

**MISSING VOICES: VICTIM-SURVIVOR PERSPECTIVES  
ON THE IMPACT OF REFORMS TO THE VICTORIAN  
WATER BUSINESS CUSTOMER SERVICE CODES 2017**

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## ABSTRACT

This thesis explores recent Victorian responses to family violence with a focus on economic abuse and household water supply. In July 2018, following recommendations made by the Royal Commission into Family Violence, significant reforms were made to the *Customer Service Code - Urban Water Businesses (Vic)* and *Rural Water Customer Service Code (Vic)*. These codes govern the operation of Victorian water service providers. The reforms mandated, inter alia, that all Victorian water businesses must have a family violence policy. These changes recognised the fact that customers experiencing family violence commonly face unique problems with their water accounts, including being unable to pay their account because of restricted access to finances or having an account placed into their name without their permission.

As yet, the impact of changes to the *Customer Service Code - Urban Water Businesses (Vic)* and *Rural Water Customer Service Code (Vic)* from the victim-survivor perspective has not been documented. This thesis fills this gap by using qualitative research methods to ask victim-survivors about their experience of engaging with their water service provider. It comprises four semi-structured telephone or teleconference interviews with victim-survivors of family violence and four semi-structured telephone or teleconference interviews with personal and professional support people.

This thesis demonstrates the many ways in which utility accounts can be used to perpetrate economic abuse and describes the Victorian water sector's responses to counter this type of abuse. Recommendations for further amendment to the *Customer Service Code - Urban Water Businesses (Vic)* and *Rural Water Customer Service Code (Vic)* include a compulsory procurement strategy approach when selling customer debts to external debt collectors and the provision of community outreach programs to improve community awareness of available support measures. I also recommend the development of an inter-industry risk assessment tool for identifying economic abuse.

## NOTES ON LANGUAGE

I chose the term “**victim-survivor**” to describe people who have experienced or are currently experiencing family violence. While Victorian legislation prefers the term “victim”, I want to demonstrate that although the experience of family violence can have lifelong impacts, it does not necessarily define people or their future.

Because data collected in this thesis was limited to the experiences of cisgender women, all references herein to “**women**” only purport to describe the experiences of cisgender women. This is not to underestimate or erase other womens’ experience of family violence and economic abuse.

## CHAPTER 1 INTRODUCTION

Economic abuse is a lesser-known but extremely prevalent form of family violence. It involves manipulating a person's access to money and financial autonomy to maintain power and control. Household water accounts can be used to perpetrate economic abuse, including where a perpetrator refuses to contribute to a jointly held account<sup>1</sup> or places an account into a person's name without their permission.<sup>2</sup> The Victorian water sector has demonstrated commitment to fulfilling their role in ameliorating the impacts of this type of abuse, introducing a suite of reforms to the *Customer Service Code - Urban Water Businesses* (Vic) and *Rural Water Customer Service Code* (Vic) ('water business customer service codes') in 2017 to better protect family violence-impacted customers. This thesis highlights the absence of victim-survivor voices in existing evaluations of these reforms. I argue that bringing victim-survivor voices into the conversation is critical to gain a true understanding of the impact of any family violence policy reform.

I conducted eight telephone or teleconference interviews with victim-survivors of economic abuse (n=4), personal (n=1) and professional support people (n=3). Drawing on these interviews, I evaluate the Victorian water sector's progress in responding to family violence. Participant insights are presented in a de-identified form to maintain their confidentiality and maximise safety.

In Chapter 2, I outline Victoria's legal response to family violence and the emerging discourse concerning economic abuse. In Chapter 3, I highlight how water utility accounts can be used to perpetrate economic abuse, the Victorian water sector's response to this problem and the missing victim-survivor voices from current evaluations of this response. I also set out my research questions. Chapter 4 describes the methodological approach taken in this thesis. In Chapter 5, I present key findings emerging from participant interviews and draw comparisons to the findings of the Essential Service Commission's

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<sup>1</sup> State of Victoria, *Royal Commission into Family Violence: Report and Recommendations, Vol IV* (Parl Paper No 132, March 2016) 104 ('*RCFV Summary and Recommendations Vol IV*'); Carolyn Bond and Madeleine Ulbrick, *Responding to Financial Abuse* (Report, January 2020) 24; Essential Services Commission, *Moving Towards Better Practice: Implementing Family Violence Policies in the Victorian Water Sector* (Report, May 2017) 3 ('*Moving Towards Better Practice*').

<sup>2</sup> *Ibid.*

2019 review ('the ESC review').<sup>3</sup> I conclude this thesis in Chapter 6 by making recommendations for legal reform.

This thesis is a law reform thesis concerning both family violence and water policy. As part of the writing process, I made submissions to two relevant inquiries: the National Inquiry into Family, Domestic and Sexual Violence and the National Water Reform.<sup>4</sup> My submissions are included in this thesis as appendices.

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<sup>3</sup> Essential Services Commission, *Water Code Outcomes Review: Family Violence Changes* (Report, 26 June 2019) 4 ('ESC review').

<sup>4</sup> Parliament of Australia, 'Shining a Light on the Scourge of Family Violence' (Media Release, 5 June 2020); Australian Government Productivity Commission, *National Water Reform Issues Paper* (Report, May 2020).

## CHAPTER 2 AN OVERVIEW OF FAMILY VIOLENCE AND ECONOMIC ABUSE LITERATURE IN AUSTRALIA

### 2.1 Introduction

This chapter highlights the importance of improving Victoria's legal mechanisms to better respond to family violence. I begin by outlining the Victorian response to family violence in recent years and the emerging literature concerning economic abuse. I address the under-recognition of economic abuse in Australia and outline the myriad ways in which utility accounts can be utilised to perpetrate economic abuse. I also utilise my data to explain the impact of economic abuse on victim-survivors. This chapter concludes by drawing attention to the focus of this thesis: how appropriate business hardship programs can protect victim-survivors from some of the devastating impacts of economic abuse.

### 2.2 Family Violence in Victoria

Family violence is rife in Australia.<sup>5</sup> It is most commonly perpetrated by men against women.<sup>6</sup> Family or domestic violence is legally recognised in all Australian states and territories.<sup>7</sup> In Victoria, family violence is defined as behaviour which is physically, sexually, emotionally, psychologically or economically abusive, or which otherwise controls the perpetrator's family member, causing them to fear for their own or another's safety.<sup>8</sup>

Over the past decade, systemic responses to family violence have been the subject of state and federal review.<sup>9</sup> In 2015 in the wake of several high-profile family violence-related

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<sup>5</sup> Australian Bureau of Statistics, *Personal Safety, Australia, 2016* (Catalogue No 4906.0, 8 November 2017) ('*ABS Personal Safety Survey*').

<sup>6</sup> Marie Eriksson and Rickard Ulmestig, "'It's Not All About Money": Toward a More Comprehensive Understanding of Financial Abuse in the Context of VAW' (2017) *Journal of Interpersonal Violence* 1, 19; Renata Alexander, *Family Violence in Australia: The Legal Response* (The Federation Press, 2018) 5.

<sup>7</sup> *Family Violence Act 2016* (ACT) s 8; *Family Violence Protection Act 2008* (Vic) s 8; *Domestic and Family Violence Act 2007* (NT) s 5; *Domestic and Family Violence Protection Act 2012* (Qld) s 8; *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 9; *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 8; *Family Violence Act 2004* (Tas) s 8; *Restraining Orders Act 1997* (WA) s 5A.

<sup>8</sup> *Family Violence Protection Act 2008* (Vic) s 5.

<sup>9</sup> See for eg Australian Law Reform Commission, *Family Violence: A National Legal Response* (Report No 114, October 2010); Victorian Law Reform Commission, *Review of Family Violence Laws* (Report No 185, February 2006); National Council to Reduce Violence against Women and their Children, *Time for Action:*

deaths (eg 11-year-old Luke Batty) the Victorian Government established the Royal Commission into Family Violence ('RCFV' or 'the Royal Commission').<sup>10</sup> The RCFV was the most comprehensive review of family violence in global history,<sup>11</sup> marking a shift in community awareness of the seriousness and scale of the problem.<sup>12</sup> In March 2016, the Royal Commission tabled its report detailing 227 recommendations to enhance Victoria's family violence response. The Royal Commission emphasised that all businesses that come into contact with victim-survivors should be equipped to identify and manage the risks of family violence.<sup>13</sup>

Victoria has been described by the media as 'lead[ing] the way'<sup>14</sup> on family violence.<sup>15</sup> As at 24 August 2020, 166 of the Royal Commission's recommendations have been implemented,<sup>16</sup> including changes made to the *Customer Service Code - Urban Water Businesses* (Vic) and *Rural Water Customer Service Code* (Vic) ('water business customer service codes').<sup>17</sup> Despite the Andrews' government's commitment to implementing the RCFV's recommendations, family violence remains a major national health and welfare crisis.<sup>18</sup> In Australia, police are called to family violence incidents

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*The National Council's Plan for Australia to Reduce Violence against Women and their Children 2009–2021* (Report, March 2009); State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132, March 2016) ('RCFV Summary and Recommendations'); Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (Report, 4 March 2015).

<sup>10</sup> RCFV Summary and Recommendations (n 9) 1.

<sup>11</sup> Tim Cartright, *Report of the Family Violence Reform Implementation Monitor* (Report, 1 November 2017) iii; Domestic Violence Victoria, 'Overview', *Unite Against Family Violence* (Web Page) <<https://dvvic.org.au/campaigns/unite-against-family-violence/>>.

<sup>12</sup> Marcia Neave, 'The Victorian Royal Commission into Family Violence: Responding to an Entrenched Social Problem' (2016) 14(2) *Otago Law Review* 229, 230.

<sup>13</sup> RCFV Summary and Recommendations (n 9) 9.

<sup>14</sup> Kate Fitz-Gibbon et al, 'Victoria Leads the Way on Family Violence but Canberra Needs to Lift its Game', *The Conversation* (online, 30 March 2017) <<https://theconversation.com/victoria-leads-the-way-on-family-violence-but-canberra-needs-to-lift-its-game-74036>>.

<sup>15</sup> Jane Gilmore, 'Four Years On It's Impossible to Hear Rosie and Not Want to Do Something', *The Sydney Morning Herald* (online, 2 November 2018) <<https://www.smh.com.au/lifestyle/life-and-relationships/four-years-on-it-s-impossible-to-hear-rosie-and-not-want-to-do-something-20181101-p50dds.html>>.

<sup>16</sup> State of Victoria, 'The 27 Recommendations', *Family Violence Recommendations* (Web Page) <<https://www.vic.gov.au/family-violence-recommendations>>.

<sup>17</sup> ESC review (n 3) 4.

<sup>18</sup> Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence in Australia: Continuing the National Story* (Report No FDV 3, 5 June 2019) vii.

every two minutes.<sup>19</sup> This statistic is made more staggering by the fact that only 18% of victim-survivors have ever contacted police.<sup>20</sup> Amidst the COVID-19 pandemic, the incidence of family violence in Australia is on the rise, with practitioners reporting an increase in both frequency and severity of violence.<sup>21</sup> These alarming statistics indicate there is much to be done to end gender-based violence in Australia.

### 2.3 *The Hidden Crisis: Economic Abuse*

Economic abuse is a silent yet powerful form of family violence.<sup>22</sup> Recognition of economic abuse as a problem requiring intervention in Australia was influenced by emerging feminist scholarship highlighting how gendered patterns of power and control manifest themselves in intimate partner relationships.<sup>23</sup> Victorian legislation defines economic abuse as coercive, deceptive or unreasonably controlling behaviour that denies financial autonomy or withholds the financial support necessary for meeting reasonable living expenses.<sup>24</sup> Economic abuse commonly occurs in combination with other family

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<sup>19</sup> Clare Blumer, 'Australian Police Deal with Domestic Violence Every Two Minutes', *ABC News* (online, 21 April 2016) <<https://www.abc.net.au/news/2016-04-21/domestic-violence/7341716?nw=0>>.

<sup>20</sup> *ABS Personal Safety Survey* (n 5).

<sup>21</sup> Naomi Pfitzner, Kate Fitz-Gibbon and Jacqui True, *Responding to the 'Shadow Pandemic': Practitioner Views on the Nature of and Responses to Violence Against Women in Victoria, Australia During the COVID-19 Restrictions* (Report, 6 June 2020) 10.

<sup>22</sup> Rachel Voth Schrag, 'Experiences of Economic Abuse in the Community: Listening to Survivor Voices' (2019) 34(3) *Affilia - Journal of Women and Social Work* 313, 313; Madeleine Ulbrick, "'A Man's Home is His Castle. And Mine is a Cage": A Feminist Political Economy Analysis of Economic Abuse in Victoria' (PhD Thesis, Monash University, 2020) 15; Jozica Kutin, Roslyn Russell and Mike Reid, 'Economic Abuse Between Intimate Partners in Australia: Prevalence, Health Status, Disability and Financial Stress' (2017) 41(3) *Australian Journal of Public Health* 269, 269; Adrienne Adams et al, 'Development of the Scale of Economic Abuse' (2008) 14(5) *Violence Against Women* 563, 564; Amanda Stylianou, Judy Postmus and Sarah McMahon, 'Measuring Abusive Behaviors: Is Economic Abuse a Unique Form of Abuse?' (2013) 28(16) *Journal of Interpersonal Violence* 3186, 3187; Cynthia Sanders, 'Economic Abuse in the Lives of Women Abused by an Intimate Partner: A Qualitative Study' (2015) 21(1) *Violence Against Women* 3, 4; Prue Cameron, *Relationship Problems and Money: Women Talk About Financial Abuse* (Report, 25 August 2014) 17; Elizabeth Branigan "'Who Pays in the End?'" The Personal and Political Implications of Financial Abuse of Women in Intimate Partner Relationships' (2007) 44 *Just Policy: Journal of Australian Social Policy* 31, 31.

<sup>23</sup> Evgenia Bourova, Ian Ramsay and Paul Ali, 'Limitations of Australia's Legal Hardship Protections for Women with Debt Problems Caused by Economic Abuse' (2019) 42(4) *University of NSW Law Journal* 1146, 1158.

<sup>24</sup> *Family Violence Protection Act 2008* (Vic) s 6.

violence.<sup>25</sup> Although it can take many forms,<sup>26</sup> economic abuse is almost always enacted to control victims by preventing their financial independence.<sup>27</sup>

The body of research concerning economic abuse is limited.<sup>28</sup> In a pioneering study in the United States, Adams and colleagues developed a method through which to identify this form of abuse and measure its impact.<sup>29</sup> They identified three categories of economic abuse: (a) preventing resource acquisition (b) control of economic resources and (c) exploiting women's resources.<sup>30</sup> In the United Kingdom, Sharp added a fourth category of economically abusive behaviour: (d) refusing to contribute towards economic costs such as household bills and child rearing.<sup>31</sup> Economic abuse is generally accepted to fall within these four categories.<sup>32</sup> Examples include:

- restricting access to money and bank accounts;<sup>33</sup>
- withholding information about joint finances and assets;<sup>34</sup>
- forcing a victim-survivor to take on sole legal liability for jointly incurred debts (such as utility debts);<sup>35</sup> and/or
- coercing a victim-survivor to claim social security payments.<sup>36</sup>

### 2.3.1 *Economic Abuse in Australia*

Australian research documenting the experience of economic abuse from the victim-survivor perspective is particularly scarce.<sup>37</sup> Branigan's 2004 report was the first Australian study to draw on women's experiences of economic abuse to assess its

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<sup>25</sup> Bond and Ulbrick (n 1) 10.

<sup>26</sup> Bourova, Ramsay and Ali (n 23) 1148; *Family Violence Protection Act 2008* (Vic) s 6; Angela Lauman and Elizabeth Samra, 'Economic Abuse: The Struggle for Financial Security' (2018) 248 *Law Society of the ACT Journal* 40, 40; Voth Schrag (n 22) 318; Consumer Utilities Advocacy Centre, *Helping Not Hinder: Uncovering Domestic Violence & Utility Debt* (Report, August 2014) 8 ('*Helping Not Hinder*').

<sup>27</sup> Kutin, Russell and Reid (n 22) 269.

<sup>28</sup> Bond and Ulbrick (n 1) 10.

<sup>29</sup> Adams et al (n 22) 564.

<sup>30</sup> *Ibid* 565–567.

<sup>31</sup> Nicola Sharp, "*What's Yours Is Mine*": *The Different Forms of Economic Abuse and Its Impact on Women and Children Experiencing Domestic Violence* (Report, October 2008) 25.

<sup>32</sup> Emma Smallwood, *Stepping Stones: Legal Barriers to Economic Equality After Family Violence* (Report, September 2015) 6; Sharp (n 31) 20–26; Voth Schrag (n 22) 317.

<sup>33</sup> *Helping Not Hinder* (n 26) 8.

<sup>34</sup> *Ibid* 8.

<sup>35</sup> Bourova, Ramsay and Ali (n 23) 1148.

<sup>36</sup> *Family Violence Protection Act 2008* (Vic) s 6.

<sup>37</sup> Cameron (n 22) 4; Bourova, Ramsay and Ali (n 23) 1159.

impact.<sup>38</sup> It described a multitude of economically abusive behaviours and demanded economic abuse be legally recognised to enable the development of effective support mechanisms.<sup>39</sup> In 2014 and 2015 respectively, research by Cameron<sup>40</sup> and Smallwood<sup>41</sup> used victim-survivor narratives to highlight the prevalence of economic abuse in Australia and its impact on financial security. Cameron highlighted the dearth of community awareness surrounding economic abuse and recommended widespread education about economic abuse at professional and public levels.<sup>42</sup> Smallwood identified several systemic barriers faced by women in their recovery from economic abuse, including that utility retailers and banks have limited awareness of the difficulties faced by victim-survivors and are often unhelpful when interacting with victim-survivor customers.<sup>43</sup> She concluded that to improve their services, utility providers must recognise family violence and provide staff training on the nature and impact of economic abuse.<sup>44</sup> In her recent study, Ulbrick applied a feminist political economy analysis to tenets of civil, family and consumer law.<sup>45</sup> Utilising victim-survivor experiences, she highlighted inadequacies of current legal responses to economic abuse in Australia. Such inadequacies include the fact that economic abuse alone is rarely sufficient to satisfy the grant of a Family Violence Intervention Order (‘FVIO’), despite FVIO’s being one of the ‘few legal mechanisms available for protecting women’s physical and material security.’<sup>46</sup>

### 2.3.2 *The Recognition Problem*

Compared with physical and sexual family violence, economic abuse is under-recognised in the community.<sup>47</sup> Victim-survivors of economic abuse often do not identify their

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<sup>38</sup> Elizabeth Branigan, *His Money or Our Money? Financial Abuse of Women in Intimate Partner Relationships* (Report, September 2004).

<sup>39</sup> *Ibid* 1.

<sup>40</sup> Cameron (n 22)

<sup>41</sup> Smallwood (n 32).

<sup>42</sup> Cameron (n 22) vii.

<sup>43</sup> Smallwood (n 32) 4.

<sup>44</sup> *Ibid*.

<sup>45</sup> Ulbrick (n 22).

<sup>46</sup> *Ibid* 156, 162.

