

DRAFT Sustainable Payment Plans Framework

Consultation document

March 2016

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# Overview

Payment plans are one of the main ways that retailers can help customers who are experiencing financial difficulties to better manage their energy bills. Under the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR), energy retailers must establish payment plans by having regard to a customer’s capacity to pay, any amount they owe, and how much energy they expect to use over the next year.

The Australian Energy Regulator (AER) has worked collaboratively with a wide range of stakeholders to develop this good practice framework for assessing customers’ capacity to pay.

The Sustainable Payment Plans Framework (Framework) is intended to improve the quality of capacity to pay conversations while still allowing flexibility and encouraging retailers to offer extra assistance to customers. Its aim is to achieve better outcomes by helping customers and retailers agree to payment plans that are affordable and sustainable.

## Making a submission

We are seeking stakeholder feedback on the Framework, particularly:

* the Draft Framework’s overarching principles and specific good practice elements
* how the Framework should be implemented.

As we have had extensive discussions with a wide range of stakeholders since commencing the project in October 2015, we consider that most interested stakeholders will have some familiarity with the content of the Draft Framework and our proposed approach. In this context, we consider a four-week consultation period (rather than our usual six-weeks) will be enough time for interested parties to make submissions.

Submissions should be sent to [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au) by Wednesday, 13 April 2016.

For any inquiries contact Simon Kidd, Assistant Director, Retail Markets, [simon.kidd@aer.gov.au](mailto:simon.kidd@aer.gov.au) or (03) 9290 1913.

Further information about the project can be found on our project web page.[[1]](#footnote-2)

**Confidential submissions**

We prefer that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will therefore be treated as public documents unless otherwise requested, and will be placed on our website ([www.aer.gov.au](http://www.aer.gov.au)).

Parties wishing to submit confidential information are asked to:

* clearly identify the information that is subject of the confidentiality claim
* provide a non-confidential version of the submission for publication, in addition to the confidential one.

We do not generally accept blanket claims for confidentiality over the entirety of the information provided and such claims should not be made unless all information is truly regarded as confidential. The identified information should genuinely be of a confidential nature and not otherwise publicly available.

In addition to this, parties must identify the specific documents or relevant parts of those documents which contain confidential information. We do not accept documents or parts of documents which are redacted or ‘blacked out’.

# Background

## AER hardship review

In January 2015, we published a review of energy retailers’ customer hardship policies and practices.[[2]](#footnote-3)

The review made a number of findings and observations about energy retailers’ approaches to dealing with customers experiencing payment difficulties, including how they approached establishing payment plans with customers.

These included numerous examples of good practice in regard to some retailers’ approaches to negotiating affordable repayment amounts with customers, but also practices and attitudes that contributed to poor consumer outcomes.

Specific insights included:

* A number of retailers demonstrated approaches based on empathy and respect, and a strong commitment to help customers. While these retailers had different specific approaches to determining affordable repayment amounts, their efforts to respectfully engage customers increased the likelihood of customers staying on and successfully completing a payment plan.
* Conversely, a number of other retailers were less understanding of customer payment difficulties. For these retailers, debt recovery appeared to be their overriding objective.
* There was a degree of confusion and uncertainty among retailers about their obligations. For example, consumer advocates reported some retailers incorrectly requiring customers to see a financial counsellor as a pre-requisite to starting a payment plan.
* Customers felt compelled to accept repayment amounts retailers suggested, even if they couldn’t afford them, leading them to fall further behind and potentially being excluded from hardship programs.

The report noted that we would work collaboratively with retailers and other stakeholders to develop and implement strategies to improve outcomes for customers experiencing financial difficulties.

## Framework development

In October 2015, we commenced preliminary discussions with stakeholders about developing a practical framework, based on identified and agreed good practice, which retailers could adopt to guide their engagement with customers when having conversations about a customer's capacity to pay in the context of setting up payment arrangements.

Over the past months, we have engaged with large, medium and small energy retailers, financial counsellors, consumer advocates, energy Ombudsman schemes and other interested stakeholders to develop the Draft Framework. Many of these stakeholders provided feedback to inform specific aspects of the Draft Framework **(Attachment 1).**

Key milestones in our engagement process are detailed below.

