



**Submission by the  
Financial Rights Legal Centre**

Australian Energy Regulator

DRAFT Sustainable Payment Plans Framework,  
Issues for additional consultation  
April 2016

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## About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the Credit & Debt Hotline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took over 25,000 calls for advice or assistance during the 2014/2015 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

For Financial Rights Legal Centre submissions and publications go to [www.financialrights.org.au/submission/](http://www.financialrights.org.au/submission/) or [www.financialrights.org.au/publication/](http://www.financialrights.org.au/publication/)

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Credit & Debt Hotline 1800 007 007  
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Monday – Friday 9.30am-4.30pm

## Introduction

Thank you for the opportunity to comment on the draft Sustainable Payment Plans Framework.

### 2.1 Published retailer List

As argued in our previous submissions, Financial Rights strongly supports publishing the list of retailers who sign up to the Framework. This list should be published *both* on the AER website and on an individual retailer's website.

Signing up to the Framework and being included on a public, published list sends a strong signal to consumers that they can have confidence that retailers will act in an empathetic, respectful, flexible and consistent manner when dealing with those impacted by financial hardship. It is an important positive step in developing better customer relations and one that should be promoted far and wide.

As an additional suggestion Financial Rights believes that there would be value in publishing the names of retailers who have *not* signed up to the Framework. Consumers have a right to know which retailers have failed to agree to meet the minimum standards set by the Good Practice Framework and should not have to figure it out. This would be particularly the case if Framework adherents were only listed on individual retailer websites

Financial Rights does not accept the arguments put forward by retailers not supporting the publishing of a list. We briefly address each of these arguments below:

*Doubts about the benefits of a published list, above what would be achieved if the framework was released as general guidance with no retailer commitment.*

A published list of actual retailers empowers consumers to know and be confident that the retailers listed will act with respect, empathy, flexibility and consistency towards those in financial hardship. Conversely they can figure out which retailers they cannot expect this from if their names are not on the published list.

*It would pre-emptive for the AER to publish a list of retailers before it could demonstrate the framework led to improved outcomes for consumers.*

Again this is a public commitment by specific, named retailers to act with respect, empathy, flexibility and consistency towards those in financial hardship. The simple act of being publicly and specifically associated with a Framework built on these aims will go a long way to boost confidence in those retailers.

*In proceeding with a list, the AER would be engaged in influencing consumer perceptions of retailers, which was beyond its regulatory remit.*

We would argue that this is not beyond the regulatory remit of the AER. To argue this would be to suggest that the AER could never sanction an individual retailer as it would 'influence consumer perceptions of that retailer.'

*Retailers who didn't adopt the framework would be disadvantaged, as negative inferences could be drawn from their absence from the list.*

We would suggest that this argument is correct and is the very point of the published list. It is also the point of our suggested list of those retailers who have not signed up to the Framework.

- *If it was not clear the framework only applied to residential consumers, small business-only business could be disadvantaged as customers may infer they were not adopting good practices.*

We very much doubt that this is a genuine concern as it obvious that it only applies to residential consumers. However if it is genuine concern then it is easily resolved by making it clear that the framework applies only to residential consumers. Alternatively, and more constructively, retailers could work with the AER to establish a similar Framework for small businesses facing financial hardship.

### **2.3 Starting with “What can you afford?”**

Financial Rights notes concerns regarding starting the Framework's initial question with “What can you afford?” including the need to build rapport with a customer to begin with and the need to explain a customer's usage and debt status, before asking them what they can afford. Financial Rights would support flexibility in the design of the questions and would suggest a non-exhaustive list of suggestions could be a better approach.

In our previous submission we have recommended including in the Framework a series of example questions that may help clarify the customer's circumstances including:

- Do you receive Centrelink payments?
- Do you live in public housing?
- Do you rent?
- Do you have any pressing health or financial issues?
- Has your living situation changed?
- Is someone helping you?

Financial Rights believes including these example questions in the Framework would be a simple and helpful way to guide retailers through a complex process. In addition to the questions above the assessment model could include the following additional questions:

- Have there been specific changes to your income or circumstances, for example separation, illness; temporary or permanent?
- Do you have other debt commitments?
- What are your basic living expenses?
- How/when/if do you think you can start paying more, or at least start affording your usage?

The overall goal for assessing a customer's capacity to pay is to discover how much money the client has left over each fortnight to pay towards their energy debt after taking account of living expenses and other debt obligations. These assessments should also aim to assess whether any financial hardship that the customer is experiencing is permanent or temporary.

## Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact the Financial Rights Legal Centre on (02) 9212 4216.

Kind Regards,



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