procedures and processes, and any other supporting evidence, on request from the Authority.
 - c. **Record-keeping:** Retailers must keep records of activities regulated under the Consumer Care Obligations for a proposed period of five years from the date the relevant customer contract is terminated or the date the uncontracted premises are disconnected.
 - d. **Independent reviews:** The Authority can require an independent review of a retailer's compliance. Retailers can nominate, and may need to pay for, an independent reviewer depending on the findings of that review.

Enhanced monitoring through the retail data project

- 5.4. The Authority is intending to enhance its monitoring of the retail market by issuing a new information gathering request (using the powers in clause 2.16 of the Code). More information about the *Improving retail market monitoring* project can be found on [the Authority's website](#).

⁷ Paragraph 3.34 of the 2023 Consultation Paper: [Options to update and strengthen the Consumer Care Guidelines](#) and paragraph 7.4 of the 2024 Decision Paper: [Updating and strengthening the consumer care guidelines](#)

- 5.5. In this project we aim to streamline and increase the collection of data about the retail market through a single, comprehensive and mandatory data request. This will give the Authority substantial data on key metrics important for consumer protection, such as consumer debt, prepay arrangements, disconnections, medically dependent consumers, and complaints. Improved data collection in these key areas will enable the Authority to:
- a. **make more informed decisions:** with better data about the retail market, the Authority can make evidence-based decisions regarding regulatory measures and interventions
 - b. **enhance monitoring:** data in these key areas will improve our ability to monitor how retailers deal with their customers and consider whether further investigation is required to ensure consumer care obligations are upheld
 - c. **identify trends and issues:** access to comprehensive and detailed retail data will allow the Authority to identify trends and emerging issues more effectively, facilitating proactive measures to protect consumers
 - d. **publish insights and metrics:** with better data the Authority can publish metrics and insights for use by participants, researchers, and consumer advocates. This will enable more meaningful participation in policy consultation and result in better policy development.

Development of a new outcomes framework to monitor impact of the proposed Consumer Care Obligations

- 5.6. To ensure the effectiveness of the Consumer Care Obligations, we are developing a new outcomes framework. This framework will guide our monitoring efforts to use data collected from retail providers to assess compliance and measure the impact of the obligations. Specifically, we will evaluate the following outcomes:
- Outcome 1: All residential consumers receive care and respect in every interaction with their retailer
 - Outcome 2: Customers receive a consistent minimum level of care from their retailer, ensuring equitable treatment across the electricity sector
 - Outcome 3: Customers are on the most suitable plan for their circumstance
 - Outcome 4: Customers experiencing payment difficulties are connected and supported, with retailers only using disconnection as a last resort measure
 - Outcome 5: Medically dependent consumers are not disconnected

Q4. Do you have any feedback on the compliance monitoring provisions in the proposed Part 11A of the Code, or on the Authority's new outcomes framework?

6. We have proposed improvements across the Guidelines

- 6.1. This section highlights some of the key operational improvements we are proposing to make the proposed Consumer Care Obligations clear and workable. The next sections detail key operational improvements by topic.

Improving terminology

- 6.2. The proposed Consumer Care Obligations will use the same defined terms as the Guidelines, with some improvements, except where terms are already defined in the Code,⁸ or will no longer be needed.⁹ Terms are defined in clause 11A.2 of the proposed Code amendment. Defined terms are bolded where they are used in the Consumer Care Obligations to signal to readers the term has a defined meaning.
- 6.3. Key improvements are discussed below.

Product offerings, pricing plans and payment options

- 6.4. We have proposed new definitions for:
- a. 'product offering' to mean an offer for the supply of electricity at an ICP offered by a retailer and
 - b. 'payment options' to mean the payment methods and options offered by a retailer in relation to a product offering or contract.
- 6.5. These definitions are used alongside the existing term 'pricing plan' to clarify obligations for retailers when providing information or advice about their products and services to customers.
- 6.6. We have also proposed changes to the definition of 'pricing plan'. This makes it clear that a pricing plan means the rate or rates charged for electricity supplied to the customer under their contract, or offered as part of a product offering, and includes:
- a. rates charged per kWh (such as night, daily, anytime rates)
 - b. any fixed rates or fixed or variable charges (such as a daily fixed charge)
 - c. any costs related to the supply of electricity which are passed through to the customer.