###### Initial discussions with stakeholders

In October 2015 we advised a number stakeholder groups, including energy retailers, financial counsellors and consumer advocates, of our intention to develop a good practice framework for undertaking capacity to pay discussions when establishing payment plans.

We invited them to provide preliminary comments about the scope and approach before we started drafting the Framework. These discussions led to us developing a preliminary outline of the Framework for further discussion with stakeholders.

###### Discussion with the AER’s Customer Consultative Group

We sought feedback from our Customer Consultative Group (CCG) members on an early draft Framework at the group’s meeting on 10 November 2015.

CCG members were supportive of the project and approach and provided feedback and input to assist us to further develop the Framework.

###### National retailer workshop

On 17 November 2015 we hosted a national workshop with more than 30 retailer representatives to discuss the draft Framework.

###### Individual discussions with stakeholders

Between November 2015 and January 2016 we conducted discussions with individual retailers and other stakeholders to further explore issues raised in the earlier forums, concerns or questions about aspects of the Framework.

###### National stakeholder forum

On 28 January 2016 we held a national stakeholder forum that was attended by retailers, financial counsellors, government departments, energy ombudsmen schemes, consumer representatives and other interested stakeholders. This forum provided an opportunity to discuss an updated draft of the Framework that we circulated in January informed by the stakeholder feedback we had received to date.

# The Draft Framework

## Objectives

The Draft Framework consists of two main elements:

* A set of principles to guide retailers’ conversations with customers about their ‘capacity to pay’
* A flow chart that sets out good practice actions and considerations at different stages of a payment plan.

The Draft Framework aims to improve outcomes for energy customers who are experiencing financial issues and/or have a debt with their energy retailer. Its key objectives are to:

* improve retailers' ability to negotiate sustainable and affordable payment plans that:
* take account of a customer's capacity to pay
* customers can successfully manage and ultimately complete
* reduce the likelihood a customer's debt will grow more than necessary.
* highlight good practice alternatives to some of the concerns identified in our hardship report
* enhance the quality of retailers' engagement with customers by encouraging open, clear and ongoing engagement based on trust, respect and empathy.

Outcomes we would expect from retailers adopting the Framework are:

* an increase in customers successfully completing payment plans
* a reduction in customers failing payment plans
* an increase in customers who proactively take steps to contact and discuss problems or changed circumstances with their retailer.

We believe this approach will benefit customers, as it increases the likelihood a payment plan will achieve the important goal of preventing a customer’s debt from growing more than necessary, without causing an unsustainable financial burden.

It also benefits retailers by increasing the likelihood a customer will successfully make their agreed repayments, and take steps to proactively engage with their retailer in the event their circumstances change.

## Framework principles

In drafting the Framework, we consider that retailers should have the flexibility to develop and implement their own approaches to customers experiencing financial issues informed by the good practices identified in the Framework.

To achieve this, we have proposed a principles-based, rather than a prescriptive approach.

The principles we consider should guide all retailers’ engagement with customers when discussing payment plans and a customer's capacity to pay are:

* **Empathy and respect** – including that retailers should avoid blame and judgement, and act in good faith towards customers
* **Flexibility** – including accepting that customers' circumstances vary, and that financial issues may be short or long-term
* **Consistency** – including that retailers consistently apply the Framework's principles to their engagement with payment plan customers, so that those with the same circumstances will receive the same standard of assistance.

### Stakeholder feedback about the principles

Stakeholders indicated they supported the proposed principles-based approach and the specific principles identified.

Feedback has included that the Framework principles should:

* include reference to retailers' being flexible and taking into account a customer's circumstances when communicating with them – for instance by offering call-backs for customers on mobile phones and offering translation services to customers when their first language is not English
* highlight the importance of avoiding blame and judgement
* include specific examples of good practice, such as retailer agents introducing calls when transferring, to avoid customers having to repeat the detail of their circumstances.

We have amended the Draft Framework's principles to address these issues.

