



Energy Assured Limited (EAL)

A proposed self-regulatory code for door to door sales in the energy industry (subject to ACCC Authorisation)

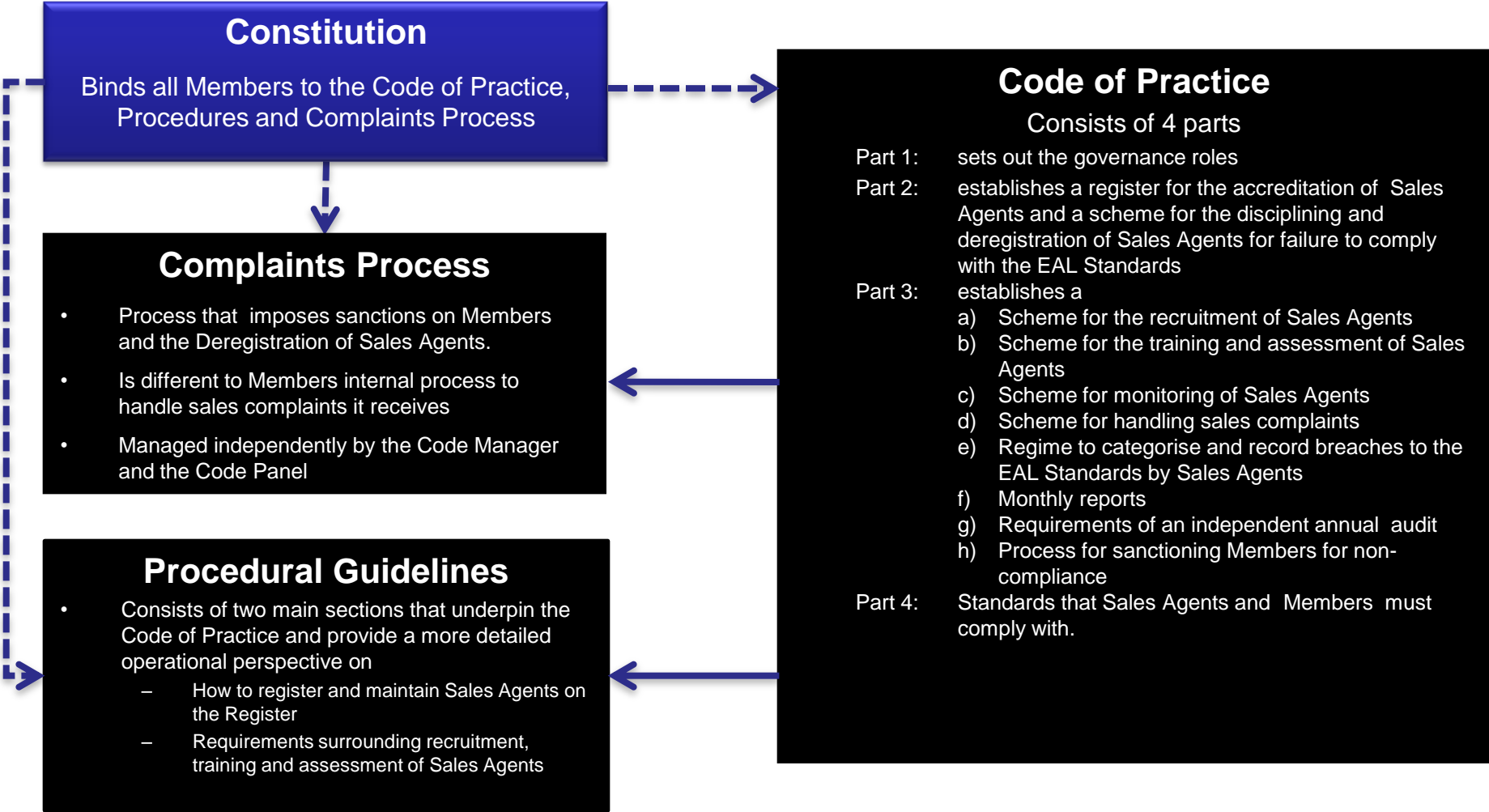
Presentation in support of Application A91258 & A91259