Simplifying references to support and social agencies

- 6.7. Currently, 'social agencies' and 'support agencies' are separately defined and referred to throughout the Guidelines. We have proposed simplifying this in the Consumer Care Obligations by expanding the definition of 'support agency' to include both government and non-government agencies, thereby including social agencies. This avoids the need for two separate terms.
- 6.8. We have also removed recommendations that support agencies must be 'reputable' (replacing this with 'appropriate' in some cases) or funded by the Ministry for Social Development (MSD), giving retailers more operational flexibility where appropriate.

⁸ Such as the terms 'Authority', 'distributor', 'retailer', 'reconnection'.

⁹ Such as the terms 'AMI', 'Code', 'DHB', 'disconnection', 'distribution services', 'health agency', 'individual emergency response plan'.

This reflects feedback from stakeholders that these terms were unnecessary, noting the number of agencies funded by MSD represent only a small portion of the financial mentor services available nationwide that provide support to consumers.¹⁰ Some retailers suggested there should be a centralised repository for financial mentor service providers they can use to refer consumers to. This suggestion falls outside of the scope of this consultation but is a matter the Authority is exploring collaboratively as a result of the [electricity wānanga](#) we held in early 2024.

Clarifying the meaning of ‘payment plan’

- 6.9. Some recommendations in the Guidelines do not apply if a customer is on a ‘payment plan’, such as the recommended actions when a customer is experiencing payment difficulties.¹¹ However, the term ‘payment plan’ is currently defined very broadly and would include any arrangement a customer has with their retailer for payment of electricity and related services, such as an arrangement to pay by direct debit. We do not think this term is intended to be read so broadly – as this would clearly undermine the intent of the protections and is not consistent with how ‘payment plan’ is described elsewhere in the Guidelines.¹²
- 6.10. Another issue is some recommendations in the Guidelines use the term ‘debt payment plan’, which is not defined.¹³
- 6.11. We propose using the term ‘payment plan’ consistently throughout the Consumer Care Obligations and clarifying that a payment plan means an agreed plan between a retailer and a customer *who is anticipating or experiencing payment difficulty*. We think this definition is more workable and better aligns with the existing policy intent.

Q5. Do you have any feedback on the proposed improvements to terminology?

Aligning standards of behaviour – when we use ‘best’ and ‘reasonable’ endeavours

- 6.12. Currently, different terms with substantially the same meaning are used to express the standard of behaviour required of retailers at different points throughout the Guidelines. We propose to simplify these references and consistently use the terms:
- a. ‘reasonable endeavours’ to replace existing references to ‘reasonable efforts’, ‘reasonable actions’ and ‘reasonable attempts’
 - b. ‘best endeavours’ to replace existing references to ‘all reasonable actions’ and ‘all reasonable efforts’.
- 6.13. These terms should be given their normal meanings. ‘Reasonable endeavours’ generally requires taking steps that are reasonable in all circumstances, having regard to any financial or practical implications that might make some courses of action more appropriate than others. That is, the retailer may select from the range of steps which might be reasonable. The term ‘best endeavours’ sets a higher standard

¹⁰ Stakeholder feedback raised that there is likely over 800 financial mentor services nationwide, whereas there are only 180 agencies recognised by MSD.

¹¹ See paragraph 43 of the Guidelines.

¹² See paragraph 43(j) of the Guidelines.

¹³ See paragraph 46 of the Guidelines.

of behaviour, as it requires taking all possible courses of action to fulfil the stated objective, within practical limits.

Q6. Do you have any feedback on the proposal to align standards of behaviour in the proposed Consumer Care Obligations?

7. Proposed key operational improvements to Parts 2-5 of the Guidelines

7.1. We have set out in detail the proposed changes to the Guidelines in Appendix B and have highlighted some of the key improvements in the following sections:

Key improvements to Part 2 of the Guidelines: Retailers to publish a consumer care policy

- 7.2. Part 2 of the Guidelines recommends retailers publish a consumer care policy and include certain information on their websites and in their initial communications with customers in payment arrears. The proposed Code amendment mandates most of these provisions in Part 2 of the Consumer Care Obligations, although some paragraphs have been moved to different parts to better reflect the order in which the obligations will be engaged in practice.
- 7.3. The main operational improvement we have proposed to Part 2 of the Guidelines is to simplify some of the prescriptive recommendations. Some retailers expressed concerns about overly prescriptive guidelines for providing a consumer care policy. They wanted the ability to develop their own policies while meeting clear requirements. We have proposed changes to give some flexibility while ensuring clear requirements remain.¹⁴ Retailers will have to ensure their policy and communications address the matters identified. This will provide retailers with operational flexibility in deciding how best to achieve the consumer protections mandated in the Consumer Care Obligations.
- 7.4. We have also proposed changes where the Guidelines recommend a retailer's consumer care policy 'commits the retailer' to certain behaviour. Now we are mandating the Guidelines, these obligations should be on retailers directly under the Code, instead of requiring retailers to impose obligations on themselves in their consumer care policies.¹⁵

Q7. Do you have any feedback on Part 2 of the proposed Consumer Care Obligations relating to consumer care policies and related matters?