**Issue 1 – We are interested in stakeholders' views on the proposed principles-based approach and the specific principle and accompanying examples.**

Stakeholders raised some additional issues throughout our consultation where we consider the Framework's principles are relevant. These are discussed below.

#### Retailers suggesting customers switch

An issue raised by consumer stakeholders was whether the Framework should deal with retailers suggesting customers with debts should switch to another retailer. They commented that in their view retailers sometimes did this to avoid their obligations to assist customers manage and reduce their debt. Retailers who responded advised that there can be circumstances when it may be in a customer's best interest to switch retailers, for example if another retailer has a more suitable offer, but that it was not appropriate to avoid obligations to assist customers experiencing financial difficulties.

Our view is that retailers should act in good faith in their interactions with their customers, particularly those in financial stress who are contacting them to ask for assistance and help managing their energy bills. We consider the Draft Framework adequately emphasises this point through the principle of Empathy and Respect, which includes that retailers should act in good faith.

#### Non-English speaking customers

Some stakeholders commented that good practice processes for non-English speaking customers should be explicitly referenced in the Framework.

Feedback we received from consumer stakeholders with expertise in this area suggested that referring these customers to financial counsellors may be initially less effective, with migrant resource centres more appropriate as a first avenue of referral to get in-language assistance. They noted that people with a first (or second) language that is not English may not be fully literate in their first language, so written material in their first language may not be appropriate either. They advised that one-on-one interaction with a member of their own community or a speaker of their language was often more useful.

During discussions, retailers commented that they already used interpreter services but some noted there may be opportunities for them to more proactively promote the existence of these services.

We agree that it is good practice for retailers to more actively promote the existence of interpreter services, particularly where customers have previously used this service.

In light of the above feedback, we also consider that referral to a specialist agency able to provide one-on-one interaction in a customer's first language, such as a migrant resource centre, may be a more effective way to assist many non-English speaking customers than an initial referral to a financial counsellor.

The principle ‘Be flexible and supportive when communicating with customers’ has been updated to include a reference that retailers ‘Offer and promote services to assist customers who speak a language other than English, including translation services and referrals to other organisations for in-language support where appropriate’.

## Framework elements

In addition to the good practice principles discussed above, we have worked with stakeholders to develop a flow chart that sets out good practice actions retailers should take at different at different stages of their relationship with a customer, including:

* retailers' initial conversations with customers experiencing financial difficulties, where payment plans are discussed and negotiated, including highlighting that different levels of assistance should be offered, depending on the severity of a customer's financial issues and their circumstances
* cases where it's not clear what a customer can afford
* when a customer on a payment plan misses a payment
* when a change of usage or circumstances requires a payment plan to be renegotiated.

This section discusses the different elements of this good practice approach.

**Issue 2 – We invite stakeholder feedback on the flow chart or any of the proposed good practice elements or actions discussed in the following sections.**

### Initial conversation: 'What can you afford?'

Consumer stakeholders highlighted that retailers commencing a capacity to pay conversation with a closed statement such as 'Can you afford $x per fortnight?' increases the risk a payment plan will be not be realistically affordable for a customer.

This was because the inherent power balance in favour of the retailer can often lead to customers feeling pressured to agree to the nominated amount (or risk being disconnected) without further consideration of their circumstances. This can increase the risk of a customer falling behind in payments, being excluded from hardship programs and being more vulnerable to disconnection.

The Draft Framework addresses this issue by recommending retailers start capacity to pay conversations by asking the customer the open question 'What can you afford to pay?'

The intention of this starting question was to prompt a customer to consider their circumstances, household budget and expenses when nominating an amount.

While there was agreement that this was a reasonable starting point, a number of stakeholders, including financial counsellors and some retailers, were concerned that asking the question on its own was not sufficient as many customers would not immediately understand what they could afford in the context of their future consumption.

Financial counsellors pointed out that payment plans based on customer-nominated amounts often ended with customers breaking the plans as they nominated amounts they thought their retailer would accept, resulting in them overcommitting.

Retailers were concerned the Framework would restrict their ability to explore a customer’s situation in more detail.