<sup>47</sup> Kutin, Russell and Reid (n 22) 269; Lauman and Samra (n 26) 41; Bourova, Ramsay and Ali (n 23) 1159; Smallwood (n 32) 6; *RCFV Summary and Recommendations Vol IV* (n 1) 94; Australian National Research Organisation for Women’s Safety (‘ANROWS’), *Australians’ Attitudes to Violence Against Women and Gender Equality: Findings From the 2017 National Community Attitudes Towards Violence Against Women Survey (NCAS)* (Report, March 2018) 41.

experience as family violence.<sup>48</sup> Cameron argues that economic abuse is a complex form of abuse ‘embedded in a web of gendered social behaviour and powerful cultural norms’<sup>49</sup> and that victim-survivors’ failure to recognise economic abuse may be explained by several factors. These factors include pervasive gender norms including perceived male superiority in handling money matters and that romantic couples should join financial resources;<sup>50</sup> the division of labour in Australia whereby women remain primarily responsible for children and household duties;<sup>51</sup> and the private nature of personal finances.<sup>52</sup>

In addition to these factors, Australia’s response to economic abuse remains in its infancy.<sup>53</sup> It has been argued that our legal system and social services are not equipped to identify and respond to economic abuse or economic harms resulting from family violence, which might also explain why economic abuse often goes undetected.<sup>54</sup> One example illustrated by Ulbrick is that police often fail to identify economic abuse as family violence.<sup>55</sup> This is problematic given police are commonly the first port of call for victim-survivors.<sup>56</sup>

### 2.3.3 Likely Targets

Despite lacking community awareness, economic abuse is widespread.<sup>57</sup> Research suggests that approximately 80 per cent of women who experience family violence

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<sup>48</sup> Kutin, Russell and Reid (n 22) 269; Lauman and Samra (n 26) 41; Bourova, Ramsay and Ali (n 23) 1159; Smallwood (n 32) 6; Carolyn Bond, Stephanie Tonkin and Ciara Sterling, *Responding to Financial Abuse* (Report, 11 December 2018) 5; *RCFV Summary and Recommendations Vol IV* (n 1) 94; Owen Camilleri, Tanya Corrie and Shorna Moore, *Restoring Financial Safety: Legal Responses to Economic Abuse* (Report, 2015) 7.

<sup>49</sup> Cameron (n 22) 5.

<sup>50</sup> *Ibid* 21.

<sup>51</sup> *Ibid* 19.

<sup>52</sup> *Helping Not Hindering* (n 26) 8.

<sup>53</sup> ANROWS, *Domestic Violence and Women’s Economic Security: Building Australia’s Capacity for Prevention and Redress: Key Findings and Future Directions* (Report, 24 October 2016) 6; Heather Douglas, ‘Battered Women’s Experiences of the Criminal Justice System: Decentring the Law’ (2012) 20(2) *Feminist Legal Studies* 121, 122; Rosemary Hunter, ‘Narratives of Domestic Violence’ (2006) 28(4) *Sydney Law Review* 733, 739.

<sup>54</sup> ANROWS (n 53) 6; Ulbrick (n 22) 16.

<sup>55</sup> Ulbrick (n 22) 147.

<sup>56</sup> *Ibid* 154.

<sup>57</sup> Smallwood (n 32) 6.

experience economic abuse.<sup>58</sup> As with other types of family violence, the prevalence of economic abuse is higher among women than men.<sup>59</sup> Although economic abuse can affect women of all ages, socio-economic status, education level and geographic location, certain risk factors have been identified.<sup>60</sup> These include age, poor health, disability, financial stress and lower levels of education.<sup>61</sup> Belonging to a culturally and linguistically diverse ('CALD') community may also increase vulnerability to economic abuse.<sup>62</sup> This finding may be explained by insufficient access to culturally and/or linguistically safe services.<sup>63</sup>

#### 2.3.4 Impacts

Economic abuse has a range of devastating impacts including implications for emotional and psychological wellbeing.<sup>64</sup> All the women interviewed in this thesis demonstrated the significant emotional toll associated with economic abuse.<sup>65</sup> Sarah<sup>66</sup> explained the psychological impact of sustained economic control:

He was controlling everything; he was handling everything and [the] money. That's how they keep their monopoly. That's how they keep their control over us. That's how they govern everything, and they never let women handle anything ... He never let me explore myself, or my abilities. Maybe I might be doing very well ... [but] he didn't want to see my abilities, he wanted to keep me down, push me down. He was always putting me down and talking like that. It really gave me very miserable, very pathetic feelings. I felt like I was nothing.<sup>67</sup>

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<sup>58</sup> Lauman and Samra (n 26) 40; Jane Bullen and Natasha Cortis, *Building Effective Policies and Services to Promote Women's Economic Security Following Domestic Violence* (Report, August 2015) 7.

<sup>59</sup> Kutin, Russell and Reid (n 22) 269; Bond and Ulbrick (n 1) 10.

<sup>60</sup> Kutin, Russell and Reid (n 22) 273.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Helping Not Hindering* (n 26) 8.

<sup>63</sup> Bourova, Ramsay and Ali (n 23) 1161.

<sup>64</sup> Adrienne Adams and Marisa Beeble, 'Intimate Partner Violence and Psychological Well-Being: Examining the Effect of Economic Abuse on Women's Quality of Life' (2019) 9(5) *Psychology of Violence* 517, 518.

<sup>65</sup> Interview with Ana (Melbourne, 20 August 2020) 2; Interview with Catherine (Melbourne, 28 July 2020) 7; Interview with Amina (Melbourne, 21 August 2020) 6; Interview with Sarah (Melbourne, 26 August 2020) 3.

<sup>66</sup> In line with Monash University Human Research Ethics Committee requirements, all victim-survivor names used in this thesis are pseudonyms to maximise participant safety.

<sup>67</sup> Interview with Sarah (n 65) 3.

Economic abuse can also affect victim-survivors' financial security, both at the time of the abuse and into the future.<sup>68</sup> During and following a violent relationship, women may have restricted access to finances.<sup>69</sup> In her interview, Sarah said: 'I had no access [to money] ... I didn't have a bank card, no password, no access, no pin numbers. Everything was with him until the separation ... Until then I didn't have anything.'<sup>70</sup>

This kind of abusive behaviour creates a cycle of dependence on perpetrators, often making it economically impossible to leave a violent relationship.<sup>71</sup> Sarah illustrated the isolation associated with restricted financial access:

[He would] sometimes go out without leaving any money at home. I was just imagining what would happen if something happened to me. [I wouldn't have been able] to take a taxi or even call someone. There was a phone but if the phone connection was gone because he hadn't paid the bills, what would happen?<sup>72</sup>

These experiences demonstrate the seriousness of economic abuse and the perpetual impacts of economic abuse on victim-survivors.

#### 2.4 “‘Til Debt Do Us Part”: Economic Abuse and Utilities

According to recent research, paying for utilities is the third largest financial concern for victim-survivors in Australia.<sup>73</sup> Despite this, the body of Australian research concerning economic abuse and utilities is limited.<sup>74</sup> Current literature demonstrates that there are numerous ways in which utility accounts can be a source of economic abuse.<sup>75</sup> These include:

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<sup>68</sup> Michelle Toews and Autumn Bermea, “‘I Was Naive in Thinking, ‘I Divorced This Man, He Is Out of My Life’”: A Qualitative Exploration of Post-Separation Power and Control Tactics Experienced by Women’ (2017) 32(14) *Journal of Interpersonal Violence* 2166, 2179; Cameron (n 22) 23; Voth Schrag (n 22) 314.

<sup>69</sup> Cameron (n 22) 26.

<sup>70</sup> Interview with Sarah (n 65) 1.

<sup>71</sup> Cameron (n 22) 25.

<sup>72</sup> Interview with Sarah (n 65) 3.

<sup>73</sup> Nilmini Fernando, *When is the Right Time to Talk About Money: Financial “Teachable Moments” for Women Affected by Family Violence* (Report, 1 November 2018) 4.

<sup>74</sup> Bourova, Ramsay and Ali (n 23) 1148.

<sup>75</sup> *RCFV Summary and Recommendations Vol IV* (n 1) 104.

- accidental disclosure of a victim-survivor's address by a utility provider to a perpetrator;<sup>76</sup>
- opening an account in a victim-survivor's name without permission;<sup>77</sup>
- refusing to contribute to a joint account;<sup>78</sup>
- forcing a victim-survivor to take on sole liability for household utilities even where the perpetrator is a joint (or sometimes the sole) beneficiary of the utilities;<sup>79</sup> and
- requesting disconnection of services despite knowing the victim-survivor lives at the address.<sup>80</sup>

In cases where women are forced to enter into utility contracts in their sole name, they can be left with crippling debts.<sup>81</sup> In her interview, Amina explained that: 'A lot of women go through this when they're in the relationship or leaving the relationship. Money control is a big thing. You get sucked into things being put into your name and purchasing a lot of things for the person ...'.<sup>82</sup>

Where victim-survivors are unable to afford household utilities, they may be pursued by debt collectors<sup>83</sup> and disconnected from essential services.<sup>84</sup> These outcomes jeopardise both immediate and long-term financial security, making it more difficult for victim-survivors of economic abuse to enter into new credit or utility contracts in the future.<sup>85</sup> This was Amina's reality:

My credit rating will be ruined. I'm 50 [years old] hoping to start over again. I've got a friend; she's going through the same thing. You're left broke while they step out of everything and move on. It doesn't affect their life. Financially they walk away and just leave you in the debt. Everyone is chasing you. I had phone calls,

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<sup>76</sup> Ibid; Bond and Ulbrick (n 1) 3.

<sup>77</sup> *RCFV Summary and Recommendations Vol IV* (n 1) 104; Bond and Ulbrick (n 1) 24; *Moving Towards Better Practice* (n 1) 3.

<sup>78</sup> Ibid.

<sup>79</sup> Bourova, Ramsay and Ali (n 23) 1148.

<sup>80</sup> Bond and Ulbrick (n 1) 24.

<sup>81</sup> Bourova, Ramsay and Ali (n 23) 1148.

<sup>82</sup> Interview with Amina (n 65) 1.

<sup>83</sup> Bourova, Ramsay and Ali (n 23) 1151.

<sup>84</sup> *RCFV Summary and Recommendations Vol IV* (n 1) 104.

<sup>85</sup> Tanya Corrie and Magdalena McGuire, *Economic Abuse: Searching For Solutions* (Final Report, May 2013) 14; Bourova, Ramsay and Ali (n 23) 1151; *Helping Not Hindering* (n 26) 9.

I get texts, I get everything from [credit provider] that he's meant to pay out. They keep harassing me and harassing me.<sup>86</sup>

Bourova, Ramsay and Ali note that hardship provisions are an important option for women struggling to meet debt repayments in this context.<sup>87</sup> These provisions provide an exception to the rule that parties to a credit contract must pay in accordance with its terms<sup>88</sup> and enable consumers suffering financial difficulty to negotiate alternative payment plans.<sup>89</sup> In response to climbing rates of disconnection from essential services,<sup>90</sup> indications of financial stress in Australia<sup>91</sup> and in recognition of the fact that electricity and water are essential to life, hardship protections have been incorporated into the energy and water sectors.<sup>92</sup> Hardship protections for Victorian water customers are regulated by the water business customer service codes.<sup>93</sup> These codes were enacted under section 4F of the *Water Industry Act 1994* (Vic) and in accordance with the Water Industry Regulatory Order.<sup>94</sup>

Following the RCFV, the water business customer service codes now identify family violence as a cause of financial hardship.<sup>95</sup> This policy reform is the focus of this thesis.

## 2.5 Conclusion

In this chapter I demonstrated that economic abuse is a subtle yet extremely prevalent form of family violence in Australia which can take many forms. I argued that Australia's

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<sup>86</sup> Interview with Amina (n 65) 6.

<sup>87</sup> Bourouva, Ramsay and Ali (n 23) 1149.

<sup>88</sup> Thomas Wilhelmsson, *Critical Studies in Private Law: A Treatise on Need-Rational Principles in Modern Law* (Kluwer Academic Publishers, 1992) 181.

<sup>89</sup> Bourouva, Ramsay and Ali (n 23) 1149.

<sup>90</sup> See generally Energy and Water Ombudsman Victoria, *A Closer Look at Affordability: An Ombudsman's Perspective on Energy and Water Hardship in Victoria* (Research Paper, March 2015) 3; Paul Ali, Evgenia Bourouva and Ian Ramsay, 'Responding to Consumers' Financial Hardship: An Evaluation of the Legal Frameworks and Company Policies' (2015) 23(1) *Competition and Consumer Law Journal* 29, 34.

<sup>91</sup> According to a 2018 survey, only 33.9% of Australians are financially secure. 4.2% of Australians in 2018 indicated they had more debts than they could pay back, while almost one in six people (15.8%) had debts that they were only just managing to keep up with, Axelle Marjolin, Kristy Muir and Megan Weir, *Financial Resilience in Australia 2018* (Report, December 2018) 21.

<sup>92</sup> Bourouva, Ramsay and Ali (n 23) 1151.

<sup>93</sup> *Customer Service Code - Urban Water Businesses* (Vic); *Rural Water Customer Service Code* (Vic).

<sup>94</sup> *Water Industry Act 1994* (Vic) s 4D; *Customer Service Code - Urban Water Businesses* (Vic) 1; *Rural Water Customer Service Code* (Vic) 1.

<sup>95</sup> *Customer Service Code - Urban Water Businesses* (Vic) s 14(e); *Rural Water Customer Service Code* (Vic) s 11(e).

understanding of and systemic response to economic abuse is developing, which might explain why this form of abuse so often goes undetected (even by those who experience it). I also identified numerous ways that utility accounts are used by perpetrators of economic abuse and highlighted the importance of appropriate hardship protections for customers impacted by family violence. In the next chapter I explore the connection between economic abuse and household water supply.

## CHAPTER 3 ECONOMIC ABUSE AND THE WATER SECTOR

### 3.1 Introduction

The notion that family violence is a systemic problem requiring systemic solutions is gaining traction in Australia.<sup>96</sup> Victorian water utilities have helped lead this initiative, being some of the first corporate entities to recognise their role in a community-wide response to family violence.<sup>97</sup> This chapter illuminates the critical connection between economic abuse and water utilities. I illustrate why impeded access to water services disproportionately impacts women and set out the problems with the Victorian water sector's approach to protecting vulnerable customers prior to the 2017 reforms. I then outline the changes made to the water business customer service codes in response to these problems. I close this chapter by introducing my research approach and highlighting the importance of elevating victim-survivor voices in family violence policy reform.

### 3.2 Women and Water: Why Water Access is a Gendered Issue

Like family violence, access to water services disproportionately impacts women.<sup>98</sup> Women often bear primary responsibilities for household duties,<sup>99</sup> and rely on water to manage these tasks effectively (eg cleaning, cooking and washing).<sup>100</sup> If water is disconnected or interfered with, it becomes near impossible for women to manage these responsibilities and care for themselves or dependents.<sup>101</sup> An understanding of the critical connection between gender equality and water management is gaining momentum in the international arena.<sup>102</sup> The United Nations Sustainable Development Goal 6 sets out to 'ensure availability and sustainable management of water and sanitation for all' and

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<sup>96</sup> Bond, Tonkin and Sterling (n 48) 27; Thriving Communities Partnership, *Family Violence Round Table Report 2019* (Report, 2019) 5.

<sup>97</sup> Bond, Tonkin and Sterling (n 48) 16; Bond and Ulbrick (n 1) 25.

<sup>98</sup> Melita Grant, Juliet Willetts and Chelsea Huggett, *Gender Equality and Goal 6 – The Critical Connection: An Australian Perspective* (Report, 19 August 2019) 5.

<sup>99</sup> Australian Bureau of Statistics, *Labour Force, Australia, Feb 2020* (Catalogue No 6202.0, 19 March 2020); Torben Iversen and Frances Rosenbluth, *Women, Work, and Politics: The Political Economy of Gender Inequality* (Yale University Press, 2010) 55.

<sup>100</sup> Paul Satur and Jo Lindsay, 'Social Inequality and Water Use in Australian Cities: The Social Gradient in Domestic Water Use' (2020) 25(5) *Local Environment* 351, 355.

<sup>101</sup> *RCFV Summary and Recommendations Vol IV* (n 1) 104.

<sup>102</sup> Human Rights Council, *Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation*, UN Doc A/HRC/45/11 (6 August 2020).

mandates explicit attention to gender equality and inclusion.<sup>103</sup> This target emphasises the need to empower women to manage their responsibilities with dignity and safety.<sup>104</sup>

The Victorian water sector has been particularly progressive over the past decade in enacting new policies to achieve more socially responsible outcomes.<sup>105</sup> Water scholars attribute this initiative largely to the millennium drought between 1997 and 2007, which required the sector to expand its ambit beyond pipes and basic servicing and address broader issues of public health, liveability and resilience.<sup>106</sup> Compared with the wealth of research considering the connection between water management and social outcomes in developing nations,<sup>107</sup> very little research has examined this link in nations such as Australia.<sup>108</sup> This thesis is among the first to assess the real-world impacts of water policy in Australia on victim-survivors of family violence from the victim-survivor perspective.

### 3.3 *The Problems*

Prior to the Royal Commission, water service providers had few processes to identify family violence and often failed to understand the connection between family violence and financial hardship.<sup>109</sup> The provision of domestic water services is a matter for state

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<sup>103</sup> *Transforming our World: The 2030 Agenda for Sustainable Development*, UN Doc A/RES/70/1 (2015) 20.

<sup>104</sup> Grant, Willetts and Huggett (n 98) 1.

<sup>105</sup> Paul Satur, 'Social Inequality and Water Sensitive Cities in Australia' (PhD Thesis, Monash University, 2017) 126; Bond and Ulbrick (n 1) 25; Ruth Cooper, 'How Australia's Water Businesses Compare on Gender Equality', *Water Source* (online, 9 March 2020) <[https://watersource.awa.asn.au/business/diversity/how-australias-water-businesses-compare-on-gender-equality/?utm\\_medium=email&utm\\_campaign=AWA%20Source%20March%209%20-%20Members&utm\\_content=AWA%20Source%20March%209%20-%20Members+CID\\_0005324976b71ac2d29a06e4f7a04082&utm\\_source=campaign%20monitor&utm\\_term=Read%20more](https://watersource.awa.asn.au/business/diversity/how-australias-water-businesses-compare-on-gender-equality/?utm_medium=email&utm_campaign=AWA%20Source%20March%209%20-%20Members&utm_content=AWA%20Source%20March%209%20-%20Members+CID_0005324976b71ac2d29a06e4f7a04082&utm_source=campaign%20monitor&utm_term=Read%20more)>.

<sup>106</sup> Satur (n 105) 125; Casey Furlong, Kein Gan and Saman De Silva, 'Governance of Integrated Urban Water Management in Melbourne, Australia' (2016) 43 *Utilities Policy* 48, 51; Briony Ferguson et al, 'The Enabling Institutional Context for Integrated Water Management: Lessons from Melbourne' (2013) 47(1) *Water Research* 7300, 7305.

<sup>107</sup> Claire Kfourri, 'The Development Effectiveness of International Water and Sanitation Infrastructure Projects: Defining Quality at Entry of World Bank Projects' (PhD Thesis, University of Maryland, College Park, 2016); Ted Bradshaw, 'Theories of Poverty and Anti-Poverty Programs in Community Development' (2007) 38(1) *Community Development* 7; David Hulme and Andrew Shepherd, 'Conceptualising Chronic Poverty' (2003) 31(3) *World Development* 403; Paul Collier and David Dollar, 'Aid Allocation and Poverty Reduction' (2002) 46(8) *European Economic Review* 1475.

<sup>108</sup> Satur (n 105) 20.

<sup>109</sup> Bond and Ulbrick (n 1) 26.

and territory governments in Australia.<sup>110</sup> In Victoria, the retail sale of water is regulated by the Essential Services Commission (‘ESC’), an independent statutory body responsible for Victoria’s energy, water and transport.<sup>111</sup> Victoria has 19 water retailers, three in Metropolitan Melbourne and 16 in regional Victoria.<sup>112</sup> Retailers in Metropolitan Melbourne are regulated by the *Customer Service Code - Urban Water Businesses* (Vic).<sup>113</sup> Depending on their statutory classification as a ‘Regional Urban Water Authority’<sup>114</sup> or a ‘Rural Water Authority’,<sup>115</sup> retailers in regional Victoria are regulated by the *Customer Service Code - Urban Water Businesses* (Vic) or the *Rural Water Customer Service Code* (Vic).<sup>116</sup>

The RCFV identified numerous problems with the water business customer service codes. Firstly, the Royal Commission noted that while retailers were required to have hardship policies, there was no requirement for hardship policies to recognise family violence as a form of hardship.<sup>117</sup> This resulted in great variability between individual retailers as to which customers were granted hardship support.<sup>118</sup> Secondly, the Royal Commission identified lacking uniformity regarding the display of information about hardship policies on service provider websites.<sup>119</sup> It was argued that this resulted in significantly disparate outcomes for customers of different water service providers.<sup>120</sup> Finally, when hardship programs were accessed, the RCFV found victim-survivors faced significant barriers in using them.<sup>121</sup> Customers reported a lack of empathy and understanding from staff which made it difficult to disclose their experiences, and had to retell their story multiple times.<sup>122</sup>

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<sup>110</sup> *Australian Constitution* s 107; *Constitution Act 1975* (Vic) s 16.