Key improvements to Part 3 of the Guidelines: information and records relating to consumer care

- 7.5. Part 3 of the Guidelines recommends retailers collect, record and use information about a customer's communication preferences, invoicing preferences, and potential to experience payment difficulties and harm arising from difficulty accessing electricity.
- 7.6. The proposed Code amendment mandates these provisions in Part 4 of the Consumer Care Obligations. We have proposed reordering this Part to better reflect the order in which the obligations will be engaged in practice.
- 7.7. Minor operational improvements have been made to this Part to:

¹⁴ See discussion in Appendix B at paragraphs 8 to 11.

¹⁵ See discussion in Appendix B at paragraph 7(b).

- a. clarify that retailers must request and use the information specified in Part 3 of the Guidelines (not just “have and use processes and systems to do so”)¹⁶
- b. improve practicality and operational flexibility of some of the recommendations to request information, so retailers are only required to request relevant information, and have some flexibility in deciding what information is relevant and how it is recorded¹⁷
- c. replace the recommendation that retailers check “the customer should be able to understand the retailer’s communications” with a more workable obligation to use reasonable endeavours to adapt communications based on the needs of the customers receiving them. This includes using a customer’s communication preferences to inform the retailer’s communication with that customer to the extent reasonably possible.¹⁸

Q8. Do you have any feedback on Part 4 of the proposed Consumer Care Obligations relating to information and records relating to consumer care?

Key improvements to Part 4 of the Guidelines: when a customer is signed up or is denied a contract

- 7.8. Part 4 of the Guidelines recommends retailers take specific actions when signing up a new customer or denying a contract to a person inquiring with a retailer. The proposed Code amendment mandates these provisions in Part 3 of the Consumer Care Obligations, which will be titled ‘Signing up customers and contract denials’.
- 7.9. We have proposed reordering Part 4 of the Guidelines to make it Part 3 of the Consumer Care Obligations to better reflect the order in which the obligations will be engaged in practice.
- 7.10. Minor operational improvements have been made to:
 - a. clarify the purpose of this Part is to ensure residential consumers are fully informed of all relevant information before and after contracting with a retailer, and that residential consumers who may be denied a contract are supported¹⁹
 - b. improve the practicality of some of the recommendations on retailers, and make the proposed Code obligations clearer and more workable²⁰
 - c. change the recommendation that retailers provide certain information to new prepay customers to an obligation to provide that information *before* entering into a new prepay contract, to ensure residential consumers are fully informed before deciding to enter a prepay contract with the retailer.²¹

¹⁶ See discussion in Appendix B at paragraphs 14 and 15.

¹⁷ See discussion in Appendix B at paragraphs 14(a)(ii), (iv) and (viii), 15(d) and 17(b).

¹⁸ See discussion in Appendix B at paragraph 14(a)(v).

¹⁹ See clause 7 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 18.

²⁰ See discussion in Appendix B at paragraphs 21, 24, 25, 26.

²¹ See clause 9 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 28.

Q9. Do you have any feedback on Part 3 of the proposed Consumer Care Obligations relating to when a customer signs up or is denied a contract?

Key improvements to Part 5 of the Guidelines: Business-as-usual account management

- 7.11. Part 5 of the Guidelines makes recommendations to retailers to take specific actions during business-as-usual account management. The proposed Code amendment mandates these provisions in Part 5 of the Consumer Care Obligations: Business-as-usual account management.
- 7.12. A small number of operational improvements have been proposed to this Part. This includes:
- a. changes to address gaps in the existing Guidelines and require:
 - (i) annual customer interactions include asking for confirmation that information recorded by the retailer about any medically dependent consumers remains current (as well as information recorded under Part 3 of the Guidelines, which is already a requirement)²²
 - (ii) notices to prepay customers warning them of low credit balances include specified information to help the customer understand the importance of topping up²³
 - b. improving the practicality of some of the recommendations on retailers (especially in relation to giving advice on the best plan for a customer).²⁴

Q10. Do you have any feedback on Part 5 of the proposed Consumer Care Obligations relating to business-as-usual account management?

²² See clause 19(c) of the Consumer Care Obligations in Appendix A.