Objectives of the Code



- Over 40,000 premises are knocked on per day by energy door to door Sales Agents delivering choice to Consumers in what has traditionally been considered a product requiring “low involvement” decision (AEMC).
- Whilst marketing complaints arising out of door to door sales is fairly low as a proportion to premises visited, due to its highly “public” face there is still some perception that door to door marketing lacks the necessary levels of regulation to ensure that appropriate conduct is maintained
- The Sales Codes of Practice (**the Code**) sets out an industry self-regulatory framework for the conduct of door to door sales activities to both small business and residential customers in the retail energy sector
- Unlike any other regulatory code, not only are Energy Retailers that subscribe to the Code, Members, but so are the Energy Marketing companies that they may use to perform door to door sales
- Managed by an independent governance framework the main aim of the Code is to:
 - improve the standard and effectiveness of door to door selling
 - reduce sales complaints that arise from miss selling as a proportion to premises visited
 - promote Consumer confidence and security in door to door sales in the retail energy sector
- To achieve this the Code, once Authorised, will establish:
 - a central register of Sales Agents that have been accredited under the scheme
 - a national scheme for the recruitment, training and assessment of Sales Agents
 - a national scheme for the monitoring of door to door Sales Agents, where any breach of the Standards may result in disciplinary measures and deregistration from the register for 5 years
 - a scheme for the handling of complaints made against Sales Agents and Members to the Code
 - a regime which ensures Member compliance monitoring through monthly reports and annual audits
 - a process for imposing sanctions on Members for failure to comply with the Code

Proposed Structure



Part 1 - Governance

Governance Framework



Code Panel Committee

- Independent 4 Member Panel who will meet on a quarterly basis
- Overview of operational performance
- Hears appeals from Code Members & Sales Agents
- Approves recommendation on certain sanctions imposed by Code Manager

EAL

- Independent board chaired by Exec Director of ERAA
- Representation from both Member Retailers and Energy Marketing companies
- Strategic management of the regime
- Responsibility in promoting the Code
- Produces Annual Report

Code Manager

- Independent Code Manager
- Oversees promotion of Code
- Monitor and measures Members compliance
- Develops appropriate training for Members
- Investigation of alleged Code Breaches and Sales Complaints
- Recommend sanctions for Code Breach

Code Auditor

- Independent body (registered firm of auditors)
- Annual assessment of Member compliance with the Code
- Provision of Member reports and overall summary to EAL & Stakeholders

Independent Firm

- Independent review on effectiveness of Code with Members and Stakeholders
- Review done every two years
- List of recommendations produced

Major changes in revised Code



- **Annual Report that is published and provides:**
 - report from the Chairman of EAL and Chairman of the Code Panel
 - overview of the Code
 - overview of compliance audits undertaken
 - complaints statistics under the independent EAL Complaint Process
- **Role of EAL to promote the Code:**
 - information on its web site and member web site
 - communicating progress of the Code to relevant Stakeholders
 - undertake marketing activities to ensure that the Code is visible and understood amongst Stakeholders and Consumers
- **Composition and role of the independent Code Panel now enshrined in the Code:**
 - one person with relevant experience in the energy retailing industry
 - one person with relevant experience in a government body that administers Consumer laws or Marketing Codes that govern door to door sales
 - one person with relevant experience in Consumer advocacy
 - one person with relevant legal experience
 - meets quarterly to discuss developments of the Code and makes recommendations
- **Independent review of the effectiveness of the Code done every two years:**
 - done in consultation with EAL and Stakeholders
 - transparency in recommendations adopted, and for those not adopted, details as to why they were not adopted

Part 2 – The Register

The Energy Assured Register



Registry Portal Task List **Generic Search** Specific Search Add Agent Reassign Agent Reports