<sup>111</sup> *Essential Services Commission Act 2001* (Vic) s 7.

<sup>112</sup> Melbourne Water, ‘Water Retail Companies’, *Customer Service* (Web Page, 12 August 2020) <<https://www.melbournewater.com.au/about/customer-service/water-retail-companies>>.

<sup>113</sup> *Customer Service Code - Urban Water Businesses* (Vic) Part D.

<sup>114</sup> *Water Industry Act 1994* (Vic) s 4A.

<sup>115</sup> *Ibid.*

<sup>116</sup> *Customer Service Code - Urban Water Businesses* (Vic) Part D; *Rural Water Customer Service Code* (Vic) Part D.

<sup>117</sup> *RCFV Summary and Recommendations Vol IV* (n 1) 105.

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*

<sup>120</sup> *Ibid.*

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*

The Royal Commission recommended that the ESC amend the water business customer service codes by:

- listing minimum eligibility criteria for access to hardship programs;
- making family violence an explicit eligibility criterion;
- developing industry guidelines requiring comprehensive and ongoing training of customer service staff to help them identify customers experiencing family violence and financial hardship; and
- publicising the availability of dispute resolution mechanisms for people affected by family violence.<sup>123</sup>

### *3.4 The Solution? The ESC's 2017 Reforms*

On 10 April 2017, the ESC released their proposed amendments to the water business customer service codes.<sup>124</sup> The amendments inserted a family violence clause requiring all water businesses to develop and implement family violence policies for:

- training and supporting staff dealing with customers affected by family violence;
- protecting private and confidential customer information;
- facilitating access to businesses' existing payment difficulty programs;
- minimising the need for customers to repeatedly disclose family violence; and
- making customer referrals to specialist family violence services.<sup>125</sup>

These changes were intended to ameliorate the issues identified by the RCFV and improve outcomes for water customers experiencing family violence.<sup>126</sup> The aim was not for water businesses to replace family violence counselling services, but to play their part in a community-wide initiative to end family violence.<sup>127</sup> The family violence clause came into effect on 1 July 2017, allowing water businesses until 30 June 2018 to incorporate the new scheme.<sup>128</sup>

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<sup>123</sup> Ibid 120.

<sup>124</sup> *Moving Towards Better Practice* (n 1) 4.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid 3.

### 3.4.1 *Evaluating Victoria's Solution*

In June 2019, the ESC published a comprehensive review of the family violence changes ('the ESC review').<sup>129</sup> The aim of the review was to assess whether the 2017 changes to the water business customer service codes had improved the available support for victim-survivor customers.<sup>130</sup> The ESC review comprised interviews with 21 financial counsellors, six advocate organisations and two family violence service providers across Metropolitan Melbourne and regional Victoria.<sup>131</sup> Overall the review found that support services offered by water companies had improved since the 2017 amendments.<sup>132</sup> The findings are discussed below.

#### 3.4.1.1 *Awareness of support services*

The ESC review demonstrated that almost all financial counsellors interviewed were aware of new water company policies to protect family violence-affected customers.<sup>133</sup> However, neither financial counsellor nor advocate participants were confident in client knowledge of support measures prior to engagement with a counsellor.<sup>134</sup> They identified various factors impacting client knowledge, including the client's state of mind, the complexity of their issue, literacy, the clarity of the water company website and the ability of water customers to self-identify family violence as a cause of financial hardship.<sup>135</sup>

#### 3.4.1.2 *Use of support services*

In most cases where financial counsellors had assisted clients experiencing family violence to access support from their water company, the experience was positive.<sup>136</sup> It was noted by many financial counsellor participants that water companies provided better solutions than other utilities.<sup>137</sup>

It was generally agreed among financial counsellor participants that water companies

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<sup>129</sup> ESC review (n 3).

<sup>130</sup> Ibid 1.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid 16.

<sup>133</sup> Ibid 8.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid 8–9.

<sup>136</sup> Ibid 9.

<sup>137</sup> Ibid.

offered effective solutions for clients.<sup>138</sup> In a few cases, financial counsellors were unimpressed with support measures which reflected a lack of understanding of family violence and an unwillingness to assist in a financially effective way.<sup>139</sup> It was acknowledged that certain customers may find access more difficult, including regional customers, those without access to technology, people experiencing homelessness or poor mental health, older people, the CALD and LGBTQIA+ communities, people with low English literacy, Aboriginal and Torres Strait Islander people and people living with disability.<sup>140</sup> Suggestions for improvement included: more staff family violence training, increased advertising of support services in the community and easier access to financial hardship information on water company websites.<sup>141</sup>

#### 3.4.1.3 *Customer perspectives*

Financial counsellor and advocate participants believed that clients had mostly positive experiences when interacting with their water service provider.<sup>142</sup> However, the review noted that participant's comments may not capture the views of clients who have not had the benefit of access to a financial counsellor or professional advocate.<sup>143</sup>

#### 3.4.1.4 *Overall effectiveness*

Overall, the ESC review found that most financial counsellors believed that support by water companies has improved since the 2017 amendments to the water business customer service codes.<sup>144</sup> Improvements were manifested in several ways, including:

- better training for staff;
- deeper understanding of family violence and willingness to enquire about client safety;
- greater sensitivity to client needs;
- less stressful processes for clients and counsellors; and

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<sup>138</sup> Ibid 11.

<sup>139</sup> Ibid 12.

<sup>140</sup> Ibid 10-11.

<sup>141</sup> Ibid 13.

<sup>142</sup> Ibid 14.

<sup>143</sup> Ibid 22.

<sup>144</sup> Ibid 16.

- increased proactivity in engaging community stakeholders.<sup>145</sup>

What remained unknown following the ESC review was an understanding of the direct impact of the reforms on victim-survivors, especially those without access to professional assistance.<sup>146</sup> In January 2020, Bond and Ulbrick highlighted the need for further research to ensure good outcomes are not limited to customers who have professional advocates.<sup>147</sup>

### *3.5 Research Approach Justification: The Need for Victim-Survivor Voices*

This thesis seeks to expand on the ESC review by providing insight into the victim-survivor experience of the 2017 changes to the water business customer service codes, from the victim-survivor perspective. Victim-survivor led research is critical in family violence policy development.<sup>148</sup> Making space for victim-survivor voices restores power to a largely invisible population and affords victim-survivors the opportunity to influence policy and service development which directly impacts them.<sup>149</sup> Victim-survivor led policy change also increases the likelihood that changes will be effective and responsive to service-user needs.<sup>150</sup> My use of victim-survivor voices and experiences to evaluate the effectiveness of the ESC's 2017 reforms fills a significant gap in current research<sup>151</sup> and demonstrates this thesis' significant contribution to knowledge.

### *3.6 Research Questions*

The aim of this thesis is to evaluate the impact of the water customer service code changes on victim-survivors from the victim-survivor perspective. I posed three research questions:

- (1) Where do victim-survivors go for help?

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<sup>145</sup> Ibid.

<sup>146</sup> Ibid 22.

<sup>147</sup> Bond and Ulbrick (n 1) 39.

<sup>148</sup> Loddon Campaspe Community Legal Centre, *Will Somebody Listen to Me: Insight, Actions and Hope for Women Experiencing Family Violence in Regional Victoria* (Summary Report, 2015) 1; *RCFV Summary and Recommendations* (n 9) 7.

<sup>149</sup> Audrey Mullender and Gill Hague, 'Giving a Voice to Women Survivors of Domestic Violence Through Recognition as a Service User Group' (2005) 35 *British Journal of Social Work* 1321, 1327.

<sup>150</sup> Ibid 1338.

<sup>151</sup> ESC review (n 3) 22.

- (2) What processes are victim-survivors aware of that enable them to receive help from water service providers?
- (3) What assistance did victim-survivors receive from water service providers and to what extent were they satisfied?

### *3.7 Conclusion*

This chapter illustrated the connection between economic abuse and water utilities and the ways in which effective regulation of water businesses can improve outcomes for victim-survivor customers. I outlined the ESC reforms to the water business customer service codes and the current evaluations of these reforms. I also demonstrated that victim-survivor voices are missing from these evaluations, presenting a critical issue with prior evaluations of the effectiveness of the reforms. Finally, this chapter established my research questions. In the next chapter, I outline the methodological approach taken to answer these questions.

## CHAPTER 4 METHODOLOGY

### 4.1 Introduction

In this chapter I describe the research methods employed in this thesis, my ethical obligations and research limitations. The findings in this thesis are small-scale and exploratory. This method is appropriate given this thesis is the first academic inquiry to explore the impact of changes to the water business customer service codes and the only policy evaluation from the victim-survivor perspective.<sup>152</sup> The results in this thesis are suggestive rather than conclusive and should be read in conjunction with the findings of the ESC review.<sup>153</sup>

### 4.2 Methods and Data Collection

The aim of this thesis was to share victim-survivor perspectives on a recent family violence policy change. Qualitative methods were used because they afford the opportunity to obtain rich and detailed data<sup>154</sup> and allow participants to be quoted directly.<sup>155</sup> The importance of elevating victim-survivor voices in family violence research was explained in Chapter 3.

Data for this thesis was obtained in eight semi-structured telephone or teleconference interviews; four interviews were conducted with victim-survivors of family violence and four were conducted with support people (a personal support person and three relevant professionals). All victim-survivors had experienced problems with some aspect of their water account in the period between 1 July 2018 to 30 July 2020. The interviews spanned experiences with four different water companies across Metropolitan Melbourne and regional Victoria.

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<sup>152</sup> William Neuman, *Social Research Methods; Qualitative and Quantitative Approaches* (Pearson Education Limited, 7th ed, 2013) 38.

<sup>153</sup> ESC review (n 3).

<sup>154</sup> Alan Bryman, *Social Research Methods* (Oxford University Press, 4th ed, 2012) 470.

<sup>155</sup> *Ibid* 485.

Semi-structured interviews are widely used in feminist research because they allow for greater connection with research participants.<sup>156</sup> This interviewing style is preferable when dealing with complex, sensitive topics, such as economic abuse, because flexibility allows for organic engagement.<sup>157</sup> In this thesis, semi-structured interviews allowed participants to make connections between issues with water utilities, economic abuse and other forms of family violence.

#### 4.3 *Ethics and Recruitment*

This research was conducted with the approval of the Monash University Human Research Ethics Committee (MUHREC 24210). Professionals were recruited via email. Victim-survivor participants were recruited through family violence organisations (n=3) and community social media networks (n=1). Engaging victim-survivor participants was challenging and required two ethics amendments to enable an effective recruitment process.<sup>158</sup> This is unsurprising given victims of family violence are a group which is considered hard to reach;<sup>159</sup> it is plausible that the COVID-19 pandemic may have further hindered victim-survivors' ability to participate in qualitative research, making recruitment more challenging than usual.<sup>160</sup> Written consent was obtained prior to each participant interview. All participants were given the option of withdrawing at any stage.

#### 4.4 *Thematic Data Analysis*

Data was analysed using a grounded theory approach.<sup>161</sup> Grounded theory is an inductive process and is defined as a general method of comparative analysis which systematically

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<sup>156</sup> Nicole Westmarland, 'The Quantitative/Qualitative Debate and Feminist Research: A Subjective View of Objectivity' (2001) 2(1) *Forum: Qualitative Social Research* 1, 8.

<sup>157</sup> Evelyn Simien, 'Doing Intersectionality Research: From Conceptual Issues to Practical Examples' (2007) 3(2) *Politics & Gender* 264, 265 and Rita Dhamoon, 'Considerations on Mainstreaming Intersectionality' (2011) 64(1) *Political Research Quarterly* 230, 239, cited in Ulbrick (n 22) 25; Walter DeKeseredy, 'Innovative Methods of Gathering Survey Data on Violence Against Women' in Mathieu Deflem and Derek Silva (eds), *Methods of Criminology and Criminal Justice Research Volume 24* (Emerald Publishing Limited, 2019) 74.

<sup>158</sup> The first amendment granted on 19 May 2020 allowed payment of a \$50 Coles/Myer to victim-survivor participants as a gesture of my gratitude. The second amendment granted on 26 July 2020 allowed the thesis research to be advertised on social media to aid recruitment.

<sup>159</sup> Ulbrick (n 22) 239.

<sup>160</sup> Pfitzner, Fitz-Gibbon and True (n 21) 12.

<sup>161</sup> Bryman (n 154) 567.

generates theory from the data.<sup>162</sup> With the participants' permission, I took field notes, and audio-recorded and transcribed each interview. Transcriptions and my field notes were organised according to conceptual categories.<sup>163</sup> This process revealed three major themes. These themes are discussed in Chapter 5.

#### 4.5 *Law Reform*

This thesis makes recommendations for law reform in Chapter 6. As part of the thesis writing process, I also made two law reform submissions to two separate national inquiries: the National Water Reform and the National Inquiry into Family, Domestic and Sexual Violence. The aim of these submissions was to encourage each distinct legal policy area to consider the importance of the other. Both submissions are included in this thesis as appendices.

#### 4.6 *Limitations and Conclusion*

The main limitation of data collection methods in this thesis is that the conclusions and recommendations were drawn from the stories of four victim-survivors. This is a small sample, potentially limiting the external validity and generalisability of the findings.<sup>164</sup> However, this limitation is largely ameliorated through data source triangulation. Data source triangulation involves collecting data from disparate sources in order to gain different perspectives and more complete answers to research questions.<sup>165</sup> Neuman suggests that triangulation may enhance the reliability and validity of qualitative studies.<sup>166</sup> In this thesis, victim-survivor voices were triangulated against the professional participants' voices and the ESC review.<sup>167</sup>

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<sup>162</sup> Barney Glaser and Anselm Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine Transaction, 1967) 2.

<sup>163</sup> Neuman (n 152) 480.

<sup>164</sup> Bryman (n 154) 69.

<sup>165</sup> Michael Quinn Patton, 'Enhancing the Quality and Credibility of Qualitative Analysis' (1999) 34(5) *Health Services Research* 1189, 1193.

<sup>166</sup> Neuman (n 152) 167.

<sup>167</sup> ESC review (n 3).

This chapter has outlined the research methods used in this thesis, the approach taken to data analysis and law reform, and the ethical considerations and research limitations of this thesis. In the next chapter I discuss and analyse my data.

## CHAPTER 5 DATA ANALYSIS AND DISCUSSION

### 5.1 Introduction

In this chapter I describe and discuss the data collected in this thesis. This thesis set out to answer three major research questions:

- (1) Where do victim-survivors go for help?
- (2) What processes are victim-survivors aware of that enable them to receive help from water service providers?
- (3) What assistance did victim-survivors receive from water service providers and to what extent were they satisfied?

My data revealed three interrelated themes which corresponded to all three research questions: limited community awareness, inconsistent assistance and the impact of effective support. In this chapter I discuss the data with respect to these themes. In the next chapter, I answer each research question and provide recommendations for legal reform based on my findings.

### 5.2 Theme One: Limited Community Awareness

At the time of seeking assistance, none of the victim-survivors interviewed were aware that their water service provider had designated assistance for family violence customers. This was the case no matter where victim-survivors went for assistance: water companies directly, friends, family violence or financial counselling services.

During their relationship, Ana's ex-husband exercised exclusive control over their utilities.<sup>168</sup> After separation, when she found out he had stopped paying the water bill in her name, she made contact with her water service provider to obtain the bill details.<sup>169</sup> Similarly, once Amina realised her ex-husband had been using her concession card to pay the water bill at the residential address she had fled two years prior to escape his violence, she called her water service provider.<sup>170</sup> Upon calling their water service providers, Amina

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<sup>168</sup> Interview with Ana (n 65) 1.

<sup>169</sup> Ibid.

<sup>170</sup> Interview with Amina (n 65) 3.

and Ana were not aware they were entitled to extra support due to their experience of family violence.

When Catherine found out that her water account had been placed into her name without her permission, she sought assistance from her friend Helen.<sup>171</sup> Helen called Catherine's water service provider on her behalf. Helen was not aware that Catherine could receive any special help because she was experiencing family violence. By contrast, after separating from her ex-husband and learning that their joint water account was in her sole name, Sarah sought help from family violence and financial counselling services:

I started getting help from councils and NGOs like [the family violence service]. They were helping so much and I really appreciate it. [The financial counselling service] supported me with gift vouchers and stuff ... I got help and I started saving and I started studying, driving. Everything from scratch.<sup>172</sup>

Sarah's financial counsellor was aware of Sarah's water service provider's program to assist victim-survivors of family violence.

The limited awareness of specialist family violence assistance available from water service providers in my victim-survivor sample is consistent with findings of the ESC review, in which participants lacked confidence in their clients' knowledge of water businesses' support services prior to engagement with professional services.<sup>173</sup> Two of the three professionals I interviewed also supported the position that victim-survivors are often unaware of the family violence assistance available through water companies.<sup>174</sup>

The legal practitioner suggested there are barriers impeding victim-survivor knowledge about available support services, including that water account issues often comprise only a small fraction of the challenges in victim-survivors' lives: '... it's not that easy [to get

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<sup>171</sup> Interview with Catherine (n 65) 1.

<sup>172</sup> Interview with Sarah (n 65) 1.

<sup>173</sup> ESC review (n 3) 8.

<sup>174</sup> Interview with water service provider employee (Melbourne, 20 July 2020) 3; Interview with legal practitioner (Melbourne, 29 July 2020) 3.

help from a water service provider] because these women have so much going on in their life that paying their water bill is often not at the top of their priority list.’<sup>175</sup>

Other barriers to strong community awareness that she identified included literacy levels and language.<sup>176</sup> The legal practitioner estimated that at least 50 per cent of her clients speak English as a second language.<sup>177</sup> This estimate is consistent with the Consumer Utilities Advocacy Centre’s (‘CUAC’) findings, which suggested that belonging to a CALD community may increase vulnerability to economic abuse.<sup>178</sup>

Some victim-survivors I interviewed voiced scepticism regarding water service providers’ ability to assist customers impacted by family violence.<sup>179</sup> Sarah thought that customers could not receive assistance without a financial counsellor: ‘If I called them they wouldn’t do much ... When a financial counsellor is involved in a family violence situation [it] is more effective than me calling [alone].’<sup>180</sup> Sarah did not think her water service provider would have waived her account had she called on her own.<sup>181</sup> Similarly, Catherine’s friend Helen believed that water service providers were not interested in family violence: ‘The person answering the phone doesn’t know about family violence. These people don’t want to get involved. They’re there to set up accounts, take down address details etc. They sounded like they were well out of their depth.’<sup>182</sup> This scepticism is connected with community unawareness of support services because it demonstrates that family violence has the propensity to be viewed as a problem requiring specialist service intervention beyond the remit of non-specialist services (eg water businesses). Although these views cannot be deemed representative of the broader customer experience, they highlight a community misconception about the role of water service providers in responding to family violence. These views may partly explain why none of the victim-survivors

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<sup>175</sup> Interview with legal practitioner (n 174) 3.

<sup>176</sup> Ibid.

<sup>177</sup> Ibid 4.

<sup>178</sup> *Helping Not Hindering* (n 26) 8.

<sup>179</sup> Interview with Catherine (n 65) 7; Interview with Sarah (n 65) 2.

<sup>180</sup> Interview with Sarah (n 65) 2.

<sup>181</sup> Ibid.

<sup>182</sup> Interview with Helen (Melbourne, 7 August 2020) 2.

interviewed believed they could receive family violence support from their water company.

Overall, my interviews suggested a distinct lack of community awareness of available support measures for victim-survivors and indicated that family violence is viewed as a problem requiring specialist assistance. These findings have implications for victim-survivor and personal support people's engagement with water businesses. If victim-survivor customers do not expect to receive support with family violence matters, they will be less likely to disclose family violence. *Theme Two* explores connections between disclosure and effective assistance, and non-disclosure and ineffective assistance.