²³ See clause 24(2) of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 35.

²⁴ See clause 20 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 31.

8. Improving protections for customers experiencing payment difficulties – Parts 6 and 7 of the Guidelines

- 8.1. Parts 6 and 7 of the Guidelines establish procedures for retailers to follow from the point a customer anticipates or experiences payment issues, through to disconnecting a customer for non-payment. Part 7 also includes recommendations for uncontracted premises.
- 8.2. The proposed Code amendment mandates these provisions in Parts 6 and 7 of the Consumer Care Obligations, with operational improvements proposed to make the scope of some obligations clearer, address some gaps in the Guidelines, and to improve practicality and operational flexibility where appropriate. More detail about the proposed improvements can be found in **Appendix B**.

Clarifying the scope of the obligations

- 8.3. The proposed Code amendment includes expanded purpose statements for Parts 6 and 7 of the Consumer Care Obligations, to better assist retailers with interpreting their obligations under these parts.
- 8.4. The purpose statement for Part 6 now explains that this Part requires retailers to take specific actions when a customer is in arrears, or when the retailer knows a customer is experiencing payment difficulties. This is for the purpose of supporting those customers to maximise their potential to maintain access to, and afford, a constant electricity supply suitable for their needs. The purpose statement for Part 7 now sets out obligations for the purpose of minimising harm to residential consumers caused by insufficient access to electricity.
- 8.5. We have also proposed clarifying when some of the obligations in Part 6 are engaged.²⁵ To ensure the Consumer Care Obligations provide workable protections, the proposed Code amendment imposes certain obligations when a retailer knows or is deemed to know a customer is experiencing payment difficulties. Clarifying when a retailer is deemed to know a customer is experiencing payment difficulties should therefore assist retailers in understanding when their obligations are engaged.
- 8.6. The proposed clarifications in Part 6 also make it clear that a retailer does not contravene the Consumer Care Obligations when they are not aware of a customer's payment difficulties for reasons beyond their control. However, retailers will be required to act when they do become aware of information that a reasonable retailer would consider is indicative of anticipated or actual payment difficulty.

Improving practicality and operational flexibility

- 8.7. We have proposed some changes to improve the practicality and operational flexibility of some of the recommendations in Parts 6 and 7 of the Guidelines, including:
 - a. clarifying retailers' obligations in Part 6 to support customers experiencing payment difficulties do not need to be followed for every customer who misses a single payment. This recognises that one missed payment could be for reasons unrelated to payment difficulties and retailers should have

²⁵ See clause 25(2) of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 76.

some flexibility to determine when a customer is experiencing payment difficulties and would therefore benefit from the protections²⁶

- b. providing some flexibility in the timing of the steps retailers must follow when a customer is in payment arrears, so retailers can choose to give customers a longer period to make a payment before initiating the process for missed payments under Part 6²⁷
- c. clarifying that a retailer must comply with all relevant and applicable obligations under Part 6 before disconnecting a customer's premises under Part 7, but that the retailer does not have to further enquire into whether the customer has exhausted or refused, without good reason, all relevant assistance offered to them²⁸
- d. applying the same timeframes for all disconnection procedures, regardless of the customer's invoice cycle – while this reduces some operational flexibility, we think it is more workable and accessible to have a consistent set of timeframes rather than an uncertain, proportional approach²⁹
- e. clarifying that on-site electrical contractors who visit a premises to perform a disconnection (not to discuss non-payment of an invoice or pending disconnection of uncontracted premises) are not required to provide customers with advice or information they are not properly trained to give³⁰
- f. clarifying that retailers do not need to ascertain that a customer has understood disconnection notifications (which some retailers considered was an impossible standard to meet), but must instead seek to explain the pending disconnection and consequences of not responding to the retailer's contact attempts in a manner that the customer is reasonably likely to understand, having regard to any relevant information recorded about the customer's communication preferences³¹
- g. clarifying what steps a retailer must take before disconnecting uncontracted residential premises to establish whether any medically dependent consumers may be residing there.³²

Addressing gaps in the Guidelines

8.8. To ensure the processes outlined in Parts 6 and 7 are cohesive, we have proposed addressing some gaps to:

- a. include the same timing requirements for giving notice of all disconnections, whether carried out remotely or not³³

²⁶ See discussion in Appendix B, paragraph 43.

²⁷ See discussion in Appendix B, paragraph 41.

²⁸ See discussion in Appendix B, paragraph 54(b).

²⁹ See discussion in Appendix B, paragraph 58.

³⁰ See discussion in Appendix B, paragraph 61.