Criteria

EA Registration Number

Passport Number

Driver's License

Proof of ID

Date of Birth <d/MM/yyyy> 15

Results

PhotographicThumbnail	SIDN	MemberSpecificAgentId	FirstName	Surname	CurrentStatus	RegistrationLevel	StartDate	AwardDate
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energy assured

Logged in as: Manager. [Logout](#) [Help](#) [Change Password](#) [Change Security Question](#)

Accredited Sales Agents have Energy Assured logo affixed to ID Badges once registered identifying them as being accredited and monitored under the Code of Practice

Subject to Authorisation

- A comprehensive register of all Sales Agents managed by Members through a secure password protected web browser
- For a Sales Agent to perform Sales Activities for a Member they must be registered and assigned to that Member on the Registry
- Agents will be unable to be registered unless they pass recruitment requirements
- Searchable and available 24 hours by unique identifier
- Records key information including photo and other ID information
- Records accreditation status history and not specific details for Privacy
- Allows Members to monitor only their Agents and prospective agents, and unable to view the whole Register
- Updated daily and often within hours of a significant status change
- Allows industry to address "Rogue" Agents.

Accreditation Status



Accreditation Status	Description	Duration of Status	Privileges
Provisional	Applies to new Sales Agents pending completion of training and passing Competency Assessment	Between four and six weeks	Can undertake Sales Activities under supervision by an Experienced Sales Agent after Off-job Training and Off-job Assessment have been successfully completed Can display EAL Logo
Approved	Sales Agent has passed Formal and Annual Competency Assessment by an approved Assessor	1 year	Can undertake Sales Activities Can display EAL Logo
Development	Sales Agent has not passed Competency Assessment or has committed a Level 2 Breach under the Code of Practice and is undergoing further training.	Up to 15 Business Days	Can undertake Sales Activities under supervision by an Experienced Sales Agent Can display EAL Logo
Suspended	Sales Agent suspended from undertaking Sales Activities pending outcome of investigation and determination of Deregistration Application as a result of an alleged Level 3 Breach under the Code of Practice.	Up to 15 Business Days or until the Deregistration Application is finally determined	Cannot undertake Sales Activities or display EAL Logo
Deregistered	Agent has been deregistered in accordance with the Complaints Process	5 Years	Cannot undertake Sales Activities or display EAL Logo
Inactive	Sales Agent on authorised leave	Up to 3 Months	Cannot undertake Sales Activities or display EAL Logo
Active	Sales Agent returned from leave but not yet re-taken and passed Competency Assessment	Generally up to 10 Business Days	Can undertake Sales Activities under supervision by an Experienced Sales Agent Can display EAL Logo
Leaver	Sales Agent is no longer engaged by Member or is "Inactive" for more than 3 months	Unspecified	Cannot undertake Sales Activities or display EAL Logo

- Status of Development based on Level 2 Breach
- Deregistration of Sales Agent for 5 years on Level 3 Breach
- Members must have internal dispute resolution in place to administer Accreditation Status changes (excludes Deregistered status)
- Status changes remain on the system
- Procedures Guideline support this section of the Code

Part 3 – Member Obligations

Promotion of the Code

Members must:

- ensure that Sales Agents always have a copy of the Code on them
- make copies of the code available to Consumers on request via email or post
- display information of the Code on their website
- display the EAL Logo on their sales agents ID badge
- ensure that as part of their post sale procedures they verify with the Consumer that they were made aware of the Code and its purpose
- provide Consumers that enter into an energy supply contract, or on request, a copy of the **EAL marketing material**, which includes:
 - that the Energy Retailer (and the Energy Marketer that represents them) is a member of EAL
 - why the Code was established
 - a summary of the Standards
 - how the Consumer can make a complaint or provide feedback about the Sales Agent
 - implications on Sales Agents should they breach the Standards
 - that the sales agent has been recruited and assessed in accordance with the Code
 - a list of the members of EAL
 - contact details of the Energy Retailer
 - the EAL website address
 - that the Code operates separately to the energy Ombudsman scheme and that they may separately utilise that scheme if they wish
 - the role of the Code Manager and Code Panel

