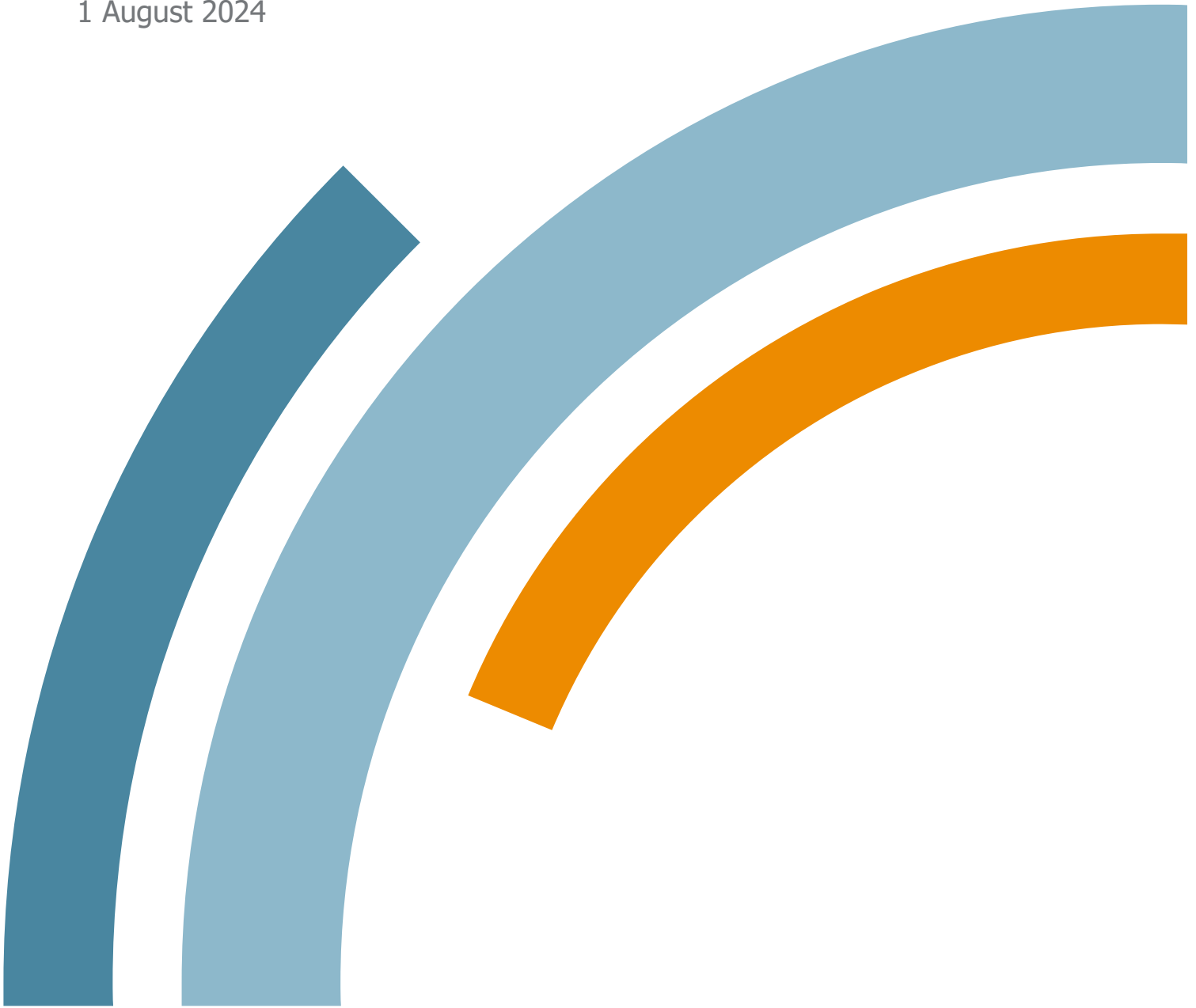


# VEET Code of Conduct Guideline

1 August 2024



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# Introduction

## What is the code of conduct?

The Victorian Energy Upgrades program code of conduct ('the code') outlines the mandatory behaviours and actions industry participants must adhere to when engaging with consumers in activities that may lead to the creation of a Victorian Energy Efficiency Certificate ('certificate'). It took effect from 1 July 2022.

The code outlines what accredited persons and scheme participants must do at various points along the certificate creation lifecycle. Though many of these obligations are not new, a certificate must not be created unless the code has been followed.

The code was made under Sections 17(3)(d) and 75 of the *Victorian Energy Efficiency Target Act 2007* ('the Act'). The Act gives the Essential Services Commission ('the commission') a range of functions, including to accredit persons who can create certificates, to check and administer the creation of certificates, and to undertake audits of the creation of certificates. The commission does this through the Victorian Energy Efficiency Target Regulations 2018, which now include the code.

## Scope of the code

The code covers **accredited persons** and **scheme participants** carrying out a **regulated action** in relation to a **prescribed activity**. That is, any activity of an accredited person or someone acting on their behalf, which may lead to the creation of a certificate. The term '**relevant activities**' is used in this guideline to refer to these actions and activities covered by the code. These key terms are defined in the box below.

An **accredited person** is a person or organisation approved by the commission to create certificates for a range of prescribed activities. Accredited persons (and their employees undertaking relevant activities) are responsible for carrying out activities in compliance with the Victorian Energy Upgrades program's legislative framework, which includes the code.

A **scheme participant** is any person (other than an accredited person) who undertakes any or part of any prescribed activity on behalf of an accredited person. This stays true even if the accredited person's accreditation is suspended, expired or cancelled, or if their actions do not meet the full requirements of a prescribed activity. Anyone claiming to undertake any part of a prescribed activity on behalf of an accredited person is also a scheme participant.

Under the code, anyone who undertakes any relevant activities is considered to be a scheme participant. Third-parties do not need to have a formal agreement with an accredited person in place to be considered a scheme participant.

**Regulated actions** include lead generation and marketing for a prescribed activity, entering into a contract for a prescribed activity, undertaking any part of a prescribed activity, and any after-sales services or follow-on activities related to a prescribed activity.