³¹ See discussion in Appendix B, paragraph 66(d).

³² See clause 43 of the Consumer Care Obligations in Appendix A, discussed in Appendix B, paragraph 63.

³³ See discussion in Appendix B, paragraph 57(b).

- b. apply consistent information requirements to different notice types and contact attempts relating to disconnections, to ensure consistent messaging to customers and consumers³⁴
- c. include timeframes for undertaking certain procedural steps relating to disconnection that align with existing timeframes in the Guidelines.³⁵

No material changes proposed to key protections

- 8.9. Some stakeholders raised wider concerns with some of the key protections in Parts 6 and 7, particularly those around monitoring consumption and contact attempts before disconnection.
- 8.10. In relation to monitoring customer consumption, we have proposed retaining the existing flexibility in the Guidelines and requiring retailers to work towards having the capability to monitor individual customer consumption. When monitoring consumption, if a customer is on a payment plan and a retailer identifies material changes to their consumption, a retailer must take steps to ensure support is provided.³⁶
- 8.11. Some retailers raised concerns that consumers may view their monitoring of electricity consumption to be highly intrusive, and a better alternative would be to enable customers to monitor their own usage via website and mobile phone apps. Overall, we consider these are important customer protections that should be retained at this stage. They protect consumers by ensuring they receive timely information which helps customers manage the energy use and avoid unexpected costs. It may also help retailers to identify signs of payment difficulties.
- 8.12. In relation to contact attempts before disconnection, we have proposed mandating the existing recommendation that a retailer successfully uses one traceable form of contact, or visits the residential premises, before disconnecting.
- 8.13. We acknowledge the concerns raised by some retailers that these requirements represent the highest compliance cost in the Guidelines, yet evidence of effectiveness is mixed. However, other stakeholders have told us these are important consumer protections that ensure, so far as is reasonably possible, customers in payment difficulty are given ample opportunity to engage with their retailer and avoid disconnection. International examples³⁷ also point to the importance of home visits and face-to-face interactions in building trust and effectively supporting customers in financial hardship. We have, therefore, proposed retaining these protections at this stage.

Q11: Do you have any feedback on Parts 6 and 7 of the proposed Consumer Care Obligations relating to customers experiencing payment difficulties and disconnections?

³⁴ See discussion in Appendix B, paragraph 60.

³⁵ See discussion in Appendix B, paragraph 62.

³⁶ See clause 30 of the Consumer Care Obligations in Appendix A, discussed in Appendix B, paragraph 46.

³⁷ National trials of the '[Knock to Stay Connected](#)' programme (an initiative in Australia) demonstrated that up to 80% of disconnections can be avoided through their human-centered approach.

9. Improving protections for medically dependent consumers

- 9.1. Protecting the interests of medically dependent consumers is an important objective of the proposed Consumer Care Obligations.
- 9.2. We are proposing to carry through the existing recommendations in Part 8 of the Guidelines into Part 8 of the Consumer Care Obligations, with important operational improvements proposed to make the scope of some obligations clearer, address some gaps in the Guidelines, and use simpler and consistent wording. More detail about the proposed improvements can be found in **Appendix B**.

We have clarified the objective of the protections for medically dependent consumers and when they apply

- 9.3. The proposed Code amendment includes an expanded purpose statement for Part 8 of the Consumer Care Obligations, to better assist retailers with interpreting their obligations in relation to medically dependent consumers.³⁸ The purpose statement now explains that Part 8 requires retailers to take specific actions for the purpose of ensuring any residential premises at which medically dependent consumers are residing are not electrically disconnected.
- 9.4. We have also proposed clarifying when some of the Consumer Care Obligations relating to medically dependent consumers are engaged.³⁹ To ensure the Consumer Care Obligations provide workable protections, the proposed Code amendment imposes certain obligations when a retailer knows or is deemed to know a medically dependent consumer may permanently or temporarily reside at a customer's premises.

We have addressed some gaps in the Guidelines

- 9.5. To ensure the Consumer Care Obligations provide a comprehensive and cohesive set of protections for medically dependent consumers, we have proposed addressing some gaps to:
 - a. clarify that retailers must request and record information about medically dependent consumers (not just "have and use processes and systems to do so"),⁴⁰ and specify when retailers must request this information⁴¹
 - b. require retailers to provide information to new customers about the retailer's obligations in relation to medically dependent consumers, and the importance of notifying a retailer of any medically dependent consumers at the premises⁴²

³⁸ See clause 53(1) of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 76.

³⁹ See clause 53(2) of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 76.