The Draft Framework suggests retailers can take additional steps to clarify and check what is affordable for a customer. Consumer stakeholders and some retailers commented that an exploratory, rather than an invasive conversation, can be effective in the customer and retailer reaching an informed and agreed view about what was realistically affordable.

Such conversations would include providing a customer with context about their usage, likely timeframes to repay a debt, and prompting them to think about their other financial commitments.

We consider these good practice actions will assist retailers in establishing payment arrangements with customers that are more realistic and sustainable.

### When it is not clear what a customer can afford

Consumer stakeholders and retailers provided feedback that there times when it was not initially possible for a retailer and customer to negotiate a payment plan in the initial conversation. This could be because:

* a customer says they don't know what they can afford, or that they can afford nothing
* a retailer and customer cannot agree on a payment plan repayment amount based on what the customer says they can realistically afford (for example, if there is a large gap between what the customer says they can afford and what their current bills are)
* it is evident a customer's financial difficulties are severe and they require specialist advice and assistance.

The Framework provides good practice guidance for these situations, highlighting options that retailers and customers can take, depending on the circumstances, that also respect a customer's privacy concerns and acknowledge customers preferences and individual circumstances. They include:

* having a more detailed conversation about a customer's financial situation if: the customer is comfortable doing so; the conversation is respectful; and the Framework's principles are followed
* the customer completing a budget on their own, then advising the retailer what they can realistically afford
* referring the customer to a financial counsellor.

### Referral to financial counsellors

Financial counsellors are key intermediaries for many customers who need assistance working out what they can realistically afford, particularly for customers who have severe and/or long-term financial difficulties.

Stakeholders provided a range of feedback about retailer practices in relation to customers being referred to financial counsellors, such as the circumstances when it was appropriate for a customer to be referred to a financial counsellor. Feedback included:

* Some retailers required customers to seek assistance from a financial counsellor as a prerequisite to negotiating a payment plan (this feedback was also received as part of our hardship review).

Financial counsellors commented that dealing with customers experiencing payment difficulties was part of a retailer's core responsibility, and that retailers' processes and training should reflect this. This included that retailers always attempt to work out an acceptable payment plan with a customer before referring them to a financial counsellor.

They emphasised that unnecessary referrals to financial counsellors could delay customers receiving assistance from a retailer, and created an additional burden on already scarce financial counselling resources.

* Retailers should recognise that some customers cannot afford to pay for their current usage and repay their debt, and that this on its own should not be a trigger for referral to a financial counsellor.
* Retailers should accept the advice of financial counsellors about what their clients could afford.

The Draft Framework's good practice guidance highlights that:

* it is good practice for retailers to attempt to negotiate an acceptable payment plan before referring a customer to a financial counsellor
* getting advice from a financial counsellor should not be a pre-requisite to establishing a payment plan or being assisted under a retailer's hardship program
* a referral to a financial counsellor may be necessary if a customer's financial difficulties are severe or the customer is unwilling or uncomfortable discussing their situation.

#### Temporary payment arrangements

Stakeholders commented that due to available financial counselling resources frequently being at capacity, it can take several weeks for a customer to see a financial counsellor in many areas. This can create a long delay before a payment arrangement is established and any in-roads are made into reducing a customer's debt, putting them at risk of falling further behind before they start their agreed payment plan.

In this context, we considered it was good practice for a retailer to agree to an affordable interim payment arrangement with the customer, until the customer could return with a more informed view about what they could reasonably afford, based on the advice of a financial counsellor. An affordable payment arrangement in this context may be one in which repayments are lower, given the tendency of customers to over-estimate and over-commit what they can initially afford.

These short-term payment plans can then be later amended once advice has been received on the customer's capacity to pay. This will allow the customer to continue to make some regular payments towards their energy bills and arrears and demonstrate their willingness to pay, while creating a respectful foundation for long-term engagement with their retailer.

### Levels of assistance

The Draft Framework highlights that it is appropriate for retailers to offer different levels of assistance, depending on a customer's particular circumstances.

We have labelled these different levels of assistance Options A, B and C.