**Prescribed activities** are those activities named in Regulation 10 of the VEET Regulations. They are energy efficiency activities which are recognised under the Victorian Energy Upgrades program to reduce greenhouse gas emissions.

More detail on these definitions is included in the code (see [Appendix A](#)).

In this guideline, regulated actions carried out in relation to a prescribed activity are referred to as **relevant activities**.

## Purpose of the code

The purpose of the code is to:

- regulate the conduct of accredited persons and scheme participants carrying out a relevant activity under the Victorian Energy Upgrades program
- ensure that accredited persons and scheme participants provide sufficient information to a person to enable them to properly understand, and make informed decisions about:
  - the Victorian Energy Upgrades program
  - a relevant activity
  - their rights and obligations under the Act, the VEET Regulations and the code
  - the obligations of accredited persons and scheme participants under the Act, the VEET Regulations and the code

- ensure accredited persons have a dispute resolution framework in place to handle complaints by energy consumers in relation to relevant activities.

The code puts the consumer's welfare at the centre of how accredited persons and scheme participants deal with energy consumers in Victoria. It does this by requiring accredited persons and scheme participants who are carrying out relevant activities to:

- act in a professional and ethical manner
- protect consumers' interests and promote confidence in the Victorian Energy Upgrades program
- meet high standards of conduct in their dealings with consumers
- comply with:
  - the Act
  - the VEET Regulations
  - the Victorian Energy Upgrades Specifications<sup>1</sup>
  - the code
  - the Australian Consumer Law (Victoria).

Together, these obligations define a minimum standard of service energy consumers can expect when engaging with the Victorian Energy Upgrades program.

From 1 May 2024, the code imposes a ban on accredited persons and scheme participants engaging in 'cold-call' telemarketing and doorknocking practices. Failure of any accredited person or scheme participant to comply with the code at any stage means a certificate cannot be created for that activity.

## **Purpose of this guideline**

This guideline is provided by the commission to help accredited persons and scheme participants to understand the code, as well as the commission's expectations regarding compliance with the code. It is organised around the main regulated actions accredited persons and scheme participants may undertake or subcontract to other entities (making those entities scheme participants).

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<sup>1</sup> These are referred to as 'Secretary's specifications' in the VEET Regulations, and are published by the Department of Energy, Environment and Climate Action. They outline key aspects of the Victorian Energy Upgrades program, including how relevant activities can be carried out, and how to determine the amount of carbon dioxide equivalent of greenhouse gas emissions that are reduced by carrying out a relevant activity. They can be viewed at [the commission website](#).

**This guideline has been approved for publication by the commission pursuant to section 13 of the *Essential Services Commission Act 2001*. This guideline does not provide or create legal obligations. Its purpose is to aid compliance by accredited persons and scheme participants. You should obtain professional advice if you have any specific concern, before relying on the accuracy, currency or completeness of this information.**

As an accredited person or scheme participant you must read, understand and comply with the code, which is included in [Appendix A](#) and available at [the commission website](#).

## **Accredited Persons' broader obligations under the Victorian Energy Upgrades program**

In addition to complying with the code, accredited persons have broader obligations under the Victorian Energy Upgrades program. These include:

- meeting all relevant legal requirements
- meeting occupational health and safety legislation obligations
- mandatory safety training for installers
- complying with the Australian Consumer Law (as it applies to accredited persons and their subcontractors,)
- meeting Victorian Energy Efficiency Certificate (VEEC) assignment form requirements
- meeting decommissioning declaration requirements
- meeting the Victorian Environment Protection Authority's waste management requirements
- meeting recycling requirements for mercury-containing equipment under the Victorian Energy Upgrades program
- audit obligations.

More information about all of these broader obligations can be found in the commission's [Obligations and Program Guide for Accredited Persons](#).

### **Accredited persons' recordkeeping requirements**

Accredited persons are required to keep records under the Victorian Energy Upgrades program which substantiate the activity undertaken and the certificates created for the activity. Accredited persons must also show that they have reliable and accurate recordkeeping arrangements in place. Records must be retained for six years after the certificates are created.

These records must provide evidence of activities being undertaken in accordance with the VEET Regulations, which now include the code of conduct. Accredited persons must be able to demonstrate that the code was adhered to when regulated actions are conducted in relation to prescribed activities. This includes activities by scheme participants.

An overview of accredited persons' recordkeeping requirements are included in the [Obligations and Program Guide for Accredited Persons](#). More specific details are included in each activity guide, available from [the commission website](#).



# Your general responsibilities under the code

The code contains several key responsibilities for accredited persons and scheme participants as they market to, contract with, and provide products and services to consumers. During any relevant activity, accredited persons and scheme participants must adhere to these responsibilities.

## Your responsibility as an accredited person

Accredited persons must ensure that the following persons have complied with this code in relation to each relevant activity for which a certificate may be created:

- The accredited person (and their employees)
- Any scheme participant acting for or on behalf of the accredited person
- Any other person who undertakes a regulated action in respect of the prescribed activity.

It is the accredited person's responsibility to ensure that all of these persons involved in the creation of any certificate have complied with the code. Accredited persons must also ensure and document that their conduct (and any scheme participants' conduct) in relation to consumers' participation in the Victorian Energy Upgrades program complies with the code of conduct. This applies even if a certificate is not created.

The commission expects accredited persons to have effective systems, processes and controls ('controls') in place to fulfil this responsibility.

The commission's experience is that business models which involve outsourcing (aspects of) regulated actions, such as lead generation, are associated with a higher number of complaints and an increased risk of non-compliance with program regulations. Before outsourcing relevant actions, accredited persons should carefully consider what controls they have in place to fulfil this responsibility. Some controls to achieve this may include:

- retaining records of their own compliance and all interactions with scheme participants and, where applicable, consumers
- checking a potential scheme participant's compliance protocols and compliance records before engaging them. This may include checking references from other accredited persons the scheme participant has worked with in the past.
- making the transfer of evidence of a scheme participant's compliance to the accredited person part of their contract with each scheme participant
- providing training to the scheme participant, or in the case of a corporate scheme participant, providing training to its staff
- supervising and/or auditing the conduct of scheme participants they work with.