Recruitment



- Uniform industry approach to the recruitment of sales agents
- Agents to be recruited using a:
 - 100 Point Identification Check Sheet
 - criminal history check must be performed
 - check of the Energy Assured Register to ascertain whether the Sales Agent has been previously deregistered and also to review Accreditation history

Registry Portal Task List Generic Search Specific Search **Add Agent** Reassign Agent Reports

Personal Details

Id

First Name

Middle Name

Surname

Passport Number

Driver's License

Proof of ID

Date of Birth <d/MM/yyyy>

Photo Upload

?

Employment Details

Previous Registered

Energy Retailer

Employed Via

Energy Marketer Name

Sub Agency Name

Add New Agency

Start Date <d/MM/yyyy>

Award Date <d/MM/yyyy>

Accreditation Expiry Date <d/MM/yyyy>

Registration Level

Accreditation Status

State

Criminal History Verified

100 Point Check Verified

Agent Consent

Consent Form

energy assured Change Password Change Security Question

Logged in as: Manager, Logout Help

100 Point Identification

IDENTIFICATION	SCORE	TICK
Primary		
Passport – a current passport or expired passport (can be expired maximum of two years, but not cancelled)	70	
Citizenship certificate – or certified copy	70	
Birth Extract/Birth certificate – or certified copy	70	
Secondary		
Licence issued under an Australian State law (e.g. Drivers licence)	40	
Identification Card issued under an Australian State Law (e.g. Proof of Age)	40	
Employment ID		
• ID card issued by employer (name & address)	35	
• ID card issued by employer (name only)	25	
Letter from employer (within last two years)		
• Confirming name and address	35	
Student ID Card (Tertiary)		
• Must contain a photo and/or signature	40	
Rates Notice	25	
Credit/debit cards/passbooks (only one per institution)	25	
Medicare Card (signature not required)	25	
Membership card (club, union or trade, professional bodies)	25	
Foreign Driver License (name & signature)	25	
Records of a public utility – phone, water, gas or electricity bill (must have name & address)	25	
Rent receipt from a licensed real estate agent	25	
Recent arrival in Australia– Valid Passport	100	
TOTAL		

Training & Competence Monitoring



- Training programs available for use by Members that include, as a minimum, the requirements under legislation, in addition to obligations under the Code
- All members to train new Sales Agents initially over a three stage approach and then assess them on an ongoing basis based on the Standards:
 - in house workshop training (Off-job Training)
 - supervised in field till deemed competent (On-job Training)
 - formally assessed within 4 weeks of being in the field by an independent assessor
 - **random field assessment of Sales Agents by an independent assessor conducted for at least one day every two months**
 - **post sale verification procedure on all customers that enter into a contract with a Consumer**
 - tested as a minimum - yearly
- Assessments done by approved and trained individuals or assessors, with records kept in HR files
- Where it is identified in the assessment that a proven breach of the standards has occurred this must be recorded and, if applicable, reflected on the Register
- Where a Sales Agent returns from an approved period of leave of absence they are to be supervised by an experienced individual until assessed competent to resume sales activities unsupervised