* **Option A** is likely to be appropriate for customers who negotiate a payment plan with a retailer, where their financial issues and/or debt will be resolved within 12 months. The Framework envisages that customers in this situation are unlikely to need assistance under the retailer's hardship program, but may benefit by moving to monthly payment arrangements or deferred payments.

Initially, we proposed a maximum 15-month timeframe for this option for consistency with the timeframes proposed in the Victorian Essential Services Commission's hardship review draft report 'Supporting Customers, Avoiding Labels',[[3]](#footnote-4) but reduced this in response to stakeholder feedback that a longer timeframe increased the risk a customer's debt may increase before being identified as requiring assistance.

* **Option B** is likely to be appropriate for customers who negotiate a payment plan with a retailer, where their financial issues and/or debt will be resolved within 12 to 18 months. Hardship assistance, such as providing energy efficiency advice, and tariff checks, are likely to benefit the customer and should be considered by the retailer.
* **Option C** recognises that there are customers for whom the cost of their ongoing energy usage is greater than what they can realistically afford, and that addressing debt for these customers is likely to be a longer-term process. The Framework highlights that it is good practice for retailers to work with customers to take steps to 'close the gap' between a customer's usage and what they can afford by assisting the customer to reduce their usage (e.g. energy efficiency information and audits) and by ensuring they are paying as little as possible (e.g. checking they are on the most suitable tariff and that they are receiving all possible concessions and rebates). Customers in this category should be receiving assistance under a retailer's hardship program.

These options are intended to be indicative and non-prescriptive. The Framework acknowledges that retailers are free to offer whatever additional assistance they feel is appropriate for the customer's needs.

### Increasing payment plan amounts

Retailers highlighted there were times when it is necessary to adjust a customer's repayment plan amount to cover increased energy usage or other changed circumstances.

Early drafts of the Framework suggested that monitoring of customers' usage and follow up conversations were important, but did not provide more specific guidance.

Consumer stakeholders provided feedback that repayment amounts should not be increased for hardship customers without first having a conversation with the customer. Most retailers who provided feedback said this reflected their existing practices.

Retailers, particularly larger retailers, noted that the large number of customers on payment plans outside hardship programs made it impractical to contact all these individuals by phone.

In light of this feedback we amended the Draft Framework to further clarify good practice actions for retailers when communicating with customers about increasing repayment amounts. This includes highlighting that they should speak to customers before increasing repayments if the customer is receiving assistance under their hardship program, or if the increase is significant.

### Missed payments

The Draft Framework sets out good practice guidance for retailers when customers miss a payment, including that retailers not contact a customer for at least three days after a missed payment. Our view was that this period provided flexibility and space to customers to meet their payment obligations while giving retailers the opportunity to proactively contact customers to discuss their circumstances.

While some consumer stakeholders felt a five-day period would allow more flexibility, our view was that three days was consistent with the Framework’s aim of facilitating prompt and constructive engagement. We note that retailers would be free to wait longer if desired.

### Inactive account customers

Some consumer stakeholders commented that the Framework should apply to retailers' engagement customers who no longer had an energy supply with a retailer (e.g. had moved to another retailer), but still had a debt with them that had not yet been referred to a debt collection agency.

Overall, retailers saw no issues applying the Framework's broader principles to their engagement with these customers. However some retailers noted that applying the Framework's processes for this group of customers could increase administration costs as they would have to put additional resources into managing this group.

Our view is that it is good practice for retailers to give inactive account customers with a debt a reasonable opportunity to repay the amount owed, taking into account what a customer can reasonably afford, and apply the Framework’s principles of flexibility, consistency, empathy and respect when negotiating these repayment plans.

**Issue 3 – We are interested in stakeholders' feedback on whether this approach is appropriate and whether there are practical problems in applying the Framework's principles to this group.**

Relatedly, some consumer stakeholders commented that the Framework's principles should apply to retailers' relationships with the debt collection agencies they used—for example, the principles of empathy, respect and consistency could be built into retailers' contracts with debt collections agencies. They commented that this was important because while some debt collection agencies dealt fairly with customers, others did not.