Scheme participants can be subcontractors of accredited persons or other persons who are not directly engaged by an accredited person. Any person purporting to undertake any part of a prescribed activity on behalf of an accredited person – even if their activity does not meet the requirements of a prescribed activity – can be considered a scheme participant.

## Considering customers' capacity

When undertaking regulated actions at residential premises, an accredited person or scheme participant must take reasonable steps to ensure that the relevant activity is undertaken in the presence of someone who is of or over 18 years of age. This includes lead generation and marketing. The person(s) present who are of or over 18 years of age must also be able to understand the information provided to them in relation to the relevant activity, as well as the terms of any relevant contracts.

An accredited person can only create certificates based on relevant activities where they (or any scheme participants) have confirmed the customer is an adult and taken reasonable steps to ensure they understand the information being provided to them, as well as the terms of any contracts for the relevant activities.

To comply with this part of the code, 'reasonable steps' includes considering whether the adult present has any difficulty understanding the information or contract due to:

- mental illness
- mental impairment
- difficulty understanding the language in which the information is provided to them.

Accredited persons and scheme participants must consider customers' capacity to understand the information being provided to them at all times during relevant activities. They are encouraged to provide customers with an opportunity to ask questions, and to look for indications that customers have any difficulty in understanding the information provided to them. If in doubt, the accredited person or scheme participant should not proceed with the relevant activity.

Certificates must not be created if you think the customer did not understand or consent to those activities taking place.

## Provide written information

If this code requires an accredited person or scheme participant to provide someone with written information (for example, related to their [internal dispute resolution framework](#)), they may provide online access to that information through a link or similar method. However, this is only permissible when that person consents to receive the information in that way.

Your general responsibilities under the code

Where possible, accredited persons and scheme participants should still be able to give all required information to consumers in a written form.

# Lead generation and marketing activities

This section sets out the requirements that accredited persons and scheme participants must comply with when generating new customers (lead generation), as well as marketing activities related to the VEU program. This includes any activities carried out while undertaking a relevant activity.

**Lead generation** includes any activity carried out for the purposes of identifying, attracting or engaging with persons who may enter into a contract as part of the VEU program. Any activity relating to the promotion, sale or supply of a prescribed activity related to the VEU program is considered **marketing**. Any lead generation or marketing as defined by the code of conduct must be carried out in line with the obligations outlined in the code.

Scheme participants and accredited persons alike are required to comply with the obligations outlined in this section. It is in the interests of both accredited persons and scheme participants to notify the commission if they have reason to suspect organisations are not complying with the code when marketing or generating leads for VEU activities. Behaviour that does not comply with the code can undermine the community's trust in the Victorian Energy Upgrades program.

Any accredited person or scheme participant carrying out lead generation or marketing activities related to the VEU program must give the person they are engaging with the name of the accredited person who will be creating the certificate for that relevant activity.

If an accredited person or scheme participant is unable to do this, they will not have complied with the code and must not create a certificate for a relevant activity based on those lead generation or marketing activities.

Accredited persons should take steps to confirm, including obtaining evidence to show, that all leads they receive that relate to the VEU program have been given their name as the accredited person who will be creating certificates in respect of any prescribed activities they undertake.

## **Cold-call telemarketing ban and doorknocking ban under the code**

### **Cold-call telemarketing ban from 1 May 2024**

From 1 May 2024, an accredited person or scheme participant must not carry out a lead generation or marketing activity in relation to a prescribed activity while on a telephone call with a person. Calls must not be made to people on their home phone, business phone or mobile phone.

Accredited persons and scheme participants are also prohibited from requiring or permitting an employee, an agent or a contractor to generate leads or market a VEU activity while on a phone

call with a person. An accredited person or scheme participant must also not acquire from a third party the contact details of a person who has expressed interest in a VEU activity if this is obtained by the third party as a result of telephoning the person without prior consent.

The above prohibitions do not apply if the person has given 'express prior consent' to being telephoned by the accredited person or scheme participant for the purposes of obtaining information about the prescribed activity and the consent remains valid at the time of the call.

Prior to calling a person to market a prescribed activity, accredited persons and scheme participants should consult the consent record and confirm that the consent is valid. Consent given by a person to an accredited person or scheme participant is taken to be withdrawn and no longer valid after three months, unless a longer period is specified when consent is given.

### **Doorknocking ban from 1 August 2024**

From 1 August 2024, an accredited person or scheme participant must not carry out lead generation or marketing activities for the VEU program at a person's home or business premises.

As with the telemarketing prohibitions, an accredited person or scheme participant must not require or permit an employee, agent or contractor to conduct door-to-door sales. They must also not acquire from a third party the contact details of a person who has expressed interest in a prescribed activity if this is obtained as a result of a visit to the consumer without prior consent. An accredited person or scheme participant must leave a consumer's premises immediately on request.

The ban does not apply if the person has given express prior consent to being visited by the accredited person or scheme participant for the purposes of obtaining information about the prescribed activity and the consent remains valid at the time of the visit.

Prior to visiting a person to market a prescribed activity, accredited persons and scheme participants should consult the consent record and confirm that the consent is valid. Consent given by a person to an accredited person or scheme participant is taken to be withdrawn and no longer valid after three months, unless a longer period is specified when consent is given.

#### **Express prior consent**

'Express prior consent' means that a consumer has agreed to be telephoned or visited at their home or business premises by an identified person or business for the purposes of lead generation or marketing in relation to VEU activities.

'Express prior consent' can be obtained through a range of methods, including:

- by the consumer filling out a form, for example at a stall at a shopping centre
- by the consumer completing an online enquiry form via your website

- by the consumer sending an email requesting information about a product or service or to be contacted
- by the consumer contacting your organisation over the phone requesting for information about a product or service or to be contacted. You will need to record this orally obtained consent as a written record.

