

20 December 2023

Marcus Crudden
Executive Director
Price Monitoring and Regulation
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Dear Marcus

Re: Proposal to amend the Water Industry Standards — draft decision

Thank you for the opportunity to provide feedback on the Essential Services Commission's (Commission) draft decision relating to the proposal to amend the Water Industry Standards.

Please find attached South East Water's feedback on the Commission's proposal. We strongly support the intent of the amendments to clarify expectations in relation to family violence assistance as well as require reporting of material non-compliances to the Commission to support continuous improvement across the sector and improve customer outcomes.

That said, we propose two further refinements/guidance to draft clauses:

- to promote best practice and better reflect the different requirements for customers and employees, we recommend the external-facing family violence policy only contains information on the supports available to customers impacted by domestic and family violence, with employee-related supports contained in other internal documentation
- to ensure water businesses can meet the expectations from the Commission in relation to having adequate procedures, policies and practices in place to identify non-compliances, provide further guidance in certain areas and an appropriate timeframe to operationalise the guidance.

South East Water would welcome the opportunity to discuss our feedback with the Commission and to support the development of associated guidance. Should you have any queries in relation to our feedback, please contact Karen Lau, General Manager, Strategy and Stakeholder, at [REDACTED] or on [REDACTED].

Yours sincerely



Lara Olsen

Proposed amendments to Water Industry Standards – South East Water feedback

20 December 2023

South East Water supports the intent of the draft Water Industry Standard amendments to clarify expectations in relation to family violence assistance as well as require reporting of material non-compliances to the Commission to support continuous improvement across the sector and improve customer outcomes.

That said, we propose the Commission:

- refine family violence provisions to only contain information in relation to customers impacted by domestic and family violence, with employee-related support contained in other internal documentation; and
- to ensure water businesses can meet the expectations from the Commission in relation to having adequate procedures, policies and practices in place to identify non-compliances, provide further guidance in certain areas and an appropriate timeframe to operationalise the guidance.

These matters are detailed below.

1. Further refine the family violence provisions

In the interests of promoting best practice across the industry, we recommend the Water Industry Standards be refined to separate the domestic and family violence policies containing the customer-related supports from the employee-related supports. This would better reflect the needs and support available for these groups.

This recommendation is consistent with feedback we received from Safe and Equal,¹ who are Victoria's peak body for family and domestic violence. We partnered with Safe and Equal to assist us in our enforceable undertaking commitments. As part of this work, Safe and Equal were tasked with ensuring our policies and practices provide customers with appropriate support and protections, both in the event of identifying as or having the potential to be affected by family and domestic violence.

In November 2023, Safe and Equal reviewed our domestic and family violence policy (DFV policy). In response, Safe and Equal strongly recommended that we separate our DFV policy relating to customers from our policy relating to employees affected by family violence to better reflect the needs and support available to these groups. We are currently implementing this recommendation.

We also encourage the Commission to further consider the nature and inclusion of obligations relating to employees within the Water Industry Standards. This includes whether the employee-related supports need to be described in an externally published DFV policy, and whether recent amendments to the Fair Work Act 2009 and employer obligations under

¹ [Safe and Equal | Standing strong against family violence](#)

the Occupational Health and Safety Act 2004 supersede the need to retain these requirements in the Water Industry Standards.

Finally, we also request the Commission to provide greater guidance to all water businesses on the practical application of the domestic and family violence clauses, specifically:

- in draft clause 11.1, greater clarity on the Commission's expectations on how these obligations apply to customers who are affected by domestic and family violence but have not identified as such to the water business.

We acknowledge the Commission's expectations that water businesses comply with these obligations in respect of all customers who are affected by family violence, whether or not they have identified as such. However, to drive consistency in the interpretation of the compliance obligations and to support water businesses in operationalising them, we request practical guidance material from the Commission regarding its expectations.

- in draft clause 11.2(b)(iii), guidance on the characteristics of what constitutes a "reasonable request" for a DFV policy in a different language.²

We appreciate the importance of removing barriers to ensure that vulnerable customers are able to access this information when they need it. To drive consistency in interpretation and to support operationalising this obligation in a timely and efficient manner, we request further guidance.

For example, is it reasonable to offer interpreter services to provide this information upon request, or does it require us to proactively translate our policy into a number of languages? Providing further clarity on this area would assist water businesses to ensure that they are meeting the Commission's expectations.

2. Clarify the requirements for detecting non-compliances

To ensure that water businesses can meet the expectations of the Commission in relation to this, we believe it would be helpful to have further guidance from the Commission on the following matters:

- in draft clause 25(a), greater clarity on the Commission's expectations of what constitutes 'timely and efficient' detection of non-compliances.

For example, what standard the Commission will use to assess whether a detection was timely (i.e. is this tied to the risk of material adverse impact, ease of detection, or to some other factor or risk indicator)?

- in draft clause 25(b), greater clarity on the requirement for reporting of 'potential' non-compliances.

We acknowledge the clause has been cast broadly to facilitate the disclosure and treatment of emerging issues as early as possible, and this obligation may arise in a situation where non-compliance is 'reasonably likely to occur'.

The difficulty for water businesses is that proactive compliance with this clause would require predictive controls (as opposed to detective controls, which monitor when a non-compliance has already occurred or is continuing). This difficulty is compounded by the second threshold that triggers reporting, which would require the water business to

² This may also assist with interpretation of clause 24.3(b).

predict the impact of the future non-compliance should it materialise. This hypothetical exercise makes compliance with clause 24(b) practically challenging.

In the event the Commission wishes to retain this wording, we request the matter is addressed in the forthcoming reporting guidelines and that the implementation timeframe is extended beyond March 2024 so that water corporations can operationalise the updated Standards and guidance with confidence.

- clarify whether clause 25(b) also applies to non-compliances with the Water Industry Standard – Trade Waste Customer Service.