We acknowledge and consider that this is an area where there may be scope to develop good practice in future.

The focus of this Framework is to aid retailers in establishing customers' capacity to pay when negotiating payment plans. Whilst we recognise stakeholders' concerns about retailer's use of debt collection agencies, and the practices of some agencies in particular, our view is this Framework is not the appropriate means to address these issues. We also note that existing guidelines for the debt collection industry[[4]](#footnote-5) highlight that it is good practice for debt agencies to adopt a 'flexible and realistic approach to repayment arrangements', which includes:

* making reasonable allowances for a debtor’s ongoing living expenses
* considering if a debtor is on a fixed low income (for example a disability pension or other welfare payments) and there are no prospects of their income increasing in the future
* recognising that debtors experiencing financial difficulties will often have a number of debts owing to different creditors
* ensuring that payment arrangements are meaningful and sustainable.

### Small business customers

The sections of the NERL and NERR that deal with payment plans[[5]](#footnote-6) apply to residential customers, including hardship customers and customers experiencing financial difficulties.

During our initial discussions, some stakeholders commented that small business customers (including farmers) commonly have incomes that vary by season, meaning it may be more difficult for them to meet payments at certain times of year. They commented that this customer group would benefit from having the Framework’s principles and guidance apply to them.

However, retailers said their processes for dealing with payment plans for residential customers should continue to be dealt with separately from small business debt, and that it would be inappropriate for the Framework to be extended to small business customers.

Retailers outlined a range of separate considerations required when dealing with the debt of small business customers. In particular, these included potential legal risks associated with negotiating payment agreements with insolvent businesses, if these have the effect of facilitating insolvent trading.

Retailers also noted they already had flexible processes and options in place for dealing with their small business customers who are experiencing financial difficulties, dealt with by specialist staff.

While there is no formal obligation under the NERL or NERR for retailers to offer payment plans to small business customers experiencing payment difficulties, we recognise that many retailers already have existing processes in place to allow small business customers a level of flexibility when negotiating the repayment of arrears.

We highlight that, when applied, the Framework's broader principles of fairness, empathy, respect and consistency, create a foundation for an effective standard of engagement that could be applied to any group of customers. We would strongly encourage retailers to consider ways to reflect these principles in their engagement with small business customers experiencing payment difficulties.

**Issue 4 - We welcome stakeholder feedback on this issue.**

# Implementing the Framework

The Framework, when finalised, will not be a regulatory requirement, nor will it have any formal status under the NERL or NERR. Rather, our objective has been to develop a Framework in collaboration with retailer and consumer representatives that all stakeholders agree reflects good practice. Retailers will be free to adopt the Framework on a voluntary basis.

We have emphasised throughout the project that retailer adoption of the Framework will not be a formal compliance obligation and that we do not intend adoption of the Framework to create an administrative reporting burden for retailers.

In practical terms, this means we will not monitor, or ask retailers to report additional data or metrics to us or demonstrate that they meeting the Framework's standards over time.

In this context, we are interested in stakeholders’ on a range of specific implementation issues.

## Issues for discussion

### Published list of retailers

During our discussions with retailers and other stakeholders, we sought views on the value of a published list of retailers that had agreed to adopt the Framework. We also asked whether retailers saw any impediments to publicly signing up to the Framework.

Overall, retailers were supportive of this approach, noting that it provided transparency and positive recognition for those who had agreed to adopt this standard of practice.

Some retailers highlighted potential risks that may result from being included on a published list, such as:

* these retailers being favoured by customers who were at higher risk of payment problems
* these retailers facing additional scrutiny by consumer representatives and energy ombudsmen schemes, that other retailers would not be subject to. This could include in response to complaints being made about whether retailers were meeting the standards of the Framework.

Our view is that a retailer who publicly agrees to adopt the Framework is acknowledging that their policies and processes are consistent with those set out in the Framework. These retailers should be confident this is the case and take action where they receive feedback that they have not meet the standards in the Framework.