Accredited persons must keep a written record of 'express prior consent' which includes:

- the identity of the consumer
- the accredited person(s) or scheme participant(s) the consumer has consented to being contacted by
- the prescribed activity(ies) the consumer has consented to obtaining information about
- whether the consumer is consenting to being contacted by telephone or a visit to their home or business premises
- when the consent expires
- where applicable, the date on which consent is withdrawn by the consumer

## **Always be identifiable**

An accredited person or scheme participant must always wear an identification card when carrying out a lead generation or marketing activity in relation to a prescribed activity in person.

This card must include the person's:

- photograph
- full name
- contact details
- Australian Business Number (ABN).

If a scheme participant is carrying out lead generation or marketing activities for an accredited person, their card must also include the name, trading name and ABN of the accredited person or contractor they are working for.

## **Do not engage in high-pressure tactics**

An accredited person or scheme participant involved in lead generation or marketing activities for relevant activities must not use high pressure tactics on anyone. This includes:

- pressuring, bullying or manipulation
- acting in an aggressive or coercive manner

Lead generation and marketing activities

- asking questions of a person that are intrusive, unreasonable or not relevant to the prescribed activity
- staying on the premises after being told that the consent to contact a resident is withdrawn or no longer valid, or after being told to leave the premises.

## **Always be prepared to give information**

An accredited person or scheme participant carrying out lead generation or marketing activities must be able to give clear and accurate information about the Victorian Energy Upgrades program. They must:

- inform the person that the Victorian Energy Upgrades program is voluntary
- take reasonable steps to ensure the person understands the accredited person or scheme participant does not work for the Victorian Government, and that products and services are not provided on behalf of the Victorian Government
- give a clear and concise explanation of the Victorian Energy Upgrades program
- inform the person about this code and give them a copy upon request
- provide relevant [dispute resolution information](#)
- offer a copy of the Victorian Energy Upgrades program consumer fact sheet.

An accredited person or scheme participant carrying out lead generation or marketing activities must offer consumers a copy of the consumer factsheet available on the Department of Energy, Environment and Climate Action website.

An accredited person or scheme participant carrying out lead generation or marketing activities related to a relevant activity must give the person the name of the accredited person who will be creating the certificate in respect of the relevant activity. They must also provide clear and accurate information on:

- the relevant activity
- how to use the product or service
- the performance of the product
- the suitability of the product to that person and/or their premises
- any applicable product service recommendations and requirements
- the warranty that applies to the product or service and its installation (if any)
- if the relevant activity involves the replacement of a product, the decommissioning procedures that apply in relation to the product being replaced.

An accredited person or scheme participant carrying out lead generation or marketing activities related to a relevant activity must also give a person all information necessary to enable them to make an informed decision in relation to undertaking the activity.

If an accredited person or scheme participant provides a person with indicative values rather than a quote, they must also ensure that the person understands that a final quote has not yet been given.



# Contract requirements

There are several things an accredited person or scheme participant must do before they can enter into a contract with a consumer for relevant activities. These relate to the information that must be provided to consumers, as well as confirming a shared understanding of the work involved.

## Before entering into a contract

Before entering into a contract with a consumer for a relevant activity at a residential premises, an accredited person or scheme participant must ensure that the consumer:

- is given a statement of their rights and obligations in relation to the contract. This includes any rights and obligations under:
  - the Act
  - the VEET Regulations
  - this code
  - the Australian Consumer Law (Victoria)
- is given clear and accurate information about the terms and conditions of the contract relating to the relevant activity, including:
  - any standard fees and charges
  - payment terms
  - any consequences for failure to meet the payment terms
  - any applicable cooling off periods<sup>2</sup>
- has been informed of and understands the relevant activity
- consents to undertake the relevant activity.

Accredited persons and scheme participants must ensure that they are providing consumers with a full statement of their rights and obligations.

Accredited persons and scheme participants can supply this information in a variety of ways. However, they should also be able to provide evidence that they have complied with this part of the code, as well as their general obligation to [provide written information](#).

An example Statement of Rights can be found on the [commission website](#).

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<sup>2</sup> Information about cooling off periods must be provided in a way that is consistent with requirements of the Australian Consumer Law (Victoria), if applicable.

## **Providing information on when and who is going to conduct the work**

An accredited person or scheme participant must ensure that a contract for a relevant activity sets out the schedule for undertaking and completing the work. This includes all installation, replacement and decommissioning activities.

Any person undertaking a relevant activity or any part of a relevant activity for a consumer must ensure that the consumer is provided with the person's:

- full name
- business telephone number
- business email address.

If the person undertaking the relevant activity is doing so on behalf of an accredited person, the accredited person's name must also be supplied.

## Undertaking prescribed activities

This section relates to how accredited persons and scheme participants undertake the relevant activities they have agreed to with consumers.

Accredited persons and scheme participants must always ensure that the relevant activity is undertaken in accordance with the VEET Regulations and the Victorian Energy Upgrades Specifications, as well as with this code. They must also always make sure that relevant activities are conducted in the presence of someone of or over 18 years of age.

Undertaking some relevant activities on rented premises may be affected by the rights and obligations of the tenant. If an accredited person or scheme participant becomes aware that the premises is occupied by the consumer under a tenancy agreement, they are encouraged to remind the consumer to check their obligations under their tenancy agreement.

### Notice to residents

An accredited person or scheme participant must not undertake any relevant activity at a residential premises unless they have taken reasonable steps to give notice to a resident of each of the premises likely to be directly affected by the activity.

The code requires that accredited persons and scheme participants take reasonable steps to give reasonable notice to each resident of an affected premises.

The notice to residents must at least give specific details on each of the following:

- the nature of the work
- the date and time it will be undertaken
- essential services that may be affected, if any
- the consumer on whose behalf the work is being undertaken
- the full name, telephone number and business email address of the accredited person or contractor conducting the work.

If the work is being conducted on behalf of an accredited person, the full name, telephone number and business email address of the person conducting the work must also be given.

### **How can you determine whether a premises is directly affected by a prescribed activity?**

A premises is directly affected if the relevant activity will impact any essential services to the premises or access to the property.