⁴⁰ See clause 54 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraphs 79 and 81.

⁴¹ See clause 54(2) of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 79(a).

⁴² See clause 65 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 83.

- c. require retailers to refer new customers to the Authority’s website for resources to support the development of an individual emergency response plan⁴³
- d. require retailers to use best endeavours to encourage new customers to choose a post-pay product offering when the retailer knows a medically dependent consumer may live at the customer’s premises, expanding on the existing recommendation not to recommend prepay products in these circumstances
- e. ensure the procedures retailers must follow are comprehensive and address the different scenarios that could arise, when:
 - (i) processing an application for medically dependent consumer status
 - (ii) choosing to confirm that status with a health practitioner
 - (iii) when reviewing whether someone should continue to have medical dependent consumer status⁴⁴
- f. require retailers to act on notifications they receive from distributors about changes to planned service interruptions and electrical disconnections affecting medically dependent consumers,⁴⁵ and to coordinate with each other on planned service interruptions and electrical disconnections when a customer’s retailer is not the trader responsible for the relevant ICP under the Code.⁴⁶

We have used more accessible terminology

- 9.6. The Consumer Care Obligations consistently refer to ‘medically dependent consumer’ and avoid use of the acronym ‘MDC’, to keep the language clear and accessible. We have also avoided the terminology of ‘unverified MDC’. Instead, the Consumer Care Obligations address when someone ‘may be’ a medically dependent consumer.
- 9.7. We have also updated terminology around confirmation of medically dependent consumer status. Currently the Guidelines use the term ‘HP notice’ to refer to the notice a health practitioner completes to verify a person is a medically dependent consumer. We propose replacing this with a ‘confirmation of status form’, which confirms the status of a person as a medically dependent consumer. We also propose a new ‘reconfirmation form’ which reconfirms the status of a person as a medically dependent consumer.

Q12. Do you have any feedback on Part 8 of the proposed Consumer Care Obligations relating to medically dependent consumers?

⁴³ See clause 66(b) of the Consumer Care Obligations in Appendix A.

⁴⁴ See discussion in Appendix B at paragraphs 89 to 99. Changes proposed include clarifying that a retailer must not decline an application without first requesting a confirmation of status form from a health practitioner (paragraph 89), adding a requirement to notify the health practitioner who completed the form if the retailer is not responsible for the supply of electricity to the premises (paragraph 92), adding timeframes to certain process steps for clarity (paragraph 93), aligning procedural steps in different situations (paragraphs 94 and 97), and expanding the information that retailers must provide when declining an application (paragraph 99).

⁴⁵ See clause 70(3) of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 88(a).

⁴⁶ See clause 71 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 88(a).

10. Regulating fees, bonds and conditional discounts

- 10.1. Part 9 of the Guidelines makes recommendations to ensure the fees and bonds retailers charge their customers are reasonable. Part 9 also addresses conditional discounts such as prompt payment discounts.
- 10.2. The proposed Code amendment will mandate these provisions, with operational improvements to clarify the terminology and improve practicality of a few provisions, including those relating to conditional discounts⁴⁷ and offering to spread the payment of some fees over a period of at least five months.⁴⁸
- 10.3. The proposed Code amendment will only require retailers to set fees and bonds that are reasonable and justifiable – it does not tell retailers how these charges should be calculated. As such, we consider that these proposed obligations are consistent with our statutory objectives and with section 32 of the Act, which sets out what the Code may contain.

Q13. Do you have any feedback on Part 9 of the proposed Consumer Care Obligations relating to fees, bonds and conditional discounts?

⁴⁷ Discussed in paragraph 109(c) of Appendix B.

⁴⁸ Discussed in paragraph 110 of Appendix B.

11. Obligations on distributors

- 11.1. The proposed Consumer Care Obligations are designed to ensure that both retailers and distributors understand the critical role they play in protecting residential consumers, particularly those who are medically dependent.
- 11.2. The proposed Code amendment will impose some obligations on distributors, which highlight their responsibilities and the coordinated efforts required between retailers and distributors to promote consumer protections. In particular:
- a. we propose replacing the existing recommendation on distributors to comply with the Guidelines as a whole, with two obligations which will only arise if a distributor invoices residential consumers directly for distribution services and seeks to disconnect a consumer for non-payment:⁴⁹
 - (i) an obligation to not electrically disconnect a residential consumer's premises for non-payment in respect of distribution services if the distributor is notified by the retailer that a medically dependent consumer may reside there, and
 - (ii) an obligation to give the retailer five business days' notice before it disconnects a residential consumer's premises for non-payment in respect of distribution services.
 - b. we propose mandating the existing recommendation on distributors in emergency situations to attempt contact with residential consumers before disconnecting a premises, with some changes to improve practicality of the obligation while maintaining protections to prioritise the safety and preparedness of medically dependent consumers⁵⁰
 - c. we propose extending an existing recommendation so distributors, as well as retailers, must use reasonable endeavours to have effective and agreed processes to coordinate on planned outages affecting medically dependent consumers, to ensure the obligation is workable and can sit alongside existing arrangements in relation to distributor agreements.⁵¹

Q14. Do you have any feedback on the proposed Code obligations for distributors?