### 5.3 *Theme Two: Inconsistent Assistance*

My data indicated, that despite the Victorian water sector's industry-leading approach to family violence in the community, not all victim-survivor customers received the same level of support. The legal practitioner I interviewed echoed the widely-held opinion that Victorian water companies are leading the way in their response to family violence:<sup>183</sup> 'Water companies were probably one of the first to respond when it came to changes around family violence. They have been one of the better industry providers ... Usually I'd say they're very good at responding ... we're seeing quite positive responses.'<sup>184</sup>

Despite this, my interviews suggested that family violence-affected customers received inconsistent support from their water service providers depending on:

- (1) whether they self-identified as experiencing family violence;
- (2) whether they had professional support when seeking assistance from their water service provider; and
- (3) the stage of debt collection.

#### 5.3.1 *Self-Identification*

Victim-survivor interviews indicated that where customers self-identified as experiencing family violence, they received excellent help from their water service provider. When Ana

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<sup>183</sup> Fitz-Gibbon et al (n 14); Gilmore (n 15); ESC review (n 3) 8-9.

<sup>184</sup> Interview with legal practitioner (n 174) 4.

called her provider to explain she was having trouble paying her water bill because of financial hardship caused by family violence, they assigned her to a dedicated family violence staff member, assisted her to apply for a Utility Relief Grant and referred her to a financial counsellor. Ana explained the impact of this assistance:

I think overall it's really good the help they've provided, especially when they referred me to [a financial counsellor]. She has contacts for different utility companies which [are] not disclosed to the public. That saved me a lot of time and effort [instead of] calling the customer service line and waiting for a couple of hours.<sup>185</sup>

Ana thought her water service provider genuinely understood and cared about her situation: '[The family violence staff member was] very knowledgeable and very experienced ... She [was] not just standing there with no emotion, she [was] very involved in my situation. She [felt] my feelings ... she [was] very understanding. It [was] a very nice experience talking to her.'<sup>186</sup>

Amina had a similar experience. Her ex-husband stopped paying the water bill in their joint names. Amina called her water service provider and explained that while her name remained on the water account and her ex-husband still resided at that address, she had not done so for more than two years after she fled his violence. Although her water service provider was unable to remove her name from the utility account, Amina felt that they were understanding of her situation: 'They were very compassionate. They felt really bad and sorry for me. They weren't rude or anything like that.'<sup>187</sup>

These findings are consistent with the findings of the ESC review, in which it was generally agreed among financial counsellors that water companies offer viable solutions for clients,<sup>188</sup> and that their clients (some of whom approached their water service provider alone) mostly had positive experiences.<sup>189</sup>

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<sup>185</sup> Interview with Ana (n 65) 1-2.

<sup>186</sup> Ibid 2.

<sup>187</sup> Interview with Amina (n 65) 5.

<sup>188</sup> ESC review (n 3) 11.

<sup>189</sup> Ibid 12.

By contrast, data in this thesis showed that where a customer did not disclose family violence, they received little help. Helen (when calling Catherine's water service provider on Catherine's behalf) did not name Catherine's situation as family violence. She believed she made reference to the fact that Catherine was separating from her husband and that the transfer of the water account into Catherine's name was not initiated by Catherine.<sup>190</sup> Helen and Catherine's subsequent experience was vastly different to that of Amina and Ana. Helen recalled that:

They said anyone can [change an account into someone else's name]. They didn't seem concerned that someone was basically impersonating Catherine on the website ... it's a pretty big deal I feel<sup>191</sup> ... They didn't seem concerned about identifying who it was that did transfer it or helping us identify who it was. They just gave me the time [that the account was changed into Catherine's name] and said that it could be anyone; anyone with those details can change the water.<sup>192</sup>

Catherine was upset that her water service provider did not understand the significance of the account being placed into her name without permission: 'It was the fact that I wasn't told about it ... it was just strange ... Someone being able to ring up and pretend to be me<sup>193</sup> ... [They said] there was nothing they could do about it ... There was no investigation.'<sup>194</sup>

Because Catherine was residing at the address of the water account in issue, her water bill problem was perhaps less obviously connected to family violence. However, making changes to a person's water account without their permission is a recognised form of economic abuse.<sup>195</sup> Separation is also known to be a dangerous time for victim-

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<sup>190</sup> Interview with Helen (n 182) 3.

<sup>191</sup> Ibid 1.

<sup>192</sup> Ibid 3.

<sup>193</sup> Interview with Catherine (n 65) 2.

<sup>194</sup> Ibid 3.

<sup>195</sup> *RCFV Summary and Recommendations Vol IV* (n 1) 104; Bond and Ulbrick (n 1) 24; *Moving Towards Better Practice* (n 1) 3.

survivors.<sup>196</sup> Catherine's water service provider's failure to identify economic abuse in her case reflects the under-recognition of economic abuse in Australia.<sup>197</sup>

In the water service provider employee's experience, an estimated 95-99 per cent of customers who receive family violence assistance self-identify as being impacted by family violence.<sup>198</sup> 'A lot of it is the customer self-identifying that they are in a situation, and then at the same time it's us listening out for trigger words or a situation that may sound a little bit suss [sic], and we may ask some probing questions.'<sup>199</sup>

Given that economic abuse is the least likely form of abuse to be recognised as family violence,<sup>200</sup> many victim-survivors of economic abuse may struggle to attribute problems with their water account to family violence. Even if customers recognise that they are experiencing family violence, there are many well-documented reasons for non-disclosure. These reasons include shame and embarrassment,<sup>201</sup> feeling responsible for the abuse, the fear of not being believed and the hope that the abuse will stop.<sup>202</sup> Because of the family violence, a victim-survivor may be distrustful of other people or fear that the abuse will escalate if they are found to have disclosed.<sup>203</sup> If most water customers who received support self-identified as experiencing family violence, then it is plausible that many victim-survivor customers (who do not disclose family violence) do not receive support. This finding suggests that water service providers must assist customers to understand whether they are experiencing economic abuse and must create safe opportunities for victim-survivors to disclose family violence.

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<sup>196</sup> Department of Human Services, *Family Violence Risk Assessment and Risk Management Framework and Practice Guides 1-3* (Report, 2<sup>nd</sup> edition, April 2012) 28.

<sup>197</sup> Cameron (n 22) 5.

<sup>198</sup> Interview with water service provider employee (n 174) 4.

<sup>199</sup> Ibid 3.

<sup>200</sup> ANROWS (n 47) 41.

<sup>201</sup> Peter Mertin, Shane Moyle and Kate Veremeenko, 'Intimate Partner Violence and Women's Presentations in General Practice Settings: Barriers to Disclosure and Implications for Therapeutic Interventions' (2015) 19 *Clinical Psychologist* 140, 141.

<sup>202</sup> Australian Law Reform Commission and New South Wales Law Reform Commission, *Family Violence: A National Legal Response* (Report, 2010) [18.4].

<sup>203</sup> Ibid.

### 5.3.2 Professional Assistance

My interviews with victim-survivors also suggested that professional advocacy for the customer when dealing with a water service provider was enormously valuable. Sarah had the help of a financial counsellor who spoke to her water service provider on her behalf.<sup>204</sup> Sarah's water service provider agreed to waive her unpaid water account. This was a huge relief: '[I was] very relieved. Emotionally, financially I was drained [and] exhausted. [All these] things happened for which I wasn't responsible. [I'd had] enough of life. Fortunately, I had the support of the [water] compan[y]. They helped and it was a huge relief.'<sup>205</sup>

In their report, Bond and Ulbrick queried whether professional advocacy is necessary for customers to reach satisfying outcomes.<sup>206</sup> Although Ana and Amina did not have professional advocates and were pleased with their outcomes, Catherine's case served as an example of a victim-survivor customer without a professional advocate who was dissatisfied with the service she received. The legal practitioner interviewed suggested that people with and without representation may have vastly different experiences when dealing with water service providers,<sup>207</sup> as did the ESC review.<sup>208</sup> This data implies that outcomes may differ according to whether customers have professional advocates, but that good outcomes are not necessarily limited to those with assistance (provided that the customer self-identifies as being impacted by family violence).

### 5.3.3 Stage of Debt Collection

While overall my data showed that water companies delivered positive responses, the legal practitioner I interviewed explained that little help is available once customer debts have passed to external debt collectors:

I think it becomes more problematic when the debt has been left or ignored for a long time and it has progressed to a debt collector because quite often water

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<sup>204</sup> Interview with Sarah (n 65) 2.

<sup>205</sup> Ibid.

<sup>206</sup> Bond and Ulbrick (n 1) 39.

<sup>207</sup> Interview with legal practitioner (n 174) 1.

<sup>208</sup> ESC review (n 3) 22.

companies don't really have much control over what actions the debt collector takes ... water companies are supposed to follow the rules of the urban water code but debt collectors don't have to necessarily ... They should, but if they have bought the debt and it's no longer with [water service provider] at all, then they're [only] bound by the ASIC and ACCC debt collections guidelines. The ASIC and ACCC debt collections guidelines don't even have any family violence provisions at all.<sup>209</sup>

She suggested that family violence-affected customers commonly have their debts transferred to third-party debt collectors:

Often it's really hard for family violence victim-survivors to keep abreast of all [their debts] ... because they often live quite transient lives. They're moving from place to place, they're changing their address and phone numbers a lot, especially for a lot of these women who are being stalked or their partners are actively trying to track them. It's really not unusual for them to keep changing details and that makes it really hard because [debt collectors may be] thinking "this person is ignoring me, I can't get in contact with them, I'm just going to list it on their credit file." But that may not be the case at all. It may just be the fact that they've had to do it for safety reasons. Every time they change their details they're probably not thinking [they had] better go and update all [their] information with this credit recovery company.<sup>210</sup>

The prevalence of this practice is supported by CUAC's<sup>211</sup> and Smallwood's findings.<sup>212</sup> Smallwood found that 80 per cent of sector workers had observed customer's utility bills being referred to debt collectors.<sup>213</sup> These findings indicate that water companies must exercise caution when transferring customer debts to third-party collectors.

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<sup>209</sup> Interview with legal practitioner (n 174) 4.

<sup>210</sup> Ibid 5.

<sup>211</sup> *Helping Not Hindering* (n 26) 31.

<sup>212</sup> Smallwood (n 32) 25.

<sup>213</sup> Ibid.

### 5.4 Theme Three: Impact of Effective Support

Participant interviews in this thesis revealed that water account issues were commonly a small part of customers' complex family violence situations.<sup>214</sup> However, for all victim-survivors who received help with their accounts, the assistance made a significant difference. Ana explained the impact of being referred to a financial counsellor:

It saved me a lot of cost, as well as effort, I guess, with contacting the other utility companies. That was quite helpful for me at the time, because I used to be really upset when trying to call [telecommunications provider] because that [took] ages to get through and the operator, when I did get through, didn't really understand my situation. So after [the financial counsellor] became involved, it all became a lot easier.<sup>215</sup>

The legal practitioner agreed with Ana's opinion regarding the efficacy of connecting family violence customers to financial counsellors:

When you provide someone like a financial counsellor to them, who can take all their debts, financial and money problems and just bundle them up into one ... it takes away that element of stress from their life at that time, so that they can focus their attention on safe housing, keeping their children in school, getting therapy; whatever else they need to do to make themselves safe and free from the violent relationship.<sup>216</sup>

For Sarah, the waiver of her account was invaluable.<sup>217</sup> The legal practitioner I interviewed endorsed waiver, and confirmed that it is one of the most common types of assistance she has sought for her clients: 'we see a client generally at the point when they've just left the relationship ... As a part of moving onto the next step of their life, we want to try and give them a fresh beginning with their money.'<sup>218</sup>

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<sup>214</sup> Interview with Catherine (n 65) 1; Interview with Helen (n 182) 2; Interview with legal practitioner (n 174) 3.

<sup>215</sup> Interview with Ana (n 65) 4.

<sup>216</sup> Interview with legal practitioner (n 174) 3.

<sup>217</sup> Interview with Sarah (n 65) 4.

<sup>218</sup> Interview with legal practitioner (n 174) 4.

My findings draw attention to the significant impact of effective assistance from water service providers on victim-survivors and commend the Victorian water sector's industry-leading approach to financial hardship and family violence.

### *5.5 Conclusion*

This chapter outlined my key findings with respect to three primary themes: limited community awareness, inconsistent assistance and the impact of effective support. In the next chapter, I address these findings with respect to my research questions, discuss the implications of my findings and provide recommendations.

## CHAPTER 6 CONCLUSION

### 6.1 Introduction

The aim of this thesis was to utilise victim-survivor experiences to evaluate the ESC's 2017 reforms to the water business customer service codes. To do this, this thesis asked three research questions:

- (1) Where do victim-survivors go for help?
- (2) What processes are victim-survivors aware of that enable them to receive help from water service providers?
- (3) What assistance did victim-survivors receive from water service providers and to what extent were they satisfied?

To answer these questions, I conducted four semi-structured interviews with victim-survivors and four semi-structured interviews with personal and professional support people. My findings and their implications are discussed with regards to each research question below. To address the limitation of the small sample in my research, I have triangulated my findings against the findings of the ESC review. I conclude by exploring avenues for future research and providing recommendations for legal reform to ensure Victorian water retailers are providing the best possible support to victim-survivor customers.

### 6.2 Research Question One: Where Do Victim-Survivors Go For Help?

Consistent with the findings of the RCFV,<sup>219</sup> my interviews with victim-survivors indicated that victim-survivors sought help from varied places. Both Ana and Amina sought help from their water service providers directly when they encountered difficulty with their water accounts due to family violence.<sup>220</sup> Catherine reached out to her friend Helen when she realised her water account had been placed into her name without her permission.<sup>221</sup> By contrast, after separating from her ex-husband because of family

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<sup>219</sup> RCFV Summary and Recommendations (n 9) 9.

<sup>220</sup> Interview with Ana (n 65) 1; Interview with Amina (n 65) 3.

<sup>221</sup> Interview with Catherine (n 65) 1.

violence and learning that their water account was in her sole name, Sarah made contact with family violence and financial counselling services.<sup>222</sup>

The receipt of family violence support should not be predicated on where a victim-survivor seeks help.<sup>223</sup> The limited community awareness demonstrated in my research sample, as well as in other research,<sup>224</sup> suggests that for Victorian water businesses to offer consistent support to victim-survivors of family violence, they must promote their services widely. Recommendations for how to achieve this are discussed in section 6.6.

### *6.3 Research Question Two: What Processes are Victim-Survivors Aware of that Enable Them to Receive Help from their Water Service Provider?*

None of the victim-survivors I interviewed, at their time of seeking assistance, were aware of their water service provider's dedicated support services for family violence-affected customers. Two of three professionals I interviewed agreed that victim-survivors were generally unaware.<sup>225</sup> These findings cohere with those of the ESC review.<sup>226</sup> The legal practitioner I interviewed highlighted numerous barriers that might hinder victim-survivor awareness of water businesses family violence support measures; language barriers, literacy levels and the fact that water account issues are commonly just one part of complex family violence situations.<sup>227</sup> My interviews also revealed two beliefs which may explain why none of the victim-survivors interviewed were aware they could receive assistance; firstly, that victim-survivor customers could not receive support without a financial counsellor<sup>228</sup> and secondly, that water service providers were not interested in matters of family violence.<sup>229</sup>

My findings draw attention to a lack of community awareness of support measures available through water companies for victim-survivors, and suggest that family violence

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<sup>222</sup> Interview with Sarah (n 65) 1.

<sup>223</sup> *RCFV Summary and Recommendations* (n 9) 9.

<sup>224</sup> ESC review (n 3) 8; Bond and Ulbrick (n 1) 39.

<sup>225</sup> Interview with water service provider employee (n 174) 3; Interview with legal practitioner (n 174) 3.

<sup>226</sup> ESC review (n 3) 8.

<sup>227</sup> Interview with legal practitioner (n 174) 3.

<sup>228</sup> Interview with Sarah (n 65) 2.

<sup>229</sup> Interview with Helen (n 182) 2.

is viewed as a problem requiring specialist service intervention. These findings, combined with the fact that economic abuse is hard to identify<sup>230</sup> and that there are many barriers to disclosure of family violence,<sup>231</sup> mean that water business family violence support provision must be premised on the basis that economic abuse cases will not be obvious: customer service staff need to ask and investigate. Recommendations for improving this practice are discussed in section 6.6.

*6.4 Research Question Three: What Assistance did Victim-Survivors Receive and to What Extent Were They Satisfied?*

Assistance received by victim-survivors differed depending on whether they self-identified as experiencing family violence, whether they had professional support when seeking assistance from their water service provider and the stage of debt collection.

Where victim-survivors self-identified, they received excellent help.<sup>232</sup> Those who received assistance were satisfied with the extent of support and found it enormously valuable.<sup>233</sup> These findings are congruent with the findings of the ESC review.<sup>234</sup> By contrast, where a customer did not self-identify as experiencing family violence, they received little help.<sup>235</sup> Helen did not disclose Catherine's family violence and was dissatisfied with the provider's response.<sup>236</sup>

Victim-survivor interviews also suggested that professional advocacy for the customer when dealing with a water service provider was an advantage.<sup>237</sup> The legal practitioner I interviewed suggested that people with and without representation may have vastly different experiences when dealing with water service providers,<sup>238</sup> as did the ESC review.<sup>239</sup> This data suggests that while good outcomes were not limited to those with

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<sup>230</sup> Cameron (n 22) 5.

<sup>231</sup> Australian Law Reform Commission and New South Wales Law Reform Commission (n 202) [18.4].

<sup>232</sup> Interview with Ana (n 65) 2; Interview with Amina (n 65) 5.

<sup>233</sup> Interview with Ana (n 65) 4; Interview with Amina (n 65) 5.

<sup>234</sup> ESC review (n 3) 12.

<sup>235</sup> Interview with Helen (n 182) 3.

<sup>236</sup> Interview with Catherine (n 65) 1–2.

<sup>237</sup> Interview with Sarah (n 65) 2 cf. Interview with Catherine (n 65) 1–2.

<sup>238</sup> Interview with legal practitioner (n 174) 1.

<sup>239</sup> ESC review (n 3) 8.

professional advocates, customers without professional advocates had improved chances of receiving effective support if they could self-identify as experiencing family violence.

The stage of debt collection also appeared to impact support received. The legal practitioner I interviewed explained that little help is available to customers once debts have been sold to third-party debt collectors.<sup>240</sup> She argued that due to the often transient lives of women affected by family violence, it is not uncommon for their debts to be sold in this way.<sup>241</sup> This opinion is supported by findings of the CUAC<sup>242</sup> and Smallwood.<sup>243</sup>

These findings reveal opportunities for water businesses to focus their family violence service provision in cases where there is no disclosure of family violence by the customer and where the customer is unassisted by a professional (and also on providing customer referrals to specialist services). Attention should also be paid to developing stronger processes and practices of referring non-payment matters to debt collectors. Recommendations are discussed in section 6.6.

### *6.5 What Do Victim-Survivor Voices Tell Us?*

This thesis has demonstrated the immense value of using victim-survivor experiences to guide law reform. Not only does elevating victim-survivor voices restore power to a historically oppressed population,<sup>244</sup> it also ensures that family violence reforms will be responsive to user needs.<sup>245</sup> In this thesis, victim-survivors showed that while the 2017 reforms to the water business customer service codes have been successful in many cases, there is scope for improvement. Areas for improvement include a multidirectional promotion strategy, better mechanisms for identifying economic abuse and selling customer debts to third-party collectors, and stronger service provision where customers do not disclose family violence or are unassisted by professionals.

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<sup>240</sup> Interview with legal practitioner (n 174) 4.

<sup>241</sup> Ibid 5.

<sup>242</sup> *Helping Not Hinder* (n 26) 31.

<sup>243</sup> Smallwood (n 32) 25.

<sup>244</sup> Mullender and Hague (n 149) 1327.

<sup>245</sup> Ibid 1338.

