



Energy & Water  
Ombudsman NSW

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11 April 2016

Mr Simon Kidd  
Assistant Director Retail Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

*Via email: [simon.kidd@aer.gov.au](mailto:simon.kidd@aer.gov.au)*

Dear Simon

Thank you for the opportunity to comment on the *Draft AER Sustainable Payment Plans Framework*.

The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

EWON believes that the draft framework, in both its principles and proposed processes, goes a significant way to addressing the challenges that retailers and customers face in negotiating affordable payment plans.

The AER has sought specific responses concerning the Draft Framework's overarching principles and specific good practice elements, and how the framework should be implemented.

EWON's core recommendations are that:

- The Draft Framework's overarching principles should be extended to include examples that refer to inactive accounts, small business customers and recognition of the particular needs and vulnerabilities of customers living in rural and remote areas.
- The good practice principles contained within the Sustainable Payment Plans Framework should apply to small business customers and inactive account customers.
- There should be independent monitoring of the Framework, preferably by the AER.

EWON's responses to the consultation paper are provided below. For ease of reference we have responded directly to the numbered questions asked in the paper.

## The Draft Framework's overarching principles and specific good practice elements

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### *Issue 1 – the proposed principles-based approach and the specific principle and accompanying examples.*

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EWON supports the proposed principles-based approach and the specific principles outlined in the Framework.

In EWON's previous submission to the AER, on 8 December 2015, we suggested that the particular needs and vulnerabilities of customers living in rural and remote areas be included in the Framework. For example, customer's living in rural and remote areas will have more limited access to services, such as financial counsellors, compared to those customers in metropolitan areas.

EWON strongly suggests that the Framework's principle of Flexibility be extended to include an example which requires recognition of the particular needs and vulnerabilities of customers living in rural and remote areas.

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### *Issue 2 – the good practice guide chart and the proposed good practice elements*

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#### **Timeframes for payment plans (options A & B)**

The good practice guide chart contained in section 2 of the Draft Framework includes three different levels of assistance (options A, B & C) that a retailer may provide, depending on a customer's particular circumstances.

EWON notes the Draft Framework has reduced the maximum timeframe for a payment plan:

- for option A from 15 months to 12 months; and
- for option B from 15 – 24 months to 12 – 18 months.

It is EWON's view that a payment plan becomes more affordable as the maximum timeframe for payment is increased.

EWON believes that increasing the maximum timeframe for payment plans in options A and B would help retailers provide customers with more affordable payment plans in the first instance. This may help to reduce the number of missed payments or renegotiated plans, and allow greater flexibility to customers who are managing their own budget.

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### *Issue 3 – Inactive account customers*

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EWON supports the AER's view 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.

EWON also strongly suggests that the Framework's principle of Consistency be extended to include an example which refers to the Framework's good practice principles being applicable to inactive account customers

EWON would also endorse the future development of a good practice framework for how retailers engage with inactive account customers that have been referred to a debt collection agency.

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### *Issue 4 – Small business customers*

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In EWON's experience small business customers do encounter difficulty negotiating affordable payment plans with retailers. A small business customer in acute financial hardship, who is unable to negotiate an affordable payment plan, may be vulnerable to business closure or even bankruptcy. This situation affects the business owner, their employees and the retailer who is responsible for the account.

EWON notes that there is no formal obligation under the NERL or NERR for retailers to offer payment plans to small business customers experiencing payment difficulties. However, EWON believes the good practice principles contained in the Sustainable Payment Plans Framework should apply to small business customers.

EWON recommends that the Framework's principle of Consistency be extended to include an example which refers to the Framework's good practice principles being applicable to small business customers.

EWON also suggests that retailers should give consideration to the Framework's good practice guide chart when developing their own processes for engaging with small business customers who are experiencing financial difficulties.

## How the Framework should be implemented

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### *Issue 5 – Feedback on a published list of retailers*

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EWON believes a published list of retailers that had agreed to adopt the Framework would provide customers, their representatives, and energy ombudsman schemes with important information about what to expect from a retailer prior to negotiating a payment plan.

EWON recommends that, in addition to a published list, retailers that agree to adopt the Framework should be required to:

- publish a statement on their website confirming that their current policies and processes comply with the Framework, with a link to those policies; and
- include a statement that the retailer is committed to the Framework's good practice principles and processes in any letter sent to customers containing the details of a new payment plan.

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### *Issue 6 – Feedback on the voluntary adoption of the framework and self-monitoring of a retailer's ability to meet the standards of the framework*

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EWON notes that adoption of the Framework will be voluntary, with individual retailers responsible for monitoring their own operational processes and procedures to ensure these meet the standards articulated in the Framework.

EWON's view is that there needs to be independent monitoring of the Framework, preferably by the AER.

Without independent monitoring of the Framework, there is the potential of a retailer agreeing to adopt the Framework and gaining the benefit of participation without bearing the actual costs of implementation.

In the absence of independent monitoring, monitoring the effectiveness of the Framework will fall to consumer advocates and energy ombudsman schemes which are not funded to undertake this work.

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### *Issue 7 – Process for retailers not meeting Framework standards*

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As noted above, EWON's view is that there needs to be independent monitoring of retailers that agree to adopt the Framework.

However, EWON supports the AER's proposed approach for engaging with retailers who adopt the Framework but who are systemically not meeting the standards of the Framework.

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### *Issue 8 – Feedback on measuring the impact of the framework*

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EWON supports the AER's proposal to undertake a survey around six months after the launch of the Framework.

In EWON's previous submission to the AER, dated 8 December 2015, we proposed:

*There are a range of collected statistics in which the AER could look for improvements including disconnection rates, debt levels and the numbers of customers on payment plans and in hardship programs. Positive indicators would include both an increase in the proportion of customers successfully completing plans in hardship programs and overtime an increase in the number of customers making payments on payment plans. In addition the AER could ask for details of training programs for all staff dealing with payment plans to ensure that the principles are understood across the organisation, not just within the hardship team.*

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### *Additional comments*

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In EWON's previous submission to the AER, on 8 December 2015, we proposed and still believe:

*There are currently many customers who are or have been on unaffordable plans. Their arrears have built to unmanageable proportions and often their consumption is beyond their capacity to pay. EWON would suggest that when this project is completed that the AER should implement a similar process to discuss and develop a best practice guideline for dealing with vulnerable customers with significant arrears.*



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If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

Yours sincerely

A handwritten signature in blue ink that reads "Janine Young". The signature is fluid and cursive.

**Janine Young**

**Ombudsman**

**Energy & Water Ombudsman NSW**