### **What are essential services?**

An essential service means a service (which includes the supply of goods) which a person is likely to depend on or utilise regularly in the course of a day. Examples may include the provision of electricity, gas, water, telecommunications or the internet. Residents must be notified if essential services such as these will be affected by the relevant activity.

## **Time of undertaking prescribed activity**

Accredited persons and scheme participants undertaking relevant activities must ensure that all reasonable steps are taken to commence, undertake and complete their work on the dates and at the times agreed with the consumer. This includes all installation, replacement and decommissioning activities related to the work.

If the work cannot be completed at the agreed time on the agreed dates, the accredited person or scheme participants must ensure that the consumer is advised as soon as practicable.

## **Information upon completion**

On completion of a relevant activity, the accredited person or scheme participant who completed the work must give the consumer the following information:

- The name, telephone number and email address of the accredited person who completed the work or, if the work was completed by a scheme participant, the details of the accredited person on whose behalf the work was completed
- The name, telephone number and email address of any scheme participant(s) who undertook the relevant activity (or part of the relevant activity), if applicable
- The [dispute resolution information](#) relating to the work
- A copy of the manufacturer's instructions and warranty for any products supplied or installed, if applicable.

## Non-complying products and services

This section relates to what an accredited person is obligated to do if they become aware that a product or service, they supplied to a consumer does not comply with requirements at the time of installation.

### **Non-complying products or services**

When conducting relevant activities, accredited persons and scheme participants are obligated to adhere to the code, as well as other regulations and standards. These include:

- VEET Regulations
- Victorian Energy Upgrades Specifications
- Australian Consumer Law (Victoria).

It is the accredited person's responsibility to ensure that immediate steps are taken to notify a consumer of any failure to comply with any of these requirements.

If a product or service that is part of a relevant activity is fixed or replaced, the accredited person must ensure the fixed or replaced product complies with the VEET Regulations and the Victorian Energy Upgrades Specifications.

# Dispute resolution

This section relates to how accredited persons deal with consumer's complaints. These include complaints from consumers about the accredited person, about any scheme participants who worked on their behalf, and any other person carrying out a relevant activity that results in the accredited person creating a certificate.

## The dispute resolution framework

All accredited persons must have a clear and effective dispute resolution framework in place to deal with consumer complaints. This must exist in a written or digital format that can be provided to consumers upon request.

This framework must cover consumer complaints concerning the conduct of the accredited person and scheme participants as they:

- carry out any regulated action
- schedule a prescribed activity
- create a certificate for the prescribed activity.

The framework must also include:

- an accessible internal dispute resolution process to deal with consumer complaints or complaints brought on behalf of consumers. In developing this process an accredited person may consider:
  - how complaints are documented when they are received
  - how to determine who is responsible for addressing them
  - how to track progress towards addressing the complaint
  - how to escalate serious complaints
  - and other key pieces of information
- the provision of information to consumers about the internal dispute resolution process and about what happens if the accredited person's internal dispute resolution process does not resolve the complaint, including:
  - the Consumer Affairs Victoria [website](#)
  - information about the commission's dispute resolution and support services, including the relevant commission telephone numbers
  - information about any other external dispute resolution processes that may be available.

## Commission's dispute resolution and support services

For questions or complaints related to the Victorian Energy Upgrades program or the code, please email the commission at [yeu@esc.vic.gov.au](mailto:yeu@esc.vic.gov.au) or call (03) 9032 1310 during business hours. For information, please visit [the Victorian Energy Upgrades program website](#).

If an accredited person receives a complaint from a consumer about something not covered by the framework, they must provide consumers with information about the appropriate person or body to handle the complaint and, where possible, help the consumer and cooperate with them to resolve the complaint.

Even if a consumer's complaint is not about an issue the accredited person is directly responsible for, the code requires that the accredited person help the consumer to resolve the issue. For example, an accredited person has complied with the code of conduct but receives a complaint from a consumer related to the quality of the product installed as part of an upgrade. The accredited person's dispute resolution framework must (at least) include providing the following to the consumer:

- information about the appropriate person or body to handle their complaint
- assistance in contacting that person or body
- co-operation with that person or body to resolve the complaint.

The obligations of accredited persons in relation to dispute resolution provide a strong incentive to proactively put robust controls in place to monitor the conduct of scheme participants.

## Handling of complaints

Accredited persons must ensure that consumer complaints dealt with under their internal dispute resolution framework are handled in a timely and fair manner, including by:

- acknowledging all complaints within five business days of receiving them
- taking all reasonable steps to complete the internal dispute resolution process within 20 business days of receiving them.

## Consequence of not complying with the code

The commission takes non-compliance with the code very seriously and will actively investigate complaints associated with non-compliance.

Regulation 15(2) of the VEET Regulations provides that a certificate cannot be created in relation to a prescribed activity if this code has not been complied with (in relation to that prescribed activity). An accredited person must not create certificates where any associated activity was not compliant with the code.

The commission can also take compliance and enforcement actions, including prosecution of offences, where non-compliance is identified. These will be undertaken in a manner consistent with the commission's Compliance and Enforcement Policy.

The commission's Compliance and Enforcement Policy can be viewed on the commission [website](#).



# Appendix A: The code of conduct

## Schedule 6—Code of conduct

Regulation 9A

### Part 1—Preliminary

#### 1 Definitions

In this code of conduct—

**ABN** has the meaning given by section 41 of the A New Tax System (Australian Business Number) Act 1999 of the Commonwealth;

**contract** includes agreement;

**dispute resolution information** means information referred to in clause 28(3)(b), (c) and (d);

**lead generation**, in relation to a prescribed activity, means any activity carried out for the purposes of identifying, attracting or engaging with persons who may enter into a contract for the undertaking of the prescribed activity, including by way of the following—

- (a) telephoning a person;
- (b) knocking on the door of a person's business or residential premises;
- (c) in person approaches to a person;
- (d) contacting a person by email or online;
- (e) promoting the prescribed activity in the course of providing another product or service to a person;
- (f) following up with a person after an initial approach;

**marketing**, in relation to a prescribed activity, means any activity relating to the promotion, sale or supply of the prescribed activity, including a promotion, sale or supply made—

- (a) in person; or
- (b) by telephone; or
- (c) online;

**subcontractor** includes a subcontractor of a subcontractor;

**VEET Regulations** means—

- (a) these Regulations; and
- (b) the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017;

**VEET scheme consumer factsheet** means the Victorian Energy Efficiency Target scheme factsheet published on the Internet site of the Department.