## 6.6 Reform and Recommendations

Based on my findings, I recommend that the water business customer service codes be amended to include mandatory minimum promotional requirements for water businesses and a compulsory procurement strategy approach when selling customer debts to external debt collectors. I also recommend the development of an inter-industry risk assessment tool to assist customer service staff to identify economic abuse. These recommendations were developed as part of my submissions to the two national inquiries.

### 6.6.1 Mandatory Minimum Promotional Requirements

My findings and the ESC review suggest there is limited community awareness regarding available support measures for victim-survivors. Although the water business customer service codes mandate that water service providers must ‘publish on [their] website, and keep up to date, the assistance and referrals available to customers affected by family violence ...’,<sup>246</sup> it is clear providers must better promote their services.

The water service provider employee interviewed agreed that promotion of family violence services could be improved<sup>247</sup> and noted their provider’s outreach program:

Our program can be done in a number of different ways. We would love to do a face-to-face thing at community events, for example, at [location] Market. We’re looking at doing a bunch of digital flyers and campaigns and leveraging those across community sectors using WIRE or Centrelink ... leveraging their touchpoints with our campaigns ... I guess it’s more of an awareness piece to say “hey we’re [water service provider], these are our programs, if you want to call us, please do, happy to have a chat” ...<sup>248</sup>

According to the employee’s water service provider’s Annual Report, 5,485 customers were assisted through the outreach program between 2018 and 2019.<sup>249</sup> This outcome suggests that a similar program run by all Victorian water service providers might increase

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<sup>246</sup> *Customer Service Code - Urban Water Businesses* (Vic) s 14(h); *Rural Water Customer Service Code* (Vic) s 11(h).

<sup>247</sup> Interview with water service provider employee (n 174) 3.

<sup>248</sup> *Ibid* 6.

<sup>249</sup> South East Water, *Annual Report 2018-19* (Report, 2019) 13.

community awareness of support services available to water customers impacted by family violence.

Mandatory minimum promotional requirements for water businesses would likely improve community knowledge of the water sector's industry-leading approach to vulnerability and hardship. Existing provisions of the water business customer service codes<sup>250</sup> should be amended to provide for:

- a community outreach program in which water business representatives attend community events and family violence organisations within their service area to educate people about support services offered by the water business. This may improve access for victim-survivor customers without legal representation or a financial counsellor;
- firm guidelines regarding the publication of promotional material on water company websites including that information should be published clearly on the website homepage in plain English and easily accessible in languages other than English;
- a recurring Electronic Direct Mail to be sent to all water customers detailing available support;<sup>251</sup> and
- requiring customer service staff to publicise the water company's support options in their interactions with customers.

This multidirectional promotion strategy aimed at a broad audience supports the finding that victim-survivors sought support via a range of different avenues. These measures are likely to improve community awareness of the support measures available to Victorian water customers and dispel community misconceptions about the role of water companies in responding to family violence. However, promotional measures must also recognise that family violence and economic abuse are systemic problems.<sup>252</sup> Educating victim-survivors about their support options is not a panacea for economic abuse; economic abuse

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<sup>250</sup> *Customer Service Code - Urban Water Businesses* (Vic) s 14(h); *Rural Water Customer Service Code* (Vic) s 11(h).

<sup>251</sup> Interview with water service provider employee (n 174) 6.

<sup>252</sup> Bond, Tonkin and Sterling (n 48) 27; Thriving Communities Partnership (n 96) 5.

occurs as part of a gendered dynamic of power and control in a relationship<sup>253</sup> and requires systemic solutions. Improving awareness is one part of this solution.<sup>254</sup>

### 6.6.2 *Compulsory Procurement Strategy*

My findings,<sup>255</sup> as well as CUAC's<sup>256</sup> and Smallwood's<sup>257</sup> findings, draw attention to the need for water companies to exercise caution when transferring debts to third-party debt collectors. Although the Australian Competition and Consumer Commission ('ACCC') and Australian Securities and Investments Commission ('ASIC') debt collection guidelines 'encourage flexibility on the part of creditors and collectors ... [which] includes recognising debtors who are vulnerable and experiencing financial hardship ...',<sup>258</sup> these guidelines do not list family violence as a cause of financial hardship.

The water business customer service codes should be amended to insert a new provision detailing a compulsory procurement strategy approach when selling customer debts to third-party debt collectors. Under this approach, Victorian water companies could only sell customer debts to debt collection companies with a family violence policy closely mirroring their own. Without this approach, the selling of customer debts by water service providers may erode the processes that have been put in place to protect vulnerable customers and threaten the corporate social responsibility that water companies have demonstrated commitment to upholding.

### 6.6.3 *Development of an Inter-Industry Risk Assessment Tool*

This thesis and the ESC review found that community awareness of water business support services is limited.<sup>259</sup> Because of these findings, as well as the fact that economic

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<sup>253</sup> Bourova, Ramsay and Ali (n 23) 1168.

<sup>254</sup> Ibid.

<sup>255</sup> Interview with legal practitioner (n 174) 4.

<sup>256</sup> *Helping Not Hindering* (n 26) 31.

<sup>257</sup> Smallwood (n 32) 25.

<sup>258</sup> Australian Competition and Consumer Commission and Australian Securities and Investments Commission, *Debt Collection Guideline: For Collectors and Creditors* (Report, July 2017) 4.

<sup>259</sup> ESC review (n 3) 8.

abuse is inherently hard to self-identify,<sup>260</sup> it is important that staff are appropriately trained to recognise economic abuse. If customers are not aware they are experiencing family violence or are not cognisant of available support services, it is unlikely they will ask for help. In this instance, staff must ensure customers are getting the support they deserve.

One way to improve staff identification of economic abuse is the development of a specific risk assessment tool for identifying economic abuse. Such a tool can improve systemic responses to economic abuse.<sup>261</sup> Existing family violence risk assessment tools lack the nuance necessary to identify economic abuse.<sup>262</sup> There is an opportunity for the ESC to work with the Economic Abuse Reference Group and Thriving Communities Partnership, as well as energy, telecommunications, banking/financial services and social security industries to develop this risk assessment tool. An inter-industry risk assessment tool for identifying economic abuse would improve essential services' family violence support provision in cases where customers do not disclose economic abuse. Existing provisions of the water business customer service codes<sup>263</sup> should be amended to mandate the use of training upon this tool.

### *6.7 Avenues for Future Research*

With family violence increasing in Australia,<sup>264</sup> there has never been a more important time to enact systemic changes to better protect victim-survivors. The Victorian water sector has been a leader in playing their part in a community-wide response to family violence. Future research should investigate water service provision elsewhere in Australia, as well as other industries to ensure family violence-customers are receiving appropriate support. These industries include energy, telecommunications, banking/financial services and social security. This thesis has also shed light on the ACCC

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<sup>260</sup> Kutin, Russell and Reid (n 22) 269; Lauman and Samra (n 26) 41; Bourova, Ramsay and Ali (n 23) 1159; Smallwood (n 32) 6; Bond, Tonkin and Sterling (n 48) 5; *RCFV Summary and Recommendations Vol IV* (n 1) 94; Camilleri, Corrie and Moore (n 48) 7.

<sup>261</sup> Ulbrick (n 22) 250.

<sup>262</sup> Ibid 141.

<sup>263</sup> *Customer Service Code - Urban Water Businesses* (Vic) s 14(a); *Rural Water Customer Service Code* (Vic) s 11(a).

<sup>264</sup> Pfitzner, Fitz-Gibbon and True (n 21) 6.

and ASIC debt collection guidelines. Future research examining these guidelines is required to understand their implications for customer protection in instances of financial hardship and family violence.

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#### D Interviews

Interview with Amina (Melbourne, 21 August 2020)

Interview with Ana (Melbourne, 20 August 2020)

Interview with Catherine (Melbourne, 28 July 2020)

Interview with Helen (Melbourne, 7 August 2020)

Interview with legal practitioner (Melbourne, 29 July 2020)

Interview with Sarah (Melbourne, 26 August 2020)

Interview with water sector professional (Melbourne, 10 September 2020)

Interview with water service provider employee (Melbourne, 20 July 2020)

## APPENDIX

### EXPLANATORY STATEMENT

#### Participant Interviews

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**Project:** Victim-Survivor Perspectives on the Impacts of the Water Customer Service Code Reforms 2017

**Project Number:** 24210

**Chief Investigator:** Associate Professor Becky Batagol  
Monash Sustainable Development Institute and Faculty of Law  
Phone: 03 9905 5050 Email: [becky.batagol@monash.edu](mailto:becky.batagol@monash.edu)

**Co-Investigator:** Dr Paul Satur  
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Email: [paul.satur@monash.edu](mailto:paul.satur@monash.edu)

**Student Investigator:** Ms Eliza Venville  
School of Law  
Email: [ejven1@student.monash.edu](mailto:ejven1@student.monash.edu)

**You are invited to take part in this study.**

Please read this Explanatory Statement in full before deciding whether or not to participate in this research. If you would like further information regarding any aspect of this project, you are encouraged to contact the Chief Investigator via the phone number or email address listed above.

**What does this research involve?**

This research study seeks to understand your experiences in using the financial support services provided by water businesses.

The project will seek to understand:

1. Where you went to for help?
2. What (if any) processes you were aware of that enabled you to receive help from water service providers?
3. What help (if any) did you receive from water service providers and how helpful was it?
4. How did the help received from water service providers impact your day-to-day experience at the time and in the time since?

To answer these questions, we would like to interview you. The interview will take approximately 60 minutes. Notes will be taken during the interview and with your permission it will be audio recorded. The interviews will be conducted via teleconference (e.g. via Zoom or Skype) or telephone.

## **Payment**

If you participate in the interview, we would like to provide you with a \$50 Coles Group Voucher. This is our way of acknowledging your expertise as a survivor of economic abuse and thanking you for your time. To receive a gift card you will need to provide your name and postal address to the student investigator, Eliza. You can choose not to provide your name and contact details, but we will not be able to provide you with a gift card. We will delink your identifying details from the rest of the data once the gift cards have been distributed.

## **Why were you chosen for this research?**

You have been contacted to take part in this research because you have engaged with the services of a water business after 1 July 2018. This business may be Yarra Valley Water, City West Water, Coliban Water, South East Water, North East Water, Gippsland Water, Goulburn Valley Water, Barwon Water etc. You may have been provided with information about the research through an organisation you have had contact with.

## **Consenting to participate in the project and withdrawing from the research**

Once you have read this material, and if you are interested in participating you are invited to make contact with the research team. Any questions you have will be answered and any further information will be provided, including consent forms.

Should you wish to participate, an interview will be scheduled at a time convenient to you. Before you participate in the interview, you will be asked to read and sign a consent form.

You are able to withdraw from the research process at any time prior to the interview, during the interview or after the interview. There are no consequences of your decision not to participate or withdraw from the research. You are also welcome to withdraw any recorded information you have given at any stage, including any time after your interview has ended. With your consent the information you give might be used in an Honours thesis, academic publications and conference presentations. The research team will ensure that an identifiable information will not be used in any published material.

## **Possible benefits and risks to participants**

There are very minimal potential risks to participating. You will only be asked to recount your experiences of accessing support from your water company and do not have to answer any questions you do not want to. Your experiences will provide useful feedback for water service providers and allow them to improve the quality of support services in the future.

## **Confidentiality**

In all research publications and presentation, you will be de-identified. This means we will not use any information that would allow others to identify you. This will include removing any personal details such as name, age, location and date in which water company support service were accessed. We will not share your identity with the water business or any other service provider.

## **Results**

The research results will be published as an Honours thesis in the Monash University Faculty of Law. Results may also be presented at academic conferences or published as journal articles. The research team will ensure a copy of all final results are made available to you should you like to keep a copy.

### **Storage of data**

All documents with identifiable details will be stored in password protected documents only accessible to the research team. All digital documents will be stored on a secure Monash University server that can only be accessed by members of the research team. All data will be destroyed five years after the completion of the study. You will have the opportunity to access a copy of your interview transcript if you wish and during this time withdraw any information you provide.

### **Complaints**

Should you have any concerns or complaints about the conduct of the project, you are welcome to contact the Executive Officer, Monash University Human Research Ethics (MUHREC):

Executive Officer  
Monash University Human Research Ethics Committee  
(MUHREC)  
Room 111, Building 3e  
Research Office  
Monash University VIC 3800  
  
Tel: +61 3 9905 2052      Email: [muhrec@monash.edu](mailto:muhrec@monash.edu)  
Fax: +61 3 9905 3831

### **Services on offer if adversely affected**

On the following page we have provided a list of additional support services for your information in the event that you experience any negative outcomes from this research process. This list will also be available to you during and after the interview.

Thank you,



**Associate Professor  
Becky Batagol**



**Dr Paul Satur**



**Eliza Venville**

## **Details of Support Services**

### **Victorian Police**

In the event of any emergency please contact the Victorian Police

Telephone: 000

### **WIRE**

WIRE offers a telephone support service run by women for all women, non-binary and gender diverse people. The service offers information, support and referral services for a range of issues including family violence, employment, gender and sexuality, health and wellbeing and finance.

Telephone: 1300 134 130 Hours: 9am-5pm, Monday-Friday. Website: [www.wire.org.au](http://www.wire.org.au)

### **1800 RESPECT**

A national confidential information, counselling and support service, open 24 hours to support people impacted by sexual assault, domestic or family violence and abuse.

Telephone: 1800 737 732. Website: <https://www.1800respect.org.au/>.

### **Centre Against Sexual Assault (CASA)**

The Centre Against Sexual Assault offers free and confidential counselling services to people who have been victims of sexual assault and/or family violence. They have a 24-hour crisis service.

Telephone: 1800 806 292 (24 hour service) Website: <http://www.casa.org.au>

### **Lifeline Australia**

Lifeline offers a telephone counselling service to discuss a range of matters including physical and mental wellbeing, abuse and trauma, anxiety and depression. Calls to Lifeline are the cost of a local call. However, calls from mobiles, pay phones and some home phone plans may be more expensive.

Telephone: 13 11 14 Hours: 24 hours a day, every day. Website: [www.lifeline.org.au](http://www.lifeline.org.au)

### **Women's Legal Service Victoria (WLSV)**

Women's Legal Service Victoria provides free and confidential legal advice to women. The service specialises in violence against women and family law matters.

Telephone: 1800 133 302 (for country callers) or (03) 9642 0877

Telephone legal advice: Tuesday and Thursday 6.30pm-8.30pm. Website: [www.womenslegal.org.au](http://www.womenslegal.org.au)

## CONSENT FORM

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**Project:** Victim-Survivor Perspectives on the Impacts of the Water Customer Service Code Reforms 2017

**Chief Investigator:** Associate Professor Becky Batagol

**Co-Investigator:** Dr Paul Satur

**Student Investigator:** Eliza Venville

I have been asked to take part in the Monash University research project specified above. I have read and understood the Explanatory Statement and I hereby consent to participate in this project.

	Yes	No
I have had contact with a water service provider after 1 July 2018	<input type="checkbox"/>	<input type="checkbox"/>
I consent to taking part in a telephone/teleconference interview	<input type="checkbox"/>	<input type="checkbox"/>
I consent to audio recording during the interview	<input type="checkbox"/>	<input type="checkbox"/>
I consent for the data I provide to be used in a de-identified form in an Honours thesis, academic publications and conference presentations	<input type="checkbox"/>	<input type="checkbox"/>

I am aware that I do not have to answer any questions I do not want to and I am free to terminate or postpone the interview at any stage. I am aware I have the right to access and/or withdraw any information collected from my interview at any stage. I am aware that I will be de-identified in any research publications or outputs.

**Name:**

**Email address:**

**Phone number:**

**Signature**

**Date**

## INTERVIEW SCHEDULE

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### Victim-Survivor Perspectives on the Impacts of the Water Customer Service Code Changes 2017

- (1) Can you tell me what happened when you realised you needed help managing your water bill?
  - (a) What did you do?
  - (b) Who did you talk to (if anyone)?
  - (c) Where did you go (if anywhere)?
  
- (2) At the time, were you aware that you could get help from your water service provider?
  - (a) [If yes]: what kind of help did you know about? How did you become aware of these services?
  - (b) [If no]: from your perspective, is there anything your water service provider could have done to ensure you were aware of the help they could offer you?
  
- (3) How did you come to receive help from your water company?
  - (a) What kind of help did you receive? How was this helpful for you? Were you satisfied with the help you received?
  - (b) [If customer had knowledge of the services available]: why did you choose to engage?
  - (c) [If no and if customer had no knowledge of the service available]: Where did you go for support? Did you enquire? How did you come to receive support?
  
- (4) Did the help from your water company have any impact on your experiences at the time or in the time since then?
  - (a) [If yes]: please explain this impact.

- (b) [If no]: please explain why you think it had no impact.
- (c) Is there some other assistance that your water company could have offered that would have made more of a difference for you?

SUBMISSION TO THE INQUIRY INTO FAMILY, DOMESTIC AND SEXUAL  
VIOLENCE

Eliza Venville (Honours Candidate)

31 July 2020

Faculty of Law

Monash University

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## Summary of Recommendations

Australian businesses have a social responsibility to protect customers in vulnerable circumstances. Water companies in all Australian states and territories should be obligated to adopt a family violence policy. The policy should be modelled against the family violence clause inserted into the Victorian water customer service codes and include:

- Comprehensive and ongoing staff training about economic abuse and family violence;
- Promotion of customer safety by providing for the secure handling of information pertaining to customers affected by family violence;
- Specification of the water business's approach to debt management and recovery where a customer is affected by family violence;
- Recognition of the fact that family violence is a legitimate cause of payment difficulties and satisfies eligibility criterion for access to the water business's hardship policy;
- A process that reduces the extent to which customers must repeat disclosure of their family violence;
- Referral of customers who may be affected by family violence to specialist family violence services;
- Provision of interpreting services for culturally and linguistically diverse ('CALD') customers;
- Mandatory obligations regarding the promotion of the family violence policy; and
- A community outreach program.

## The Problem

### 1.1 Family Violence in Australia

Men's violence against women is a global crisis.<sup>1</sup> Family violence is a widespread form of gendered violence in Australia, most commonly experienced by women at the hands of men.<sup>2</sup> Family and/or domestic violence is legally recognised in all Australian states and territories.<sup>3</sup> Family violence is the preferred terminology in Victoria (and therefore will be used throughout this submission) and is defined in Victorian legislation as behaviour which is physically, sexually, emotionally, psychologically or economically abusive or which otherwise controls the perpetrator's family member causing them to fear for their, or another's, safety.<sup>4</sup> Recent data suggests that one in six (i.e. 17%) Australian women over the age of 15 have endured physical or sexual violence by a current or former intimate partner.<sup>5</sup>

Over the past decade systemic responses to family violence have been the subject of state and federal review.<sup>6</sup> In 2015 in the wake of a surge in family violence related deaths (e.g. 11 year old Luke Batty in 2014) the Victorian Government established the Royal Commission into Family Violence ('RCFV' or 'the Commission') to interrogate and assess community and government responses to family violence.<sup>7</sup> In March 2016, the Commission tabled its report, including 227 recommendations to enhance Victoria's response to the prevalence and risks of family violence. It highlighted the broad range of behaviours constituting family violence; the critical feature of these behaviours being an expression of power and control over victims.<sup>8</sup> The Commission also confirmed the role of essential service providers in designing a holistic, community response to family

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<sup>1</sup> Marie Eriksson and Rickard Ulmestig, "It's Not All About Money": Toward a More Comprehensive Understanding of Financial Abuse in the Context of VAW' (2017) *Journal of Interpersonal Violence* 1, 19.

<sup>2</sup> Renata Alexander, *Family Violence in Australia: The Legal Response* (The Federation Press, 2018) 5; Australian Bureau of Statistics, *Personal Safety, Australia, 2016* (Catalogue No 4906.0, 8 November 2017) ('ABS Personal Safety Survey').

<sup>3</sup> *Family Violence Act 2016* (ACT) s 8; *Family Violence Protection Act 2008* (Vic) s 8; *Domestic and Family Violence Act 2007* (NT) s 5; *Domestic and Family Violence Protection Act 2012* (QLD) s 8; *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 9; *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 8; *Family Violence Act 2004* (TAS) s 8; *Restraining Orders Act 1997* (WA) s 5A.