Sales Agent	Name	Energy Assured ID Number		
	Date of Assessment	Date of previous Assessment		
Assessor	Name	Energy Assured ID Number		
Personal Preparation	Appearance		YES	NO
	ID card visible and in good condition		YES	NO
	Sales presenter up to date and complete		YES	NO
	Walk sheet understood and current		YES	NO
Out in the field	Uses walk sheet (or equivalent) accurately		YES	NO
	Respects "no sales callers" signs		YES	NO
	Respects property and OH&S obligations		YES	NO
Approach to consumer	States name		YES	NO
	Presents ID		YES	NO
	States purpose of visit		YES	NO
	States name of Company (Member) they represent		YES	NO
Presentation	Established consumer is decision maker		YES	NO
	Uses presenter during sales pitch		YES	NO
	Carries out accurate price comparisons		YES	NO
	Correct feature of the product is given (inclusive of eligibility for concessions, rebates or grants)		YES	NO
	Does not use cooling off as a sales pitch		YES	NO
	Does not provide false, derogatory or misleading statements		YES	NO
	Recognises when to end visit		YES	NO
Sales Agent behaviours	Courteous & Professional		YES	NO
	Does not exaggerate or use high pressure techniques		YES	NO
	Takes into account consumer ethnicity/diversity		YES	NO
	Recognises and respects a vulnerable customer situation		YES	NO
Contract	Ensure consumer understands that they are switching retailers		YES	NO
	Leaves a copy of the contract & right to cancel notice		YES	NO
	Leaves welcome pack inclusive of complaints procedure		YES	NO
	Leaves pricing form		YES	NO
	Leaves consumer written acknowledgement & price fact sheet where required		YES	NO
Contract administration	Leaves contact details		YES	NO
	All boxes filled in correctly		YES	NO
	Signed and dated by consumer		YES	NO
Other	Signed by agent with ID number easily displayed		YES	NO
	Understands complaints & levels raised against them		YES	NO
	Displays behaviours that addresses the complaint		YES	NO
	Sales Agent Cancellation Rate within average benchmark		YES	NO
	Other KPI's		YES	NO

Sales Complaints Handling Process



- Process that focuses on complaints made about the conduct of a **Sales Agent**
- Different to the EAL Complaints Process, which is the process where applications/appeals are made for the deregistration of Sales Agents and complaints are lodged about Members
- Energy Retailers must have an internal sales complaint handling process for receiving, recording, and actioning sales complaints
- Complaints about a sales agent can be made by anyone
- Complaints can also be lodged with the Code Manager who will forward the complaint to the appropriate Energy Retailer
- All complaints must be actioned within 5 business days of being received and feedback must be given to the complainant within 21 days of receiving the complaint. If the Consumer is not satisfied with the complaint then contact details of the Ombudsman must be given
- For each sales complaint the Energy Retailer must record at least:
 - the date of the incident
 - the date of the sales complaint
 - the reason for the sales complaint
 - the date and description of how the sales complaint was resolved
 - any corrective action, inclusive of disciplinary action on the Sales Agent
 - if a proven breach of the Standards occurred the Level of the Breach must be recorded in a separate register called the “Competence Register”

Levels of Breaches for Sales Agents



- To ascertain appropriate level for proven breaches, Energy Retailers must take into account:
 - the seriousness of the breach
 - whether the breach has been repeated by the sales agent
 - whether the breach is part of a persistent course of different breaches
 - any mitigating or aggravating circumstance that warrant considering another Level
- Levels recorded against a Sales Agent must be kept by the Energy Retailer for two years

Level 1

- Minor breach
- Warrant some simple coaching or retraining

Examples of potential breaches:

- Sales agents did not display ID badge
- Failure to provide Consumers with complete details of EAL
- Information on walk sheets not properly filled
- Considered not courteous or respectful

Level 2

- Serious or Persistent breach
- Warrant retraining and must change status in register to “Development”

Examples of potential breaches:

- Two level 1 breaches in different months in the course of 3 consecutive months
- Only allowing Consumer information if they sign a contract
- Misinforming about termination fees
- Promoting a discount that doesn't apply
- Privacy breaches

Level 3

- Wilful or Gross Misconduct
- Agent must be put on “Suspension” and a “Deregistration” application sent to Code Manager. Code Manager reviews evidence and Deregisters agent if proven breach.