## Note

Section 3(1) of the Act defines the terms **code of conduct**, **contractor** and **regulated action**. Section 3A of the Act defines the term **scheme participant**.

### 3 Purposes of code of conduct

The purposes of this code of conduct are—

- (a) to regulate the conduct of accredited persons and scheme participants in carrying out a regulated action in relation to a prescribed activity; and
- (b) to ensure that accredited persons and scheme participants provide sufficient information to a person to enable the person to properly understand, and make informed decisions in relation to—
  - (i) the VEET scheme; and
  - (ii) a prescribed activity; and
  - (iii) their rights and obligations under the Act, the VEET Regulations and this code of conduct; and
  - (iv) the obligations of accredited persons and scheme participants under the Act, the VEET Regulations and this code of conduct; and
- (c) to ensure that accredited persons have a dispute resolution framework to handle complaints by energy consumers in relation to regulated actions carried out by accredited persons and scheme participants.

### 4 Principles

This code of conduct is intended to give effect to the principles that accredited persons and scheme participants carrying out a regulated action in relation to a prescribed activity must—

- (a) ensure that the action is carried out in a professional and ethical manner; and
- (b) protect the interests of energy consumers and promote confidence in the VEET scheme; and
- (c) meet high standards of conduct in their dealings with energy consumers and other persons; and
- (d) comply with—
  - (i) the Act; and
  - (ii) the VEET Regulations; and
  - (iii) the Secretary's specifications; and
  - (iv) this code of conduct; and
  - (v) the Australian Consumer Law (Victoria).

## Part 2—General responsibilities

### 5 Responsibility of accredited person

An accredited person must ensure that the following persons have complied with this code of conduct in relation to each regulated action taken by the person in relation to a prescribed activity for which a certificate may be created—

- (a) the accredited person;
- (b) any scheme participant acting for or on behalf of the accredited person in relation to the prescribed activity;

- (c) any other scheme participant who has engaged in a regulated action in relation to the prescribed activity.

#### **Note**

Regulation 15(2) provides that a certificate cannot be created in relation to a prescribed activity if this code of conduct has not been complied with in relation to the prescribed activity.

### **6 Responsibility to consider capacity of persons**

- (1) Before undertaking a regulated action in relation to residential premises, an accredited person or scheme participant must take reasonable steps to ensure that the regulated action is only carried out in the presence of a person of or over 18 years of age who is able to understand—
  - (a) the information provided about the prescribed activity; and
  - (b) the terms of any contract for the sale or supply of the prescribed activity.
- (2) For the purposes of subclause (1), **reasonable steps** include considering whether the person may have difficulty understanding the information or contract, including due to—
  - (a) mental illness; or
  - (b) mental impairment; or
  - (c) difficulty understanding the language in which the information or contract is provided.

### **7 Requirement to provide written information or document**

An accredited person or scheme participant who is required to provide written information or a document to a person under this code of conduct may, with the consent of the person, provide an electronic link to access that information or document.

## **Part 3—Lead generation and marketing activities**

### **8 Application of Part**

This Part sets out requirements that accredited persons and scheme participants must comply with when carrying out lead generation and marketing activities in relation to a prescribed activity, including those activities carried out in the course of undertaking a prescribed activity.

### **9 Identification for lead generation and marketing**

- (1) An accredited person or scheme participant must wear an identification card at all times when carrying out a lead generation or marketing activity in person in relation to a prescribed activity.
- (2) The identification card referred to in subclause (1) must display—
  - (a) the person's photograph; and
  - (b) the person's full name; and
  - (c) the person's contact details; and
  - (d) the person's ABN, unless paragraph (e) applies; and
  - (e) if a scheme participant is carrying out the lead generation or marketing activity as an employee or contractor of an accredited person or as an employee of a contractor of an accredited person—

- (i) the name and trading name of the accredited person or contractor on whose behalf the scheme participant is carrying out the activity; and
- (ii) the ABN of the accredited person or contractor on whose behalf the scheme participant is carrying out the activity.

## 10 Responsibility in relation to minors at residential premises

An accredited person or scheme participant involved in a lead generation or marketing activity for a prescribed activity at a residential premises must leave the premises immediately on establishing that no person of or over 18 years of age is present at the premises.

## 11 High pressure tactics

- (1) An accredited person or scheme participant involved in a lead generation or marketing activity for a prescribed activity must not use high pressure tactics on any person.
- (2) For the purposes of subclause (1), **high pressure tactics** include any of the following—
  - (a) pressuring, bullying or manipulating a person;
  - (b) acting in an aggressive or coercive manner towards a person;
  - (c) asking questions of a person that are intrusive, unreasonable or not relevant to the prescribed activity.

### 11A Contacting a person who has asked not to be contacted

An accredited person or scheme participant involved in a lead generation or marketing activity for a prescribed activity must not contact a person—

- (b) who has previously been contacted by the accredited person or scheme participant, or a person acting on behalf of the accredited person or scheme participant, in relation to the prescribed activity and who has requested no further contact.

### 11B Prohibition on lead generation or marketing through telemarketing

- (1) Subject to this clause, an accredited person or scheme participant must not—
  - (a) carry out a lead generation or marketing activity in relation to a prescribed activity while on a telephone call with a person, whether or not the person is at the person's ordinary place of residence or business premises at the time of the telephone call; or
  - (b) require or permit an employee, an agent or a contractor of the accredited person or scheme participant to carry out the activity described in paragraph (a); or
  - (c) acquire from any person (the **third party**) the contact details of a person who has expressed interest in a prescribed activity to the third party that are obtained by the third party as the result of a telephone call by the third party to the person without prior consent.
- (2) Subclause (1) does not apply if the person provides express prior consent to being telephoned by the accredited person or scheme participant for the purposes of obtaining information about the prescribed activity.
- (3) For the purposes of subclause (2), if a person provides express consent to being telephoned by an accredited person or scheme participant for the purposes of obtaining information about a prescribed activity, the consent is taken to be withdrawn—

- (a) 3 months after the day on which the consent is given; or
  - (b) on the expiry of any longer period for which the person specifies the consent is valid.
- (4) An accredited person or scheme participant does not contravene subclause (1) if—
- (a) the act or omission alleged to constitute the contravention by the accredited person or scheme participant was due to a reasonable mistake of fact; or
  - (b) the accredited person or scheme participant took reasonable precautions, and exercised due diligence, to avoid that act or omission.