⁴⁹ See clause 42 of the Consumer Care Obligations in Appendix A.

⁵⁰ See clause 69 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 101.

⁵¹ See clause 71 of the Consumer Care Obligations in Appendix A, discussed in Appendix B at paragraph 88.

12. Regulatory statement for the proposed amendment

- 12.1. This section confirms that the requirements for a regulatory statement in accordance with section 39(2) of the Act have been met.

Objectives of the proposed Code amendment

- 12.2. The objective of the proposed Code amendment is to mandate the Guidelines, with operational changes to resolve clarity and workability issues identified with the Guidelines.
- 12.3. By mandating the Guidelines, we aim to establish an enforceable regulatory framework that ensures comprehensive, consistent and supportive consumer care protections across the electricity sector.

The proposed amendment

- 12.4. The drafting of the proposed Code amendment is attached as **Appendix A**.

The proposed amendment's benefits are expected to outweigh the costs

- 12.5. Assessing the effect of the proposed Code amendment is complex and requires a qualitative judgment. Costs and benefits are not easily quantifiable. To support its analysis, the Authority engaged Concept Consulting Limited to evaluate the costs and benefits of the proposed Code amendment. Their report is attached as **Appendix C**.
- 12.6. Our assessment is that the benefits of the proposed Code amendment as a whole are expected to outweigh the costs. Benefits will accrue principally to residential consumers, with retailers facing some additional compliance costs. However, the competitive nature of the retail market is expected to mitigate the extent to which these costs are passed on to consumers, as retailers will strive to maintain competitive pricing. This dynamic should help ensure that the net benefits to consumers remain significant.
- 12.7. The primary benefits of the proposed Code amendment⁵² are from a higher degree of consumer protection for a greater proportion of consumers, coming from:
- a. increased consumer coverage, as the Consumer Care Obligations become mandatory for all retailers
 - b. increased likelihood of compliance, as the Consumer Care Obligations become enforceable
 - c. clearer consumer rights, as drafting improvements are made to the Consumer Care Obligations
 - d. minor additional consumer protections from specific clause changes to address gaps in the Guidelines.
- 12.8. Retailer compliance costs are expected to increase, but this increase is expected to be much smaller than the increase in consumer benefits. Primary costs of the proposed Code amendment come from:

⁵² This assessment of costs and benefits is relative to a counterfactual based on the status quo, under which alignment with the Consumer Care Guidelines is voluntary and, in 2023, 95% of residential consumers are with retail brands that reported full alignment with the Guidelines.

- a. increased retailer coverage, as the Consumer Care Obligations become mandatory for all retailers
 - b. consequences for non-compliance as the Consumer Care Obligations become enforceable
 - c. additional obligations created by specific clause changes to address gaps in the Guidelines.
- 12.9. These increased compliance requirements are offset to some degree by:
- a. clearer obligations due to drafting improvements made to the Consumer Care Obligations
 - b. more workable and flexible obligations created by specific clause changes.
- 12.10. The net benefits of the proposed Code amendment are expected to increase over time. The level of consumer protection is likely to improve as retailers become more familiar with complying with the Consumer Care Obligations and the Authority becomes more familiar with enforcing them. The number of consumers protected by the Consumer Care Obligations will increase as New Zealand's population grows, and the proportion of consumers requiring protection is likely to grow as New Zealand's population ages. Electrification and digitisation will likely increase consumers' reliance on electricity. While costs will rise with increased consumer numbers, this growth is likely to be lower than the increase in benefits.

Q15. Do you agree that the benefits of the proposed Code amendment outweigh its costs?