Alternative approaches proposed included us not publishing a list of adopting retailers and leaving it to retailers to promote their adoption of the Framework on their own websites, if desired.

Another option suggested was to release the Framework as a piece of general guidance for retailers' internal reference, with no requirement for them to tell us or their customers whether or not they had adopted the Framework.

We consider that of these options, the published list approach is the most likely to achieve the Framework's objective of improving the quality of capacity to pay conversations across the sector and will result in better outcomes for customers.

A published list creates a positive incentive for retailers to sign up to the Framework; to ensure they have policies and processes that embed the Framework's standards within their business; and for those retailers to maintain those standards over time.

**Issue 5 – Would consumers or their representatives benefit from knowing which retailers had adopted the Framework. For example, would it help customers or their representatives to know what to expect from their retailer when setting up payment plans?**

**If so, would a public list, for example, hosted on the AER’s website or on an individual retailer's website,** **be an effective** **method of publishing and recognising retailers who have adopted and implemented the Framework?**

As the Framework will be a voluntary one, it will be up to individual retailers to sign up to adopting and implementing it as well as to accept responsibility for monitoring their own operational processes and procedures to ensure these meet the standards articulated in the Framework.

This would include, for instance, re-checking whether changes in any policies or procedures affected their ability to meet the Framework, and periodically self-assessing to ensure that the standards in the Framework were still being met.

**Issue 6 – We are interested in stakeholders’ views on this approach and other options that could be explored to implement the Framework, including any key benefits or drawbacks.**

### Processes for retailers not meeting Framework standards

In the event that we receive feedback from stakeholders that a retailer who had adopted the Framework was systemically not meeting the standards of the Framework, our proposed approach would be to raise the issue with the retailer and seek confirmation that their processes and practices were consistent with the Framework and that any issues have been addressed.

If we were not satisfied with the response, we could remove that retailer from any published list.

We will not consider individual complaints about retailers not meeting the standards of the Framework and consider that customers should contact their retailer and/or the relevant jurisdictional energy ombudsman scheme to resolve individual complaints.

**Issue 7 – We welcome stakeholders’ views on this approach.**

### Measuring the impact

While we do not propose a formal monitoring role, we would like to understand what impact the Framework has on retailers’ practices and customer outcomes.

Data on a range of indicators around hardship programs and payment plans is already available through retailers’ existing performance reports, and we will review these to see if the introduction of the Framework has any demonstrable impact on these measures over time.

A further option would be to seek information from retailers and consumer representatives about the impact of the Framework, once it has been in effect for a period of time. We could conduct a survey around six months after the launch of the Framework, seeking views for example on perceptions of what has changed and in what way.

**Issue 8 – We are interested in stakeholders' views about this approach, and whether it would provide useful information about the impact of the Framework.**

**What other information could retailers, consumer representatives or financial counsellors provide to help assess whether a retailer’s adoption of the Framework has improved outcomes for consumers?**

### Launch

We expect to publicly launch the Framework around June 2016.

**Issue 9 – We are interested to understand from retailers whether they are willing to adopt the Framework and if June is an appropriate timeframe.**

1. <http://www.aer.gov.au/retail-markets/retail-guidelines/development-of-a-good-practice-framework-for-capacity-to-pay-assessments> [↑](#footnote-ref-2)
2. AER review of energy retailers' customer hardship policies and practices 2015 – <http://www.aer.gov.au/retail-markets/compliance/aer-review-of-energy-retailers-customer-hardship-policies-and-practices-2015> [↑](#footnote-ref-3)
3. Essential Services Commission of Victoria, September 2015 – http://www.esc.vic.gov.au/Energy/Energy-Hardship-Review/Energy-Hardship-Inquiry-Draft-Report [↑](#footnote-ref-4)
4. Debt collection guideline for collectors & creditors, Australian Competition and Consumer Commission and Australian Securities and Investments Commission, 2015 – https://www.accc.gov.au/publications/debt-collection-guideline-for-collectors-creditors [↑](#footnote-ref-5)
5. Rule 72 of National Energy Retail Rules & section 50 of the National Energy Retail Law [↑](#footnote-ref-6)