## 12 Prohibition on lead generation or marketing through door-to-door sales

- (1) Subject to this clause, an accredited person or scheme participant must not—
- (a) carry out a lead generation or marketing activity in relation to a prescribed activity while calling on a person at the person's ordinary place of residence or business premises; or
  - (b) require or permit an employee, an agent or a contractor of the accredited person or scheme participant to carry out the activity described in paragraph (a); or
  - (c) acquire from any other person (the **third party**) the contact details of a person who has expressed interest in a prescribed activity that the third party has obtained as the result of calling on the person at the person's ordinary place of residence or business premises.
- (2) Subclause (1) does not apply if the person provides express prior consent to being visited by the accredited person or scheme participant for the purposes of obtaining information about a prescribed activity.
- (3) For the purposes of subclause (2), if a person provides express consent to being visited by an accredited person or scheme participant for the purposes of obtaining information about a prescribed activity, the consent is taken to be withdrawn—
- (a) 3 months after the day on which the consent is given; or
  - (b) on the expiry of any longer period for which the person specifies the consent is valid.
- (4) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity in person at a person's premises must leave the premises immediately on request.
- (5) An accredited person or scheme participant does not contravene subclause (1) if the act or omission alleged to constitute the contravention by the accredited person or scheme participant was due to a reasonable mistake of fact.

## 13 Information about VEET scheme

An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must—

- (a) give clear and accurate information about the VEET scheme to the person; and
- (c) take reasonable steps to ensure that the person understands that—
  - (i) the accredited person or scheme participant does not work for the Victorian Government; and
  - (ii) the prescribed activity and any products used or supplied will be provided by private providers and not by or on behalf of the Victorian Government; and

- (d) give the person a clear and concise explanation of the VEET scheme, avoiding the use of industry jargon.

### **13A Further information about VEET scheme**

- (1) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must inform the person that the VEET scheme is voluntary.
- (2) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must inform the person about this code of conduct and, on request, give the person a copy of this code of conduct.
- (3) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must give the person the dispute resolution information relating to the prescribed activity.
- (4) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must offer the person a copy of the VEET scheme consumer factsheet.

### **14 Information about prescribed activity**

An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must give the person—

- (a) the name of the accredited person who will be creating the certificate in respect of the prescribed activity; and
- (b) clear and accurate information about—
  - (i) the prescribed activity; and
  - (ii) how to use the product or service; and
  - (iii) the performance of the product or service; and
  - (iv) the suitability of the product or service for the person or the person's premises; and
  - (v) any applicable product service recommendations and requirements; and
  - (vi) the warranty that applies to the product or service and the installation works (if any); and
  - (vii) if the prescribed activity involves the replacement of a product, the decommissioning procedures that apply in relation to the product to be replaced.

### **15 Provision of other information**

- (1) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity must give a person all information necessary and appropriate to enable the person to make an informed decision in relation to the undertaking of the prescribed activity.

#### **Examples**

The accredited person or scheme participant must give a person any quotes, invoices or data sheets relevant to the prescribed activity.

- (2) If an accredited person or scheme participant provides a person with indicative values rather than a quote for undertaking a prescribed activity, the accredited person or scheme participant must ensure that the person understands that a final quote has not been given.

## Part 4—Contract requirements

### 16 Application of Part

An accredited person or scheme participant carrying out a prescribed activity for an energy consumer must comply with this Part before carrying out the prescribed activity for the energy consumer or entering into a contract with the energy consumer for the supply of the prescribed activity, whichever is earlier.

### 17 Statement of rights

Before entering into a contract with an energy consumer for the supply of a prescribed activity for a residential premises, an accredited person or scheme participant must ensure that the energy consumer is given a statement of the energy consumer's rights and obligations in relation to the contract, including rights and obligations under—

- (a) the Act; and
- (b) the VEET Regulations; and
- (c) this code of conduct; and
- (d) the Australian Consumer Law (Victoria).

### 18 Terms and conditions

- (1) Before entering into a contract with an energy consumer for the supply of a prescribed activity for a residential premises, an accredited person or scheme participant must ensure that the energy consumer is given information about the terms and conditions of the contract relating to the undertaking of the prescribed activity.
- (2) For the purposes of subclause (1), the information must include the following (if applicable)—
  - (a) standard fees and charges;
  - (b) payment terms;
  - (c) any consequences for failure to meet the payment terms;
  - (d) any applicable cooling off periods.
- (3) Information about cooling off periods required under subclause (2)(d) must be provided in the manner required by the Australian Consumer Law (Victoria), if applicable.

### 19 Consent to prescribed activity

Before entering into a contract with an energy consumer for the supply of a prescribed activity for a residential premises, an accredited person or scheme participant must ensure that the energy consumer—

- (a) has been informed of and understands the prescribed activity to be undertaken; and
- (b) consents to the undertaking of the prescribed activity.

### 20 Scheduling

- (1) An accredited person or scheme participant must ensure that a contract for the supply of a prescribed activity sets out the scheduling of the undertaking and completion of the prescribed activity.
- (2) For the purposes of subclause (1), the undertaking and completion of a prescribed activity includes all installation, replacement and decommissioning activities.

## 21 Information about the person who is to undertake the prescribed activity

A person undertaking a prescribed activity or any part of a prescribed activity for an energy consumer must ensure that the energy consumer is provided with the following information—

- (a) the person's full name;
- (b) the person's business telephone number;
- (c) the person's business email address;
- (d) in the case of a scheme participant undertaking the prescribed activity on behalf of an accredited person, the name of the accredited person on whose behalf the scheme participant is undertaking the prescribed activity.