The proposed amendment is preferred to other options

- 12.11. The Authority considered one alternative option to achieve the objective of mandating the Guidelines, which is the option of incorporating the Guidelines by reference into the Code. We do not favour this option, for the following reasons:
- a. including the Consumer Care Obligations as a Schedule to a new Part of the Code focused on consumer care is considered the best option to establish enforceable obligations on participants, and to ensure alignment with existing Code obligations, and
 - b. the alternative of incorporation by reference would not have provided any time or cost savings compared with our preferred approach, given that the same operational improvements we have proposed for the Consumer Care Obligations would have needed to be considered and consulted on even if the Guidelines were incorporated by reference, to ensure sufficiently clear and workable obligations.
- 12.12. As set out in our earlier consultation paper and decision paper, the Authority has already considered and consulted on other means of ensuring comprehensive, consistent and supportive consumer care protections across the electricity sector – but does not consider that those alternatives are preferable to mandating the Guidelines. An evaluation of those alternatives is included in Table 1 below.
- 12.13. As for alternative approaches to specific clauses in the Consumer Care Obligations, where appropriate these are addressed in sections above and in **Appendix B**.

Table 1: Alternatives to mandating the Guidelines

Option	Evaluation
<p>Option one: Maintain the status quo</p>	<p>The 2024 Decision paper and 2023 Consultation paper outline the shortcomings of the status quo which means this option would be the least effective in achieving comprehensive, consistent and supportive consumer protections and was not supported in consultation.</p>
<p>Option two: Keep the Guidelines voluntary but clarify a small number of interpretation issues</p>	<p>This option would not create enforceable obligations and may therefore impose less cost on retailers. We expect this option would have a positive net benefit compared to the status quo, but the net benefits are lower than the option of mandating the Guidelines or Option three. This is because consumer benefits would be higher than the status quo but lower than under the option of mandating the Guidelines, and compliance costs would be slightly lower than the status quo and the mandating the Guidelines. Consultation highlighted this option is too narrow to effectively address all the issues identified with the status quo.</p>
<p>Option three: Mandate Parts 2, 6, 7, and 8 of the Guidelines</p>	<p>This option would mandate parts of the Guidelines that provide key consumer welfare protections around financial difficulty, disconnection, and medically dependent consumers. This option was the Authority’s initial preference as it was considered to protect the interests of domestic consumers while minimising any potential negative impacts on innovation and the competition and efficiency limbs of the Authority’s main statutory objective. We expect this option would still result in net benefits, but that these would be lower than the option of mandating the Guidelines. Consumer benefits would be higher than the status quo but lower than mandating the Guidelines, compliance costs would be higher than the status quo but lower than mandating the Guidelines, and there may be additional compliance costs for retailers or reduced consumer benefits from having a two-tiered system of consumer protections. Consultation revealed concerns that this option would create significant shortfalls in the protections provided and could inadvertently reverse the progress made by some retailers who have implemented the Guidelines.</p>

The proposed Code amendment complies with section 32(1) of the Act

12.14. The Authority’s statutory objectives are to:

- a. promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers (the main objective)

- b. protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers (the additional objective).
- 12.15. 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.
- 12.16. Section 32(1) of the Act provides that the Code may contain any provisions that are consistent with the Authority's objectives and are necessary or desirable to promote one or all of the matters listed in section 32(1).
- 12.17. The Authority considers the proposed Code amendment complies with section 32(1) of the Act. Mandating the Guidelines is consistent with both the additional objective, and the main objective, and is necessary or desirable to promote matters listed in section 32(1), as it would promote:
- a. **the protection of the interests of domestic consumers in relation to retailers' direct dealings with them**, by establishing an enforceable regulatory framework that ensures comprehensive, consistent and supportive consumer care protections across the electricity sector
 - b. **competition in the electricity industry for the long-term benefit of consumers**, by creating a level playing field and requiring all retailers to comply with the Consumer Care Obligations in respect of all residential consumers, giving some consumers more confidence to switch retailers if they want to
 - c. **reliable supply by the electricity industry for the long-term benefit of consumers**, by establishing obligations which signal that medically dependent consumers should not be disconnected and that disconnection of residential premises in all other contexts is a measure of last resort
 - d. **efficient operation in the electricity industry for the long-term benefit of consumers**, by mandating clear and workable obligations that consistently apply to all retailers who contract with residential consumers, reducing uncertainty and enabling retailers to more efficiently target resources at the specific areas and issues outlined by the Consumer Care Obligations
 - e. **the performance by the Authority of its functions**, by enhancing the Authority's ability to monitor retailers' compliance and enforce the Consumer Care Obligations to ensure consumer protections.
- 12.18. The purpose and benefits of individual changes proposed to make the obligations clearer and more workable are addressed (where appropriate) in sections 6 to 10 above and in **Appendix B**.