Examples of potential breaches:

- Two level 2 breaches in different months in the course of 6 consecutive months
- Forgery and fraud
- Taking advantage of Consumers circumstances
- Intentionally misleading or deceptive conduct
- Entering a Consumer's premise without permission

Competence Record Register



- **Different to the Sales Complaint Record and the EAL Register**
- Register that records all proven breaches by Sales Agents that arise out of external sales complaints and also breaches discovered directly by the Energy Retailer or Energy Marketer when undertaking competency assessments
- **Competence Register must contain:**
 - details of the Sales Agent that breached the EAL Standards
 - the date of the breach and the date of the incident
 - the date that the Level of breach was attributed
 - the state and territory in which the breach occurred
 - the level of the breach
 - the section of the EAL Standard breached
 - a brief description of the breach
- **Provided to Code Manager on a monthly basis so to:**
 - ascertain whether Accreditation Status's on the EAL register is being maintained when Level 2 & 3 breaches are recorded against a Sales Agent
 - ensure consistency in breaches being applied across industry participants
 - be used to investigate systemic issues that arise across the industry
 - identify whether an Energy Retailer is recording higher rates of Sales Complaints that warrant investigation

Annual Audit - Compliance



- Annual audit done by registered auditor on Energy Retailer
- Compliance audit to cover (as a minimum):
 - issues relating to the application of the Standards
 - adequacy of recruitment, training, assessment and monitoring of Sales Agents
 - adequacy of the Sales Complaint handling processes
 - consistency of Levels applied to complaints
 - record keeping and reporting
- Individual audit report provided to Energy Retailer and Code Manager:
 - details the procedures and documents that were reviewed
 - sets out the results of the review
 - identify areas of non compliance
 - action plans to address, which will be monitored by the Code Manager on an ongoing basis
- Consolidated report provided to EAL Board, Members, Code Panel and Stakeholders:
 - the extent and types of breaches of the EAL Standard (includes breaches direct from member)
 - procedures and documents that were reviewed, and outline major or important areas of non compliance
 - corrective measures that have been prescribed to address compliance issues
 - any other relevant observations

Monthly Reporting- Compliance



- Reports submitted to Code Manager on a monthly basis to ensure constant vigilance
- Scope of reports must include at least:
 - number of Sales Agents registered on the EAL Register that is assigned to the Energy Retailer
 - relevant indicators to ensure data integrity of EAL Register
 - Number of consumers contacted in the month, determined by walk sheet data
 - detail of sales complaints received (inclusive of complaints referred to Energy Retailer by the relevant Ombudsman, Stakeholder or consumer group)
 - any new record in the Competence Record Register
 - progress on any action item arising from the annual compliance audit or Sanction imposed under the Complaints Process
- Reports used by Code Manager to ensure Member compliance to the Code, and where areas of concern are identified will inform investigative action

Enforcement on Members



The EAL Complaints Process

- Complaints can be made by a Member, Auditor, Ombudsman, regulator or regulatory body for contravention of Code by filling in appropriate paperwork (Form C)
- Complaint investigated by the Code Manager:
 - whether the Member has materially infringed the Code and it is not possible to resolve the matter satisfactorily
 - there is evidence of a serious and persistent failure of the Member to observe the Code
 - the Code Manager has previously warned the Member of the infringement and given sufficient notice that non-compliance would result in a Sanction
- Code Manager can apply either a Sanction 1, 2, 3 or 4
- Sanction 5 if a Sanction 1,2,3 or 4 has been imposed previously
- Sanction 6 if a Sanction 1,2,3,4, or 5 has been imposed previously
- Any Sanction above 1, must be approved by a Code Panel member
- Members can appeal the decision to up to 3 Code Panel members, of which none could have been involved in the authorisation to appropriate the Sanction being appealed
- Code Manager to give regard to previous decisions made about sanctioning members for similar breaches to ensure consistency
- Sanctions to be kept on records for two years