<sup>4</sup> *Family Violence Protection Act 2008* (Vic) s 5.

<sup>5</sup> ABS Personal Safety Survey (n 2).

<sup>6</sup> See, eg, Australian Law Reform Commission, *Family Violence: A National Legal Response* (Report No 114, October 2010) vol 1; Victorian Law Reform Commission, *Review of Family Violence Laws* (Report No 185, February 2006); National Council to Reduce Violence against Women and their Children, *Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children 2009–2021* (Report, March 2009); State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132, March 2016) ('RCFV Summary and Recommendations').

<sup>7</sup> RCFV Summary and Recommendations (n 6) 1.

<sup>8</sup> Ibid 93.

violence.<sup>9</sup> 15 of these recommendations are related to financial security and economic abuse.<sup>10</sup>

Victoria has been described by the media as ‘leading the way’ on family violence.<sup>11</sup> As at 31 December 2019, 154 of RCFV’s recommendations have been implemented.<sup>12</sup> Of relevance to this submission are the changes to the rural and urban water business customer service codes.<sup>13</sup>

Despite the Andrews’ government’s commitment to implementing the RCFV’s recommendations, family violence remains a major national health and welfare crisis.<sup>14</sup> In 2019, on average, one woman was killed by her partner every nine days.<sup>15</sup> In 2020 amidst the COVID-19 pandemic restrictions, the incidence of family violence in Australia is on the rise, with practitioners reporting an increase in both frequency and severity of violence.<sup>16</sup> These alarming statistics indicate that there is much work to be done to end gendered violence in Australia.

## 1.2 The Hidden Crisis: Economic Abuse

Economic abuse is a silent yet devastatingly impactful form of family violence.<sup>17</sup> The *Family Violence Protection Act 2008* (Vic) defines economic abuse as coercive, deceptive

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<sup>9</sup> State of Victoria, *Royal Commission into Family Violence: Report and Recommendations, Vol IV* (Parl Paper No 132, March 2016) 104 (‘RCFV Summary and Recommendations Vol IV’).

<sup>10</sup> Carolyn Bond and Madeleine Ulbrick, *Responding to Financial Abuse* (Full Report, January 2020) 3.

<sup>11</sup> Kate Fitz-Gibbon et al, ‘Victoria Leads the Way on Family Violence but Canberra Needs to Lift its Game,’ *The Conversation* (online, 30 March 2017) <<https://theconversation.com/victoria-leads-the-way-on-family-violence-but-canberra-needs-to-lift-its-game-74036>>; Jane Gilmore, ‘Four Years On It’s Impossible to Hear Rosie and Not Want to Do Something’ *The Sydney Morning Herald* (online, 2 November 2018) <<https://www.smh.com.au/lifestyle/life-and-relationships/four-years-on-it-s-impossible-to-hear-rosie-and-not-want-to-do-something-20181101-p50dds.html>>.

<sup>12</sup> State of Victoria, ‘The 27 Recommendations’, *Family Violence Recommendations* (Web Page) <<https://www.vic.gov.au/family-violence-recommendations>>.

<sup>13</sup> Essential Services Commission, *Water Code Outcomes Review: Family Violence Changes* (Report, 26 June 2019) 4 (‘ESC review’).

<sup>14</sup> Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence in Australia: Continuing the National Story* (Report No FDV 3, 5 June 2019) vii.

<sup>15</sup> *Ibid* x.

<sup>16</sup> Naomi Pfitzner, Kate Fitz-Gibbon and Jacqui True, *Responding to the ‘Shadow Pandemic’: Practitioner Views on the Nature of and Responses to Violence Against Women in Victoria, Australia During the COVID-19 Restrictions* (Report, 6 June 2020) 10.

<sup>17</sup> Rachel J Voth Schrag, ‘Experiences of Economic Abuse in the Community: Listening to Survivor Voices’ (2019) 34(3) *Affilia - Journal of Women and Social Work* 313, 313; Madeleine Ulbrick, ‘“A Man’s Home is His Castle. And Mine is a Cage”: A Feminist Political Economy Analysis of Economic Abuse in Victoria’ (PhD Thesis, Monash University, 2020) 15; Jozica Kutin, Roslyn Russell and Mike Reid, ‘Economic Abuse Between Intimate Partners in Australia: Prevalence, Health Status, Disability and Financial Stress’ (2017) 41(3) *Australian Journal of Public Health* 269, 269; Adrienne Adams et al, ‘Development of the Scale of Economic Abuse’ (2008) 14(5) *Violence Against Women* 563, 564; Amanda Mathisen Stylianou, Judy L Postmus and Sarah McMahon, ‘Measuring Abusive Behaviors: Is Economic Abuse a Unique Form of

or unreasonably controlling behaviour that denies financial autonomy or withholds the financial support necessary for meeting reasonable living expenses.<sup>18</sup> Like other forms of family violence, at its core economic abuse is an expression of power and control.<sup>19</sup> Economic abuse can occur in combination with other forms of family violence or in isolation.<sup>20</sup> Although economic abuse can take many forms,<sup>21</sup> it is characterised by behaviours aimed at manipulating a person's access to money, assets and financial decision-making to foster a relationship of dependence and control.<sup>22</sup> Importantly for this submission are the ways in which utility accounts can be a source of economic abuse.<sup>23</sup> These include, but are not limited to:

- accidental disclosure of a victim-survivor's address to a perpetrator;<sup>24</sup>
- opening an account in a victim-survivor's name without knowledge or permission;<sup>25</sup>
- refusing to contribute to a joint account;<sup>26</sup>
- a perpetrator refusing to pay their own account, resulting in disconnection;<sup>27</sup> and
- requesting disconnection of services despite the fact that the victim-survivor lives at the address.<sup>28</sup>

### *Why is economic abuse under-recognised?*

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Abuse? (2013) 28(16) *Journal of Interpersonal Violence* 3186, 3187; Cynthia K Sanders, 'Economic Abuse in the Lives of Women Abused by an Intimate Partner: A Qualitative Study' (2015) 21(1) *Violence Against Women* 3, 4; Prue Cameron *Relationship Problems and Money: Women Talk About Financial Abuse* (Report, 25 August 2014) 17; Elizabeth Branigan "'Who Pays in the End?'" The Personal and Political Implications of Financial Abuse of Women in Intimate Partner Relationships' (2007) 44 *Just Policy: Journal of Australian Social Policy* 31, 31.

<sup>18</sup> *Family Violence Protection Act 2008* (Vic) s 6; Bond and Ulbrick (n 10) 10.

<sup>19</sup> Ulbrick (n 17) 99.

<sup>20</sup> Bond and Ulbrick (n 10) 10.

<sup>21</sup> Evgenia Bourova, Ian Ramsay and Paul Ali, 'Limitations of Australia's Legal Hardship Protections for Women With Debt Problems Caused by Economic Abuse' (2019) 42(4) *University of NSW Law Journal* 1146,1148; *Family Violence Protection Act 2008* (Vic) s 6; Angela Lauman and Elizabeth Samra, 'Economic Abuse: The Struggle for Financial Security (2018) 248 *Law Society of the ACT Journal* 40, 40; Voth Schrag (n 17) 318; Consumer Utilities Advocacy Centre, *Helping Not Hindering: Uncovering Domestic Violence & Utility Debt* (Report, August 2014) 8 ('*Helping Not Hindering*').

<sup>22</sup> Kutin, Russell and Reid (n 17) 269.

<sup>23</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 104.

<sup>24</sup> *Ibid*; Bond and Ulbrick (n 10) 3.

<sup>25</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 104; Bond and Ulbrick (n 10) 24; Essential Services Commission, *Moving Towards Better Practice: Implementing Family Violence Policies in the Victorian Water Sector* (Report, May 2017) 3 ('*Moving Towards Better Practice*').

<sup>26</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 104; Bond and Ulbrick (n 10) 24; *Moving Towards Better Practice* (n 25) 3.

<sup>27</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 104; *Moving Towards Better Practice* (n 25) 3.

<sup>28</sup> Bond and Ulbrick (n 10) 24.

Despite widespread legal recognition of economic abuse,<sup>29</sup> this form of abuse is commonly described as under-recognised in the community.<sup>30</sup> Victim-survivors often do not identify their experience as a kind of family violence.<sup>31</sup> In fact, a recent survey shows that economic abuse is the least likely form of abuse to be recognised as family violence.<sup>32</sup> Cameron argues that economic abuse is a complex form of abuse ‘embedded in a web of gendered social behaviour and powerful cultural norms’.<sup>33</sup> As such, victim-survivors’ failure to recognise economic abuse may be explained by a number of factors. These include pervasive gender norms such as male superiority in handling money matters and that romantic couples should join financial resources;<sup>34</sup> the division of labour in Australia whereby women are still primarily responsible for children and household duties;<sup>35</sup> and the privatisation of personal finances.<sup>36</sup>

Another factor which may explain why economic abuse is less well-detected than other kinds of family violence is the fact that Australia’s response to economic abuse remains in its infancy.<sup>37</sup> Our legal system and social services are not equipped to identify and respond to economic abuse and economic harms resulting from family violence, which may further explain why economic abuse tends to go unnoticed.<sup>38</sup> Of relevance to this submission are the support services offered to victim-survivors of economic abuse by Victorian water authorities.

### *Who experiences economic abuse?*

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<sup>29</sup> *Family Violence Act 2016* (ACT) s 8; *Family Violence Protection Act 2008* (Vic) s 8; *Domestic and Family Violence Act 2007* (NT) s 5; *Domestic and Family Violence Protection Act 2012* (QLD) s 8; *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 9; *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 8; *Family Violence Act 2004* (TAS) s 8; *Restraining Orders Act 1997* (WA) s 5A.

<sup>30</sup> Kutin, Russell and Reid (n 17) 269; Lauman and Samra (n 21) 41; Bourova, Ramsay and Ali (n 21) 1159; Emma Smallwood, *Stepping Stones: Legal Barriers to Economic Equality after Family Violence* (Report, September 2015) 6; *RCFV Summary and Recommendations Vol IV* (n 9) 94.

<sup>31</sup> Kutin, Russell and Reid (n 17) 269; Lauman and Samra (n 21) 41; Bourova, Ramsay and Ali (n 21) 1159; Smallwood (n 30) 6; Carolyn Bond, Stephanie Tonkin and Ciara Sterling, *Responding to Financial Abuse* (Report, 11 December 2018), 5; *RCFV Summary and Recommendations Vol IV* (n 9) 94; Owen Camilleri, Tanya Corrie and Shorna Moore, *Restoring Financial Safety: Legal Responses to Economic Abuse* (Report, 2015) 7.

<sup>32</sup> VicHealth, *Australians’ Attitudes to Violence Against Women: Findings from the 2013 National Community Attitudes Survey (NCAS)* (Report, September 2014) 59.

<sup>33</sup> Cameron (n 17) 5.

<sup>34</sup> *Ibid* 21.

<sup>35</sup> *Ibid* 19.

<sup>36</sup> *Helping Not Hindering* (n 21) 8.

<sup>37</sup> Australian National Research Organisation for Women’s Safety (ANROWS), *Domestic Violence and Women’s Economic Security: Building Australia’s Capacity for Prevention and Redress: Key Findings and Future Directions* (Report, 24 October 2016) 6.

<sup>38</sup> *Ibid*; Ulbrick (n 17) 16.

Despite lacking community awareness, economic abuse is widespread.<sup>39</sup> As with other types of family violence, the prevalence of economic abuse is higher among women than men,<sup>40</sup> with approximately 80 per cent of women experiencing family violence also experiencing economic abuse.<sup>41</sup> Although economic abuse can affect women of all ages, socio-economic status, education level and geographic location, certain risk factors have been identified, including age, poor health, disability, financial stress and lower levels of education.<sup>42</sup> Belonging to a culturally and linguistically diverse ('CALD') community may also increase vulnerability to economic abuse.<sup>43</sup> One explanation for this finding in Australia is insufficient access to culturally and/or linguistically safe services.<sup>44</sup>

Although women are not the only victims of economic abuse, they are especially vulnerable (for reasons outlined above) to this kind of abuse. Their experiences are the focus of this submission.

### *Impacts of economic abuse*

The experience of economic abuse can have a range of devastating impacts including implications for employment, psychological and financial wellbeing.<sup>45</sup> Of relevance to this submission are the impacts that relate to financial hardship and access to essential services such as water.

During and following a violent relationship, women may have no or restricted access to finances, fewer assets or be saddled with crippling debt.<sup>46</sup> Women may have to bear the full economic cost of utilities to ensure their household has access to services.<sup>47</sup> This may be extremely financially burdensome for some and impossible for others, rendering some victim-survivors without access to essential services like water and electricity.<sup>48</sup> In addition to disconnection, victim-survivors may be pursued by debt collectors or be subject to debt recovery proceedings in a court or tribunal.<sup>49</sup> Such consequences jeopardise both immediate and long-term financial security, making it more difficult for victim-survivors to enter into new contracts for utility services and access further credit from mainstream lenders.<sup>50</sup> All of these devastating impacts contribute to a cycle of

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<sup>39</sup> Smallwood (n 30) 6.

<sup>40</sup> Kutin, Russell and Reid (n 17) 269; Bond and Ulbrick (n 10) 10.

<sup>41</sup> Lauman and Samra (n 21) 40.

<sup>42</sup> Kutin, Russell and Reid (n 17) 273.

<sup>43</sup> *Helping Not Hindering* (n 21) 8.

<sup>44</sup> Bourova, Ramsay and Ali (n 21) 1161.

<sup>45</sup> Cameron (n 17) 23; Voth Schrag (n 17) 314.

<sup>46</sup> Cameron (n 17) 26.

<sup>47</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 104.

<sup>48</sup> *Ibid.*

<sup>49</sup> Bourova, Ramsay and Ali (n 21) 1151.

<sup>50</sup> *Ibid*; *Helping Not Hindering* (n 21) 9; Lauman and Samra (n 21) 43.

dependence on perpetrators, demonstrating the often economic non-viability of leaving a violent relationship.<sup>51</sup>

### 1.3 Why is this a problem?

The fact that economic abuse can impact victim-survivors' use of water in their homes is problematic because water is essential to life.<sup>52</sup> Almost all household responsibilities involve water use in some way, for example, cleaning, cooking, washing and bathing.<sup>53</sup> If water is disconnected or if access to water is interfered with by a perpetrator then it becomes near impossible for victim-survivors to manage these tasks and care for themselves or other dependents.<sup>54</sup> This problem disproportionately affects women because women are more likely to be victims of economic abuse<sup>55</sup> and more likely to be responsible for household duties and child-rearing.<sup>56</sup> Recognition of the critical connection between gender equality and water management is gaining traction in the international arena.<sup>57</sup> The United Nations Sustainable Development Goal 6 ('Goal 6') aspires to 'availability and sustainable management of water and sanitation for all' and mandates explicit attention to gender equality and inclusion.<sup>58</sup> This target highlights the need for women to be able to manage their needs with dignity and safety.<sup>59</sup>

### 1.4 The RCFV View

The Victorian water sector has been especially progressive over the past decade in enacting policies and processes to reach more socially responsible outcomes.<sup>60</sup> After

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<sup>51</sup> Cameron (n 17) 25.

<sup>52</sup> Paul Ali, Evgenia Bourova and Ian Ramsay, 'Responding to Consumers' Financial Hardship: An Evaluation of the Legal Frameworks and Company Policies' (2015) 23(1) *Competition and Consumer Law Journal* 29, 34.

<sup>53</sup> Paul Satur, 'Social Inequality and Water Use Practices in Australian Communities' (Conference Paper, Australian Young Water Professionals Conference 2016, 2016).

<sup>54</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 104.

<sup>55</sup> Kutin, Russell and Reid (n 17) 269; Bond and Ulbrick (n 10) 10.

<sup>56</sup> Melita Grant, Juliet Willetts and Chelsea Huggett, *Gender Equality and Goal 6 – The Critical Connection An Australian Perspective*, (Report, 19 August 2019) 5; *ABS Labour Force Survey* (n ); Cameron (n 17) 19.

<sup>57</sup> Grant, Willetts and Huggett (n 56) 6.

<sup>58</sup> *Ibid* 1.

<sup>59</sup> *Ibid*.

<sup>60</sup> Paul Satur, 'Social Inequality and Water Sensitive Cities in Australia' (PhD Thesis, Monash University, 2017) 126; Bond and Ulbrick (n 10) 25; Ruth Cooper, 'How Australia's Water Businesses Compare on Gender Equality,' *Water Source* (online, 9 March 2020) <[https://watersource.awa.asn.au/business/diversity/how-australias-water-businesses-compare-on-gender-equality/?utm\\_medium=email&utm\\_campaign=AWA%20Source%20March%209%20-%20Members&utm\\_content=AWA%20Source%20March%209%20-%20Members+CID\\_0005324976b71ac2d29a06e4f7a04082&utm\\_source=campaign%20monitor&utm\\_term=Read%20more.](https://watersource.awa.asn.au/business/diversity/how-australias-water-businesses-compare-on-gender-equality/?utm_medium=email&utm_campaign=AWA%20Source%20March%209%20-%20Members&utm_content=AWA%20Source%20March%209%20-%20Members+CID_0005324976b71ac2d29a06e4f7a04082&utm_source=campaign%20monitor&utm_term=Read%20more.)>

finding that water accounts can be used by perpetrators to locate victim-survivors and incur debt in their name, the RCFV recommended that the Essential Services Commission ('ESC') amend the water customer service codes to improve outcomes for customers experiencing family violence.<sup>61</sup> The ESC is an independent regulatory body which, *inter alia*, regulates retail sale of gas, energy and water in Victoria.

The Commission highlighted that while the urban and rural business water customer service codes require retailers to have hardship policies, the codes do not define hardship nor set eligibility criteria prescribing the circumstances constituting hardship.<sup>62</sup> As such, there is great variability between individual retailers as to who is granted access to support under a retailer's hardship program, which may cause significantly disparate outcomes for customers of different service providers.<sup>63</sup> Additionally, the ESC noted that there was no uniformity regarding how information about hardship provisions should be displayed on service provider websites.<sup>64</sup> Again, this inconsistency between service providers may result in unequal access to support services for customers. Even when hardship programs were accessed, victim-survivor customers reported a lack of empathy and understanding from staff.<sup>65</sup> An absence of family-violence-trained customer support staff meant that women found it difficult to disclose their story and often had to retell their story several times to different workers.<sup>66</sup>

In light of these problems, the Commission recommended the Victorian Government work with the ESC to amend the Energy Retail Code and water business customer service codes to:

- list minimum eligibility criteria for access to hardship programs;
- include family violence as an explicit eligibility criterion;
- develop industry guidelines for energy and water retailers to require comprehensive and ongoing training of customer service staff to help them identify customers experiencing family violence and financial hardship; and
- publicise the availability of dispute resolution mechanisms for people affected by family violence.<sup>67</sup>

## **The Victorian Solution**

### 1.5 Reforms to the Water Customer Service Code 2017

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<sup>61</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 120.

<sup>62</sup> *Ibid* 105.

<sup>63</sup> *Ibid*.

<sup>64</sup> *Ibid*.

<sup>65</sup> *Ibid*.

<sup>66</sup> *Ibid*.

<sup>67</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 120.