### Part 5—Undertaking prescribed activities

## 22 Responsibility in relation to minors at residential premises

An accredited person or scheme participant undertaking a prescribed activity for an energy consumer for a residential premises must leave the premises immediately on establishing that no person of or over 18 years of age is present at the premises.

## 23 Notice to residents

- (1) An accredited person or scheme participant must not undertake a prescribed activity at a residential premises for an energy consumer unless the accredited person or scheme participant has taken reasonable steps to give reasonable notice of the prescribed activity to a resident of each residential premises that is likely to be directly affected by the prescribed activity.
- (2) The notice must specify—
  - (a) the nature of the proposed prescribed activity; and
  - (b) the date and time that the prescribed activity is to be undertaken; and
  - (c) the essential services (if any) that may be affected by undertaking the prescribed activity; and
  - (d) the energy consumer on whose behalf the prescribed activity is undertaken; and
  - (e) the full name of the accredited person or contractor (other than a subcontractor) of an accredited person—
    - (i) who is undertaking the prescribed activity; or
    - (ii) on whose behalf the scheme participant is undertaking the prescribed activity; and
  - (f) a business telephone number for the person referred to in paragraph (e); and
  - (g) a business email address for the person referred to in paragraph (e).
- (3) For the purposes of subclause (1), premises may be **directly affected** by a prescribed activity if the prescribed activity will affect—
  - (a) essential services to the premises; or



- (b) access to the premises.

#### **24 Time of undertaking prescribed activity**

- (1) An accredited person or scheme participant undertaking a prescribed activity must ensure that all reasonable steps are taken to commence, undertake and complete the prescribed activity on the dates and at the times agreed with the energy consumer.
- (2) For the purposes of subclause (1), the undertaking and completion of a prescribed activity includes all installation, replacement or decommissioning activities.
- (3) The accredited person or scheme participant undertaking the prescribed activity must ensure that the energy consumer is advised as soon as practicable if a prescribed activity cannot be undertaken and completed on the dates and times agreed with the energy consumer.

#### **25 Prescribed activity to be undertaken in accordance with VEET Regulations and Secretary's specifications**

An accredited person or scheme participant undertaking a prescribed activity must ensure that the prescribed activity is undertaken in accordance with—

- (a) the VEET Regulations; and
- (b) the Secretary's specifications.

#### **26 Information at completion of prescribed activity**

On completion of a prescribed activity, the accredited person or scheme participant who completed the prescribed activity must give the energy consumer the following information—

- (a) the name, telephone number and email address of the accredited person who completed the prescribed activity or on whose behalf the prescribed activity was completed; and
- (b) if applicable, the name, telephone number and email address of any scheme participant who undertook the prescribed activity or part of the prescribed activity; and
- (c) the dispute resolution information relating to the prescribed activity; and
- (d) if applicable, a copy of the manufacturer's instructions and warranty for a product supplied or installed by the accredited person or scheme participant.

### **Part 6—Non-complying products or services**

#### **27 Non-complying products or services**

- (1) This clause applies if an accredited person becomes aware at any time that a product or service supplied to an energy consumer as part of the undertaking of a prescribed activity does not comply with the requirements of the following as they applied at the time of installation—
  - (a) the VEET Regulations;
  - (b) the Secretary's specifications;
  - (c) the Australian Consumer Law (Victoria).
- (2) The accredited person must ensure that immediate steps are taken to notify an energy consumer of the failure to comply with a requirement in relation to a product or service supplied to the energy consumer.

- (3) If a product or service to which this clause applies is fixed or replaced, the accredited person must ensure that the product or service as fixed or replaced complies with the requirements of the following in relation to the prescribed activity—
- (a) the VEET Regulations;
  - (b) the Secretary's specifications.

### **Part 7—Dispute resolution framework**

#### **28 Dispute resolution framework**

- (1) An accredited person must ensure that a framework is in place to deal with consumer complaints concerning the conduct of—
- (a) the accredited person; and
  - (b) any scheme participants carrying out a regulated action for or on behalf of the accredited person; and
  - (c) any other person carrying out a regulated action in relation to a prescribed activity for which the accredited person will be creating a certificate.
- (2) The framework must cover consumer complaints concerning the conduct of the accredited person and scheme participants in any of the following—
- (a) the carrying out of a regulated action;
  - (b) the scheduling of the prescribed activity;
  - (c) the creation of certificates for the prescribed activity.
- (3) The framework must include—
- (a) an accessible internal dispute resolution process to deal with consumer complaints, including provision for a complaint to be brought on behalf of a consumer; and
  - (b) the provision to consumers of information about the internal dispute resolution process; and
  - (c) the provision to consumers of the following information if the internal dispute resolution process does not resolve the complaint—
    - (i) the Consumer Affairs Victoria website ([www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)); and
    - (ii) information about ESC dispute resolution and support services, including relevant ESC telephone numbers; and
    - (iii) information about any other external dispute resolution processes that may be available to them; and
  - (d) if a complaint does not relate to a matter covered by the framework, the provision to consumers of—
    - (i) information about the appropriate person or body to handle the complaint; and
    - (ii) assistance to contact that person or body, and cooperation with that person or body to resolve the complaint, if possible.

#### **29 Handling of complaints under dispute resolution framework**

An accredited person must ensure that consumer complaints under the internal dispute resolution process are handled in a timely and fair manner, including by ensuring that—

- (a) a complaint is acknowledged within 5 business days after it is received; and

- (b) all reasonable steps are taken to complete the internal dispute resolution process within 20 business days after the date on which the complaint is received.



## Document version control

Version	Amendments made	Date published
1.0	First release	24 June 2022
1.1	Update to incorporate industry feedback	28 October 2022
1.2	Update to reflect amendment to VEU code of practice to include ban on cold-call telemarketing and doorknocking via amendment regulations	1 May 2024
1.3	Update to reflect commencement of doorknocking ban via amendment regulations	1 August 2024