The Sanctions

1. The EAL Member provides a written undertaking that the breach will not be repeated
2. Require an independent Code Auditor to carry out an audit of the area of activity where the breach occurred
3. Issue a formal letter of admonishment to the EAL Member and inform the board of EAL that the letter of admonishment has been issued and the section of the Code that has been breached, but without identifying the EAL Member
4. Issue a formal letter of admonishment to the EAL Member and inform the board of EAL that the letter of admonishment has been issued and the section of the Code that has been breached and an identification of the EAL Member
5. Issue a formal letter of admonishment to the EAL Member and inform the board of EAL, other stakeholders, and the public that the letter of admonishment has been issued and the section of the Code that has been breached and an identification of the EAL Member
6. Deregister (permanently or temporarily) the member Company's membership of EAL and make a public statement. The public statement will identify the EAL Member, state the section of the Code that has been breached and the period of the Deregistration

If Energy Retailer engages a marketing company to perform sales activities for them, and upon investigation the breach is attributable to the Energy Marketer than

1. Both the Energy Retailer and Energy Marketer may be subject to the Sanction
2. A different Sanction may be imposed on the Energy Marketer as is to the Energy Retailer
3. Only the Energy Marketer receives the Sanction

Part 4 – The Standards

The EAL Standards



Members, their agents/contractors and all Sales Agents must comply with all applicable licence conditions and applicable laws, in addition to the following EAL Standards:

Entering into a Contract

- Correct authority to enter into a contract is ascertained
- Ensuring informed consent
- Explanation of product & pricing
- Explanation of cooling off period
- Right of Cancellation
- Contact details of Energy Retailer and details of the Sales Agents
- Copy of the contract and any documentation
- Information about the retailers Sales Complaint Handling Process
- **Energy Retailers must**
- Design agreement forms that are clear
- Ensure that they have post sales verification on all contracts that are entered into and ensure that these procedures also monitor customer satisfaction with the way the sale was conducted

Consumer Contact

- Only allowed to make calls within permitted times
- Respect notices that clearly states that Sales Activity is not allowed
- Identify themselves appropriately (inclusive of producing a clearly visible identification card that displays the EAL logo)
- Not misrepresent themselves
- Take account of the Consumer's personal circumstances
- Immediately cease contact when the Consumer indicates that contact is inconvenient, unwelcome or inappropriate
- Record no contact information
- Provide a contact number on request
- Provide the Consumer with a copy of EAL marketing material on Consumer request or on entering into a contract
- Record time of contact on walk sheets

Ethical Conduct

- Must be courteous and professional
- Not use misleading or deceptive statements, in particular over potential savings or false assumptions
- Not engage in unconscionable conduct
- Not engage in high pressure tactics
- Not exploit a person's inexperience, vulnerability, credulity or loyalties
- Ensure that safety is maintained
- Not commit forgery or fraud

Public Benefits of the Code



- **With the Code:** the Code of Practice compliments and reinforces existing regulation, ensuring Consumer confidence in door to door sales by (yet not limited to):
 - binding Energy Marketers to the Code
 - mandating uniform identification, criminal history checks and the review of Sales Agents' accreditation history if previously registered
 - applying a national uniform training, assessment and monitoring process, that reinforces conduct to the Standards and plays an influential role in changing behaviours in the market
 - ensuring that appropriate action is taken on a Sales Agent through a central registry process, where proven and systemic complaints may result in deregistration preventing the Sales Agent moving to another Energy Retailer
 - members adopting independent post sales verification procedures to ensure Consumer consent and gauge Consumer satisfaction
 - the rigorous monitoring and sanctioning of not only Sales Agents but also Energy Retailers and Energy Marketers that conduct door to door sales
 - constant vigilance through compliance audits and monthly reports that are focussed and periodic which makes it unique to existing state-based auditing processes
 - allowing transparency in Code development with the publishing of annual reports and distribution of promotional marketing material
 - providing Stakeholders and Consumer groups with an effective tool for communicating centrally to the industry about Consumer issues on door step selling
 - Public benefits are dealt with in detail in EAL's submissions in support of its ACCC Authorisation Application A91258 & A91259
- **Without the Code:** these benefits would not be realised