On 10 April 2017, the ESC released their final decision on the amendments to the urban and rural water business customer service codes.<sup>68</sup> The amendments insert a “family violence clause” which requires all water businesses to develop and implement family violence policies to support customers and staff experiencing family violence.<sup>69</sup> Specifically, the ESC’s new family violence clause requires water businesses to have family violence policies for:

- training and supporting staff dealing with customers affected by family violence;
- protecting private and confidential customer information;
- facilitating access to businesses’ existing payment difficulty programs;
- minimising the need for customers to repeatedly disclose family violence; and
- making customer referrals to specialist family violence services.<sup>70</sup>

These changes were recommended to help address the issues identified by the RCFV and to improve outcomes for water utility customers experiencing family violence.<sup>71</sup> The aim of the reforms was not for water businesses to replace family violence counselling services; rather codification of the fact that businesses must play their part in a community-wide response to this systemic problem.<sup>72</sup> The clause was intended to ensure safety for customers when disclosing confidential information, to improve access to payment difficulty programs for victim-survivors, to provide for training to help the staff identify signs of family violence and provide referral information about specialist family violence services and to minimise the extent to which customers must repeat disclosures of family violence.<sup>73</sup> The clause came into force on 1 July 2017 and allowed regulated water businesses until 1 July 2018 to incorporate the new family violence scheme.<sup>74</sup>

## 1.6 Evaluating Victoria’s Response

Evaluations of the effectiveness of the family violence changes to the water customer service codes have found that the majority of the family violence financial counsellors and their clients who had accessed their water company had a positive experience.<sup>75</sup>

In June 2019, the ESC published a comprehensive review of the family violence changes to determine whether the changes had achieved the intended aim of supporting customers

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<sup>68</sup> *Moving Towards Better Practice* (n 25) 4.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> Essential Services Commission, *Amendments to Water Customer Service Codes – New Requirements for Family Violence Policies* (Final Decision, April 2017) 7-8.

<sup>74</sup> *Ibid.* 3.

<sup>75</sup> Bond and Ulbrick (n 10) 25.

affected by family violence.<sup>76</sup> The review comprised interviews with 21 financial counsellors, six advocate organisations and two family violence service providers. The interviews took place in Metro Melbourne and regional Victoria.<sup>77</sup> On the whole, the review found that support services offered by water companies have improved since the 2017 amendments.<sup>78</sup>

### *Awareness of support services*

Almost all financial counsellors were aware that water companies must now have policies in place to protect customers affected by family violence.<sup>79</sup> Counsellors and advocates were less confident in client knowledge of support measures prior to engagement with a counsellor.<sup>80</sup> They identified various factors that may impact client knowledge, including their state of mind, the complexity of their issue, English literacy, the clarity of the water company website, the ability of water customers to self-identify family violence as a cause of financial hardship.<sup>81</sup>

### *Use of support services*

All counsellors interviewed had assisted clients experiencing family violence to access support from their water company.<sup>82</sup> In most cases (although not all), the experience was a positive one for both counsellors and clients and it was noted by many that water companies provided better solutions than other utilities.<sup>83</sup> Many observed that the relationship between the counsellor and water company is often strong, enabling positive outcomes for clients.<sup>84</sup>

It was generally agreed among counsellors that water companies offered viable solutions for clients.<sup>85</sup> Among the most useful support measures were utility relief grants, matched payments, waiving bills, pausing bills, direct debits and proactive communication with clients regarding unpaid bills.<sup>86</sup> Many financial counsellors had clients who had approached the water company on their own (without assistance) and generally the client's experience was positive.<sup>87</sup> In few cases counsellors were unimpressed with the available

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<sup>76</sup> ESC review (n 13).

<sup>77</sup> Ibid 1.

<sup>78</sup> Ibid 16.

<sup>79</sup> Ibid 8.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid 8-9.

<sup>82</sup> Ibid 9.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid 11.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid 12.

support measures which reflected a lack of understanding of family violence and an unwillingness to assist in a financially effective way.<sup>88</sup> While attitudes towards access to family violence assistance were positive overall, it was acknowledged that certain customers may find access more difficult, including: regional customers, those without access to technology, people experiencing homelessness or poor mental health, older people, the CALD and LGBTQIA+ communities, people with low English literacy, Aboriginal and Torres Strait Islander people and people with disabilities.<sup>89</sup> Some suggestions for how the support services could be improved included: more staff family violence training, more frequent contact with customers before bills get out of control, more advertising of support services in the community and easier access to financial hardship information on water company websites.<sup>90</sup>

### *Customer perspectives*

It is important to note that no customers participated in the review and that counsellor's comments may not be representative of the views of clients who have not had the benefit of access to a financial counsellor.<sup>91</sup> Counsellors and advocates who participated in the review had believed that clients had mostly positive experiences in interacting with their water company and felt that they were treated with dignity and respect.<sup>92</sup> They noted that the degree of trust in water companies protecting sensitive information varied significantly between customers.<sup>93</sup> This highlights the need for further research to confirm that good outcomes are not limited to people who have assistance.<sup>94</sup>

### *Overall effectiveness*

Most counsellors believed that support by water companies has improved since the 2017 water code amendments.<sup>95</sup> Improvements were manifested in several ways, including:

- better training for staff;
- deeper understanding about the nature of family violence and willingness to enquire about client safety;
- greater sensitivity to client needs;
- a less stressful process for clients and counsellors; and
- increased proactivity in engaging community stakeholders.<sup>96</sup>

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<sup>88</sup> Ibid.

<sup>89</sup> Ibid 10-11.

<sup>90</sup> Ibid 13.

<sup>91</sup> Ibid 22.

<sup>92</sup> Ibid 14.

<sup>93</sup> Ibid 14-15.

<sup>94</sup> Bond and Ulbrick (n 10) 39.

<sup>95</sup> ESC review (n 13) 16.

<sup>96</sup> Ibid.

Most advocates felt that it was too soon to say whether there were significant changes since the amendments to the code and recognised that the water sector has been an innovator in the family violence space for some time.<sup>97</sup>

## **Recommendations**

In this submission it has been shown that water accounts can be an avenue of abuse against victim-survivors of family violence. The significant harm associated with this type of abuse has been identified. The RCFV identified the problems with disparate approaches to hardship policies in the water sector: namely that it leads to inconsistent outcomes for customers of different water providers and may result in unequal access to support services across the sector.<sup>98</sup> A lack of staff education about family violence was also noted as leading to reduced empathy and understanding from employees.<sup>99</sup>

I argue that water businesses have a social responsibility to prevent the negative impacts of economic abuse via customers' accounts as best they can by implementing a family violence policy. In light of the prevalence of economic abuse across Australia, and the effectiveness of the legal changes in Victoria so far, water businesses in all Australian states and territories should be obligated to adopt a family violence policy. The policy should be modelled against the family violence clause inserted into the Victorian water customer service codes and include:

- Comprehensive and ongoing staff training about economic abuse and family violence. This should include:
  - information about the prevalence of family violence in Australia, the various forms of abuse and the devastating consequences of family violence;
  - identifying common patterns that may signify family violence to assist staff to identify customers affected by family violence where the customer does not disclose violence;
  - learning appropriate communication skills to deal with customers affected by family violence.
  
- The promotion of customer safety by providing for the secure handling of information pertaining to customers affected by family violence in a way that maintains confidentiality;

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<sup>97</sup> Ibid 28.

<sup>98</sup> *RCFV Summary and Recommendations Vol IV* (n 9) 105.

<sup>99</sup> Ibid.

- Clear statements of the water business's approach to debt management and recovery where a customer is affected by family violence, including:
  - the recovery of debt from customers with joint accounts;
  - clearly explaining eligibility criteria for bill waivers, matched payments and Utility Relief Grants.
- Recognition of the fact that family violence is a legitimate cause of payment difficulties and satisfies eligibility criterion for access to the water business's hardship policy. It should also address what payment support will apply to customers affected by family violence;
- A process that reduces the extent to which customers must repeat disclosure of their family violence, and provides for continuity of service. This may include:
  - assignment of one staff member to each customer affected by family violence, allowing the customer to build a relationship with the staff member;
- The referral of customers who may be affected by family violence to specialist family violence services.

To improve on the current policy enforced in Victoria, the mandatory family violence policy in all Australian states and territories should also include:

- The provision of interpreting services for CALD customers;
- Mandatory obligations regarding the promotion of the family violence policy, including that information about the policy should be:
  - Published clearly on the homepage of the water business' website in plain English;
  - Available in languages other than English; and
  - Disseminated throughout communities within the service area of the particular water business;
- The provision of a community outreach program whereby representatives of the water business attend specialist family violence service providers within their service area to educate staff and clients about the support services offered by the water business. This may improve access to support services for customers affected by family violence who do not have access to legal help or a financial counsellor.

To be practically effective and to achieve consistency across the water sector, the requirement for water businesses to have a family violence policy should be mandatory

with penalties for non-compliance. The regulatory body in each state and territory should have responsibility for ensuring that businesses adhere to the requirements. The family violence policy requirement should be inserted into legislation or a regulatory code (whichever aligns best with the state or territory's system of water management) to ensure that there is regulatory oversight and that non-compliance will attract penalties.

# SUBMISSION TO THE NATIONAL WATER REFORM

Eliza Venville (Honours Candidate)

21 August 2020

Faculty of Law

Monash University

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## Summary of Recommendations

Australian businesses have a social responsibility to protect customers in vulnerable circumstances. Water companies in all Australian states and territories should be obligated to adopt a family violence policy. The policy should be modelled against the family violence clause inserted into the Victorian water customer service codes and include:

- Comprehensive and ongoing staff training about economic abuse and family violence;
- Promotion of customer safety by providing for the secure handling of information pertaining to customers affected by family violence;
- Specification of the water business's approach to debt management and recovery where a customer is affected by family violence;
- Recognition of the fact that family violence is a legitimate cause of payment difficulties and satisfies eligibility criterion for access to the water business's hardship policy;
- A process that reduces the extent to which customers must repeat disclosure of their family violence;
- Referral of customers who may be affected by family violence to specialist family violence services;
- Provision of interpreting services for culturally and linguistically diverse ('CALD') customers;
- Mandatory obligations regarding the promotion of the family violence policy; and
- A community outreach program.

## Relevance to the Terms of Reference

This submission is relevant to the Terms of Reference in two key ways. Firstly, imposing mandatory family violence policies on water companies will improve social and economic outcomes for water customers affected by family violence.<sup>1</sup> Secondly, this submission demonstrates the important and under-recognised interaction between water policy and another policy area; namely family violence.<sup>2</sup>

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<sup>1</sup> Australian Government Productivity Commission, *National Water Reform Issues Paper* (Report, May 2020) iv.

<sup>2</sup> Ibid.

## The Problem

### 1.1 Family Violence in Australia

Men's violence against women is a global crisis.<sup>3</sup> Family violence is a widespread form of gendered violence in Australia, most commonly experienced by women at the hands of men.<sup>4</sup> Family and/or domestic violence is legally recognised in all Australian states and territories.<sup>5</sup> Family violence is the preferred terminology in Victoria (and therefore will be used throughout this submission) and is defined in Victorian legislation as behaviour which is physically, sexually, emotionally, psychologically or economically abusive or which otherwise controls the perpetrator's family member causing them to fear for their, or another's, safety.<sup>6</sup> Recent data suggests that one in six (i.e. 17%) Australian women over the age of 15 have endured physical or sexual violence by a current or former intimate partner.<sup>7</sup>

Over the past decade systemic responses to family violence have been the subject of state and federal review.<sup>8</sup> In 2015 in the wake of a surge in family violence related deaths (e.g. 11 year old Luke Batty in 2014) the Victorian Government established the Royal Commission into Family Violence ('RCFV' or 'the Commission') to interrogate and assess community and government responses to family violence.<sup>9</sup> In March 2016, the Commission tabled its report, including 227 recommendations to enhance Victoria's response to the prevalence and risks of family violence. It highlighted the broad range of behaviours constituting family violence; the critical feature of these behaviours being an expression of power and control over victims.<sup>10</sup> The Commission also confirmed the role of essential service providers in designing a holistic, community response to family

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<sup>3</sup> Marie Eriksson and Rickard Ulmestig, "It's Not All About Money": Toward a More Comprehensive Understanding of Financial Abuse in the Context of VAW' (2017) *Journal of Interpersonal Violence* 1, 19.

<sup>4</sup> Renata Alexander, *Family Violence in Australia: The Legal Response* (The Federation Press, 2018) 5; Australian Bureau of Statistics, *Personal Safety, Australia, 2016* (Catalogue No 4906.0, 8 November 2017) ('ABS Personal Safety Survey').

<sup>5</sup> *Family Violence Act 2016* (ACT) s 8; *Family Violence Protection Act 2008* (Vic) s 8; *Domestic and Family Violence Act 2007* (NT) s 5; *Domestic and Family Violence Protection Act 2012* (QLD) s 8; *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 9; *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 8; *Family Violence Act 2004* (TAS) s 8; *Restraining Orders Act 1997* (WA) s 5A.

<sup>6</sup> *Family Violence Protection Act 2008* (Vic) s 5.

<sup>7</sup> ABS Personal Safety Survey (n 4).

<sup>8</sup> See, eg, Australian Law Reform Commission, *Family Violence: A National Legal Response* (Report No 114, October 2010) vol 1; Victorian Law Reform Commission, *Review of Family Violence Laws* (Report No 185, February 2006); National Council to Reduce Violence against Women and their Children, *Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children 2009–2021* (Report, March 2009); State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132, March 2016) ('RCFV Summary and Recommendations').

<sup>9</sup> RCFV Summary and Recommendations (n 8) 1.

<sup>10</sup> Ibid 93.

violence.<sup>11</sup> 15 of these recommendations are related to financial security and economic abuse.<sup>12</sup>

Victoria has been described by the media as ‘leading the way’ on family violence.<sup>13</sup> As at 31 December 2019, 154 of RCFV’s recommendations have been implemented.<sup>14</sup> Of relevance to this submission are the changes to the rural and urban water business customer service codes.<sup>15</sup>

Despite the Andrews’ government’s commitment to implementing the RCFV’s recommendations, family violence remains a major national health and welfare crisis.<sup>16</sup> In 2019, on average, one woman was killed by her partner every nine days.<sup>17</sup> In 2020 amidst the COVID-19 pandemic restrictions, the incidence of family violence in Australia is on the rise, with practitioners reporting an increase in both frequency and severity of violence.<sup>18</sup> These alarming statistics indicate that there is much work to be done to end gendered violence in Australia.

## 1.2 The Hidden Crisis: Economic Abuse

Economic abuse is a silent yet devastatingly impactful form of family violence.<sup>19</sup> The *Family Violence Protection Act 2008* (Vic) defines economic abuse as coercive, deceptive

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<sup>11</sup> State of Victoria, *Royal Commission into Family Violence: Report and Recommendations, Vol IV* (Parl Paper No 132, March 2016) 104 (‘*RCFV Summary and Recommendations Vol IV*’).

<sup>12</sup> Carolyn Bond and Madeleine Ulbrick, *Responding to Financial Abuse* (Full Report, January 2020) 3.

<sup>13</sup> Kate Fitz-Gibbon et al, ‘Victoria Leads the Way on Family Violence but Canberra Needs to Lift its Game,’ *The Conversation* (online, 30 March 2017) <<https://theconversation.com/victoria-leads-the-way-on-family-violence-but-canberra-needs-to-lift-its-game-74036>>; Jane Gilmore, ‘Four Years On It’s Impossible to Hear Rosie and Not Want to Do Something’ *The Sydney Morning Herald* (online, 2 November 2018) <<https://www.smh.com.au/lifestyle/life-and-relationships/four-years-on-it-s-impossible-to-hear-rosie-and-not-want-to-do-something-20181101-p50dds.html>>.

<sup>14</sup> State of Victoria, ‘The 27 Recommendations’, *Family Violence Recommendations* (Web Page) <<https://www.vic.gov.au/family-violence-recommendations>>.

<sup>15</sup> Essential Services Commission, *Water Code Outcomes Review: Family Violence Changes* (Report, 26 June 2019) 4 (‘ESC review’).

<sup>16</sup> Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence in Australia: Continuing the National Story* (Report No FDV 3, 5 June 2019) vii.

<sup>17</sup> *Ibid* x.

<sup>18</sup> Naomi Pfitzner, Kate Fitz-Gibbon and Jacqui True, *Responding to the ‘Shadow Pandemic’: Practitioner Views on the Nature of and Responses to Violence Against Women in Victoria, Australia During the COVID-19 Restrictions* (Report, 6 June 2020) 10.

<sup>19</sup> Rachel J Voth Schrag, ‘Experiences of Economic Abuse in the Community: Listening to Survivor Voices’ (2019) 34(3) *Affilia - Journal of Women and Social Work* 313, 313; Madeleine Ulbrick, “‘A Man’s Home is His Castle. And Mine is a Cage’: A Feminist Political Economy Analysis of Economic Abuse in Victoria” (PhD Thesis, Monash University, 2020) 15; Jozica Kutin, Roslyn Russell and Mike Reid, ‘Economic Abuse Between Intimate Partners in Australia: Prevalence, Health Status, Disability and Financial Stress’ (2017) 41(3) *Australian Journal of Public Health* 269, 269; Adrienne Adams et al, ‘Development of the Scale of Economic Abuse’ (2008) 14(5) *Violence Against Women* 563, 564; Amanda Mathisen Stylianou, Judy L Postmus and Sarah McMahon, ‘Measuring Abusive Behaviors: Is Economic Abuse a Unique Form of

or unreasonably controlling behaviour that denies financial autonomy or withholds the financial support necessary for meeting reasonable living expenses.<sup>20</sup> Like other forms of family violence, at its core economic abuse is an expression of power and control.<sup>21</sup> Economic abuse can occur in combination with other forms of family violence or in isolation.<sup>22</sup> Although economic abuse can take many forms,<sup>23</sup> it is characterised by behaviours aimed at manipulating a person's access to money, assets and financial decision-making to foster a relationship of dependence and control.<sup>24</sup> Importantly for this submission are the ways in which utility accounts can be a source of economic abuse.<sup>25</sup> These include, but are not limited to:

- accidental disclosure of a victim-survivor's address to a perpetrator;<sup>26</sup>
- opening an account in a victim-survivor's name without knowledge or permission;<sup>27</sup>
- refusing to contribute to a joint account;<sup>28</sup>
- a perpetrator refusing to pay their own account, resulting in disconnection;<sup>29</sup> and
- requesting disconnection of services despite the fact that the victim-survivor lives at the address.<sup>30</sup>

### *Why is economic abuse under-recognised?*

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Abuse? (2013) 28(16) *Journal of Interpersonal Violence* 3186, 3187; Cynthia K Sanders, 'Economic Abuse in the Lives of Women Abused by an Intimate Partner: A Qualitative Study' (2015) 21(1) *Violence Against Women* 3, 4; Prue Cameron *Relationship Problems and Money: Women Talk About Financial Abuse* (Report, 25 August 2014) 17; Elizabeth Branigan "'Who Pays in the End?'" The Personal and Political Implications of Financial Abuse of Women in Intimate Partner Relationships' (2007) 44 *Just Policy: Journal of Australian Social Policy* 31, 31.

<sup>20</sup> *Family Violence Protection Act 2008* (Vic) s 6; Bond and Ulbrick (n 12) 10.

<sup>21</sup> Ulbrick (n 19) 99.

<sup>22</sup> Bond and Ulbrick (n 12) 10.

<sup>23</sup> Evgenia Bourova, Ian Ramsay and Paul Ali, 'Limitations of Australia's Legal Hardship Protections for Women With Debt Problems Caused by Economic Abuse' (2019) 42(4) *University of NSW Law Journal* 1146,1148; *Family Violence Protection Act 2008* (Vic) s 6; Angela Lauman and Elizabeth Samra, 'Economic Abuse: The Struggle for Financial Security (2018) 248 *Law Society of the ACT Journal* 40, 40; Voth Schrag (n 17) 318; Consumer Utilities Advocacy Centre, *Helping Not Hindering: Uncovering Domestic Violence & Utility Debt* (Report, August 2014) 8 ('*Helping Not Hindering*').

<sup>24</sup> Kutin, Russell and Reid (n 19) 269.

<sup>25</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 104.

<sup>26</sup> *Ibid*; Bond and Ulbrick (n 12) 3.

<sup>27</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 104; Bond and Ulbrick (n 12) 24; Essential Services Commission, *Moving Towards Better Practice: Implementing Family Violence Policies in the Victorian Water Sector* (Report, May 2017) 3 ('*Moving Towards Better Practice*').

<sup>28</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 104; Bond and Ulbrick (n 12) 24; *Moving Towards Better Practice* (n 27) 3.

<sup>29</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 104; *Moving Towards Better Practice* (n 27) 3.

<sup>30</sup> Bond and Ulbrick (n 12) 24.

Despite widespread legal recognition of economic abuse,<sup>31</sup> this form of abuse is commonly described as under-recognised in the community.<sup>32</sup> Victim-survivors often do not identify their experience as a kind of family violence.<sup>33</sup> In fact, a recent survey shows that economic abuse is the least likely form of abuse to be recognised as family violence.<sup>34</sup> Cameron argues that economic abuse is a complex form of abuse ‘embedded in a web of gendered social behaviour and powerful cultural norms’.<sup>35</sup> As such, victim-survivors’ failure to recognise economic abuse may be explained by a number of factors. These include pervasive gender norms such as male superiority in handling money matters and that romantic couples should join financial resources;<sup>36</sup> the division of labour in Australia whereby women are still primarily responsible for children and household duties;<sup>37</sup> and the privatisation of personal finances.<sup>38</sup>

Another factor which may explain why economic abuse is less well-detected than other kinds of family violence is the fact that Australia’s response to economic abuse remains in its infancy.<sup>39</sup> Our legal system and social services are not equipped to identify and respond to economic abuse and economic harms resulting from family violence, which may further explain why economic abuse tends to go unnoticed.<sup>40</sup> Of relevance to this submission are the support services offered to victim-survivors of economic abuse by Victorian water authorities.

### *Who experiences economic abuse?*

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<sup>31</sup> *Family Violence Act 2016* (ACT) s 8; *Family Violence Protection Act 2008* (Vic) s 8; *Domestic and Family Violence Act 2007* (NT) s 5; *Domestic and Family Violence Protection Act 2012* (QLD) s 8; *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 9; *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 8; *Family Violence Act 2004* (TAS) s 8; *Restraining Orders Act 1997* (WA) s 5A.

<sup>32</sup> Kutin, Russell and Reid (n 19) 269; Lauman and Samra (n 23) 41; Bourova, Ramsay and Ali (n 23) 1159; Emma Smallwood, *Stepping Stones: Legal Barriers to Economic Equality after Family Violence* (Report, September 2015) 6; *RCFV Summary and Recommendations Vol IV* (n 11) 94.

<sup>33</sup> Kutin, Russell and Reid (n 19) 269; Lauman and Samra (n 23) 41; Bourova, Ramsay and Ali (n 23) 1159; Smallwood (n 32) 6; Carolyn Bond, Stephanie Tonkin and Ciara Sterling, *Responding to Financial Abuse* (Report, 11 December 2018), 5; *RCFV Summary and Recommendations Vol IV* (n 11) 94; Owen Camilleri, Tanya Corrie and Shorna Moore, *Restoring Financial Safety: Legal Responses to Economic Abuse* (Report, 2015) 7.

<sup>34</sup> VicHealth, *Australians’ Attitudes to Violence Against Women: Findings from the 2013 National Community Attitudes Survey (NCAS)* (Report, September 2014) 59.

<sup>35</sup> Cameron (n 19) 5.

<sup>36</sup> *Ibid* 21.

<sup>37</sup> *Ibid* 19.

<sup>38</sup> *Helping Not Hindering* (n 23) 8.

<sup>39</sup> Australian National Research Organisation for Women’s Safety (ANROWS), *Domestic Violence and Women’s Economic Security: Building Australia’s Capacity for Prevention and Redress: Key Findings and Future Directions* (Report, 24 October 2016) 6.

<sup>40</sup> *Ibid*; Ulbrick (n 19) 16.

Despite lacking community awareness, economic abuse is widespread.<sup>41</sup> As with other types of family violence, the prevalence of economic abuse is higher among women than men,<sup>42</sup> with approximately 80 per cent of women experiencing family violence also experiencing economic abuse.<sup>43</sup> Although economic abuse can affect women of all ages, socio-economic status, education level and geographic location, certain risk factors have been identified, including age, poor health, disability, financial stress and lower levels of education.<sup>44</sup> Belonging to a culturally and linguistically diverse ('CALD') community may also increase vulnerability to economic abuse.<sup>45</sup> One explanation for this finding in Australia is insufficient access to culturally and/or linguistically safe services.<sup>46</sup>

Although women are not the only victims of economic abuse, they are especially vulnerable (for reasons outlined above) to this kind of abuse. Their experiences are the focus of this submission.

### *Impacts of economic abuse*

The experience of economic abuse can have a range of devastating impacts including implications for employment, psychological and financial wellbeing.<sup>47</sup> Of relevance to this submission are the impacts that relate to financial hardship and access to essential services such as water.

During and following a violent relationship, women may have no or restricted access to finances, fewer assets or be saddled with crippling debt.<sup>48</sup> Women may have to bear the full economic cost of utilities to ensure their household has access to services.<sup>49</sup> This may be extremely financially burdensome for some and impossible for others, rendering some victim-survivors without access to essential services like water and electricity.<sup>50</sup> In addition to disconnection, victim-survivors may be pursued by debt collectors or be subject to debt recovery proceedings in a court or tribunal.<sup>51</sup> Such consequences jeopardise both immediate and long-term financial security, making it more difficult for victim-survivors to enter into new contracts for utility services and access further credit from mainstream lenders.<sup>52</sup> All of these devastating impacts contribute to a cycle of

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<sup>41</sup> Smallwood (n 32) 6.

<sup>42</sup> Kutin, Russell and Reid (n 19) 269; Bond and Ulbrick (n 12) 10.

<sup>43</sup> Lauman and Samra (n 23) 40.

<sup>44</sup> Kutin, Russell and Reid (n 19) 273.

<sup>45</sup> *Helping Not Hindering* (n 23) 8.

<sup>46</sup> Bourova, Ramsay and Ali (n 23) 1161.

<sup>47</sup> Cameron (n 19) 23; Voth Schrag (n 19) 314.

<sup>48</sup> Cameron (n 19) 26.

<sup>49</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 104.

<sup>50</sup> *Ibid.*

<sup>51</sup> Bourova, Ramsay and Ali (n 23) 1151.

<sup>52</sup> *Ibid*; *Helping Not Hindering* (n 23) 9; Lauman and Samra (n 23) 43.

dependence on perpetrators, demonstrating the often economic non-viability of leaving a violent relationship.<sup>53</sup>

### 1.3 Why is this a problem?

The fact that economic abuse can impact victim-survivors' use of water in their homes is problematic because water is essential to life.<sup>54</sup> Almost all household responsibilities involve water use in some way, for example, cleaning, cooking, washing and bathing.<sup>55</sup> If water is disconnected or if access to water is interfered with by a perpetrator then it becomes near impossible for victim-survivors to manage these tasks and care for themselves or other dependents.<sup>56</sup> This problem disproportionately affects women because women are more likely to be victims of economic abuse<sup>57</sup> and more likely to be responsible for household duties and child-rearing.<sup>58</sup> Recognition of the critical connection between gender equality and water management is gaining traction in the international arena.<sup>59</sup> The United Nations Sustainable Development Goal 6 ('Goal 6') aspires to ensure the 'availability and sustainable management of water and sanitation for all' and mandates explicit attention to gender equality and inclusion.<sup>60</sup> This target highlights the need for women to be able to manage their needs with dignity and safety.<sup>61</sup>

### 1.4 The RCFV View

The Victorian water sector has been especially progressive over the past decade in enacting policies and processes to reach more socially responsible outcomes.<sup>62</sup> After

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<sup>53</sup> Cameron (n 19) 25.

<sup>54</sup> Paul Ali, Evgenia Bourova and Ian Ramsay, 'Responding to Consumers' Financial Hardship: An Evaluation of the Legal Frameworks and Company Policies' (2015) 23(1) *Competition and Consumer Law Journal* 29, 34.

<sup>55</sup> Paul Satur, 'Social Inequality and Water Use Practices in Australian Communities' (Conference Paper, Australian Young Water Professionals Conference 2016, 2016).

<sup>56</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 104.

<sup>57</sup> Kutin, Russell and Reid (n 19) 269; Bond and Ulbrick (n 12) 10.

<sup>58</sup> Melita Grant, Juliet Willetts and Chelsea Huggett, *Gender Equality and Goal 6 – The Critical Connection An Australian Perspective*, (Report, 19 August 2019) 5; Australian Bureau of Statistics, *Labour Force, Australia, Feb 2020* (Catalogue No 6202.0, 19 March 2020) ('*ABS Labour Force Survey*'); Cameron (n 19) 19.

<sup>59</sup> Grant, Willetts and Huggett (n 58) 6.

<sup>60</sup> *Ibid* 1.

<sup>61</sup> *Ibid*.

<sup>62</sup> Paul Satur 'Social Inequality and Water Sensitive Cities in Australia' (PhD Thesis, Monash University, 2017) 126; Bond and Ulbrick (n 10) 25; Ruth Cooper, 'How Australia's Water Businesses Compare on Gender Equality,' *Water Source* (online, 9 March 2020) <[https://watersource.awa.asn.au/business/diversity/how-australias-water-businesses-compare-on-gender-equality/?utm\\_medium=email&utm\\_campaign=AWA%20Source%20March%209%20-%20Members&utm\\_content=AWA%20Source%20March%209%20-](https://watersource.awa.asn.au/business/diversity/how-australias-water-businesses-compare-on-gender-equality/?utm_medium=email&utm_campaign=AWA%20Source%20March%209%20-%20Members&utm_content=AWA%20Source%20March%209%20-)

finding that water accounts can be used by perpetrators to locate victim-survivors and incur debt in their name, the RCFV recommended that the Essential Services Commission ('ESC') amend the water customer service codes to improve outcomes for customers experiencing family violence.<sup>63</sup> The ESC is an independent regulatory body which, *inter alia*, regulates retail sale of gas, energy and water in Victoria.

The Commission highlighted that while the urban and rural business water customer service codes require retailers to have hardship policies, the codes do not define hardship nor set eligibility criteria prescribing the circumstances constituting hardship.<sup>64</sup> As such, there is great variability between individual retailers as to who is granted access to support under a retailer's hardship program, which may cause significantly disparate outcomes for customers of different service providers.<sup>65</sup> Additionally, the ESC noted that there was no uniformity regarding how information about hardship provisions should be displayed on service provider websites.<sup>66</sup> Again, this inconsistency between service providers may result in unequal access to support services for customers. Even when hardship programs were accessed, victim-survivor customers reported a lack of empathy and understanding from staff.<sup>67</sup> An absence of family-violence-trained customer support staff meant that women found it difficult to disclose their story and often had to retell their story several times to different workers.<sup>68</sup>

In light of these problems, the Commission recommended the Victorian Government work with the ESC to amend the Energy Retail Code and water business customer service codes to:

- list minimum eligibility criteria for access to hardship programs;
- include family violence as an explicit eligibility criterion;
- develop industry guidelines for energy and water retailers to require comprehensive and ongoing training of customer service staff to help them identify customers experiencing family violence and financial hardship; and
- publicise the availability of dispute resolution mechanisms for people affected by family violence.<sup>69</sup>

### **The Victorian Solution**

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<sup>63</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 120.

<sup>64</sup> *Ibid* 105.

<sup>65</sup> *Ibid*.

<sup>66</sup> *Ibid*.

<sup>67</sup> *Ibid*.

<sup>68</sup> *Ibid*.

<sup>69</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 120.

## 1.5 Reforms to the Water Customer Service Code 2017

On 10 April 2017, the ESC released their final decision on the amendments to the urban and rural water business customer service codes.<sup>70</sup> The amendments insert a “family violence clause” which requires all water businesses to develop and implement family violence policies to support customers and staff experiencing family violence.<sup>71</sup> Specifically, the ESC’s new family violence clause requires water businesses to have family violence policies for:

- training and supporting staff dealing with customers affected by family violence;
- protecting private and confidential customer information;
- facilitating access to businesses’ existing payment difficulty programs;
- minimising the need for customers to repeatedly disclose family violence; and
- making customer referrals to specialist family violence services.<sup>72</sup>

These changes were recommended to help address the issues identified by the RCFV and to improve outcomes for water utility customers experiencing family violence.<sup>73</sup> The aim of the reforms was not for water businesses to replace family violence counselling services; rather codification of the fact that businesses must play their part in a community-wide response to this systemic problem.<sup>74</sup> The clause was intended to ensure safety for customers when disclosing confidential information, to improve access to payment difficulty programs for victim-survivors, to provide for training to help the staff identify signs of family violence and provide referral information about specialist family violence services and to minimise the extent to which customers must repeat disclosures of family violence.<sup>75</sup> The clause came into force on 1 July 2017 and allowed regulated water businesses until 1 July 2018 to incorporate the new family violence scheme.<sup>76</sup>

## 1.6 Evaluating Victoria’s Response

Evaluations of the effectiveness of the family violence changes to the water customer service codes have found that the majority of the family violence financial counsellors and their clients who had accessed their water company had a positive experience.<sup>77</sup>

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<sup>70</sup> *Moving Towards Better Practice* (n 27) 4.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> Essential Services Commission, *Amendments to Water Customer Service Codes – New Requirements for Family Violence Policies* (Final Decision, April 2017) 7-8.

<sup>76</sup> *Ibid.* 3.

<sup>77</sup> Bond and Ulbrick (n 12) 25.

In June 2019, the ESC published a comprehensive review of the family violence changes to determine whether the changes had achieved the intended aim of supporting customers affected by family violence.<sup>78</sup> The review comprised interviews with 21 financial counsellors, six advocate organisations and two family violence service providers. The interviews took place in Metro Melbourne and regional Victoria.<sup>79</sup> On the whole, the review found that support services offered by water companies have improved since the 2017 amendments.<sup>80</sup>

### *Awareness of support services*

Almost all financial counsellors were aware that water companies must now have policies in place to protect customers affected by family violence.<sup>81</sup> Counsellors and advocates were less confident in client knowledge of support measures prior to engagement with a counsellor.<sup>82</sup> They identified various factors that may impact client knowledge, including their state of mind, the complexity of their issue, English literacy, the clarity of the water company website, the ability of water customers to self-identify family violence as a cause of financial hardship.<sup>83</sup>

### *Use of support services*

All counsellors interviewed had assisted clients experiencing family violence to access support from their water company.<sup>84</sup> In most cases (although not all), the experience was a positive one for both counsellors and clients and it was noted by many that water companies provided better solutions than other utilities.<sup>85</sup> Many observed that the relationship between the counsellor and water company is often strong, enabling positive outcomes for clients.<sup>86</sup>

It was generally agreed among counsellors that water companies offered viable solutions for clients.<sup>87</sup> Among the most useful support measures were utility relief grants, matched payments, waiving bills, pausing bills, direct debits and proactive communication with clients regarding unpaid bills.<sup>88</sup> Many financial counsellors had clients who had approached the water company on their own (without assistance) and generally the client's

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<sup>78</sup> ESC review (n 15).

<sup>79</sup> Ibid 1.

<sup>80</sup> Ibid 16.

<sup>81</sup> Ibid 8.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid 8-9.

<sup>84</sup> Ibid 9.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid 11.

<sup>88</sup> Ibid.

experience was positive.<sup>89</sup> In few cases counsellors were unimpressed with the available support measures which reflected a lack of understanding of family violence and an unwillingness to assist in a financially effective way.<sup>90</sup> While attitudes towards access to family violence assistance were positive overall, it was acknowledged that certain customers may find access more difficult, including: regional customers, those without access to technology, people experiencing homelessness or poor mental health, older people, the CALD and LGBTQIA+ communities, people with low English literacy, Aboriginal and Torres Strait Islander people and people with disabilities.<sup>91</sup> Some suggestions for how the support services could be improved included: more staff family violence training, more frequent contact with customers before bills get out of control, more advertising of support services in the community and easier access to financial hardship information on water company websites.<sup>92</sup>

### *Customer perspectives*

It is important to note that no customers participated in the review and that counsellor's comments may not be representative of the views of clients who have not had the benefit of access to a financial counsellor.<sup>93</sup> Counsellors and advocates who participated in the review had believed that clients had mostly positive experiences in interacting with their water company and felt that they were treated with dignity and respect.<sup>94</sup> They noted that the degree of trust in water companies protecting sensitive information varied significantly between customers.<sup>95</sup> This highlights the need for further research to confirm that good outcomes are not limited to people who have assistance.<sup>96</sup>

### *Overall effectiveness*

Most counsellors believed that support by water companies has improved since the 2017 water code amendments.<sup>97</sup> Improvements were manifested in several ways, including:

- better training for staff;
- deeper understanding about the nature of family violence and willingness to enquire about client safety;
- greater sensitivity to client needs;
- a less stressful process for clients and counsellors; and

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<sup>89</sup> Ibid 12.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid 10-11.

<sup>92</sup> Ibid 13.

<sup>93</sup> Ibid 22.

<sup>94</sup> Ibid 14.

<sup>95</sup> Ibid 14-15.

<sup>96</sup> Bond and Ulbrick (n 12) 39.

<sup>97</sup> ESC review (n 15) 16.

- increased proactivity in engaging community stakeholders.<sup>98</sup>

Most advocates felt that it was too soon to say whether there were significant changes since the amendments to the code and recognised that the water sector has been an innovator in the family violence space for some time.<sup>99</sup>

### **Recommendations**

In this submission it has been shown that water accounts can be an avenue of abuse against victim-survivors of family violence. The significant harm associated with this type of abuse has been identified. The RCFV identified the problems with disparate approaches to hardship policies in the water sector: namely that it leads to inconsistent outcomes for customers of different water providers and may result in unequal access to support services across the sector.<sup>100</sup> A lack of staff education about family violence was also noted as leading to reduced empathy and understanding from employees.<sup>101</sup>

I argue that water businesses have a social responsibility to prevent the negative impacts of economic abuse via customers' accounts as best they can by implementing a family violence policy. In light of the prevalence of economic abuse across Australia, and the effectiveness of the legal changes in Victoria so far, water businesses in all Australian states and territories should be obligated to adopt a family violence policy. The policy should be modelled against the family violence clause inserted into the Victorian water customer service codes and include:

- Comprehensive and ongoing staff training about economic abuse and family violence. This should include:
  - information about the prevalence of family violence in Australia, the various forms of abuse and the devastating consequences of family violence;
  - identifying common patterns that may signify family violence to assist staff to identify customers affected by family violence where the customer does not disclose violence;
  - learning appropriate communication skills to deal with customers affected by family violence.

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<sup>98</sup> Ibid.

<sup>99</sup> Ibid 28.

<sup>100</sup> *RCFV Summary and Recommendations Vol IV* (n 11) 105.

<sup>101</sup> Ibid.

- The promotion of customer safety by providing for the secure handling of information pertaining to customers affected by family violence in a way that maintains confidentiality;
- Clear statements of the water business's approach to debt management and recovery where a customer is affected by family violence, including:
  - the recovery of debt from customers with joint accounts;
  - clearly explaining eligibility criteria for bill waivers, matched payments and Utility Relief Grants.
- Recognition of the fact that family violence is a legitimate cause of payment difficulties and satisfies eligibility criterion for access to the water business's hardship policy. It should also address what payment support will apply to customers affected by family violence;
- A process that reduces the extent to which customers must repeat disclosure of their family violence, and provides for continuity of service. This may include:
  - assignment of one staff member to each customer affected by family violence, allowing the customer to build a relationship with the staff member;
- The referral of customers who may be affected by family violence to specialist family violence services.

To improve on the current policy enforced in Victoria, the mandatory family violence policy in all Australian states and territories should also include:

- The provision of interpreting services for CALD customers;
- Mandatory obligations regarding the promotion of the family violence policy, including that information about the policy should be:
  - Published clearly on the homepage of the water business' website in plain English;
  - Available in languages other than English; and
  - Disseminated throughout communities within the service area of the particular water business;
- The provision of a community outreach program whereby representatives of the water business attend specialist family violence service providers within their service area to educate staff and clients about the support services offered by the water business. This may improve access to support services for customers

affected by family violence who do not have access to legal help or a financial counsellor.

To be practically effective and to achieve consistency across the water sector, the requirement for water businesses to have a family violence policy should be mandatory with penalties for non-compliance. The regulatory body in each state and territory should have responsibility for ensuring that businesses adhere to the requirements. The family violence policy requirement should be inserted into legislation or a regulatory code (whichever aligns best with the state or territory's system of water management) to ensure that there is regulatory oversight and that non-compliance will attract penalties.