



## **Incapacitated by debt: supporting capacity to pay**

**Submission in response to the Australian Energy Regulator's  
draft Sustainable Payment Plans Framework**

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**Energy + Water Consumers' Advocacy Program**



# 1. Introduction

## **The Public Interest Advocacy Centre**

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from NSW Trade and Investment for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

## **Energy + Water Consumers' Advocacy Program**

The Energy + Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council of NSW;
- Salvation Army Eastern Australia Conference;
- St Vincent de Paul Society of NSW;
- Physical Disability Council NSW; and
- Tenants Union of NSW.

## 2. Sustainable Payment Plans Framework

PIAC welcomes the implementation of the Australian Energy Regulator's (AER) Sustainable Payment Plans Framework in order to encourage best practice among energy retailers.<sup>1</sup> The framework follows the AER's 2015 review of energy retailers' customer hardship policies and practices, which identified a number of key areas for further attention. This included retailers' practices and attitudes regarding a customer's capacity to pay and sustainable payment plans.<sup>2</sup>

With the Sustainable Payment Plans Framework, the AER seeks to improve the quality of conversations between retailers and customers in order to produce positive outcomes for people who are experiencing financial difficulty. The framework is an optional framework that aims to guide best practice in relation to payment plans under the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR).

The principles-based framework includes:

- Principles that guide the conversations between the retailer and the consumer regarding capacity to pay; and
- A flow-chart that sets out good practice for retailers' during the payment plan process.

In PIAC's experience, establishing workable options for long-term energy affordability is key in avoiding the impact of disconnection and debt on a consumer. PIAC recognises that the interaction between a retailer and customer can significantly affect how the customer responds and makes choices. Options can include interaction at early signs of financial difficulty, and developing payment plans that are affordable and sustainable.

PIAC supports the principle-based framework recommended by the AER because it allows for flexibility to address individual circumstances and the varying needs of customers. However, PIAC recognises that one of the major concerns with a principle-based approach is difficulty in operationalising and evaluating its effectiveness. In the context where there is a high risk that consumers may fall into arrears and have trouble paying back the amount required to the retailer, certain minimum standards should be obligatory. These include measures such as effective communication strategies, flexibility in payment plans, stakeholder engagement and transparency of support services. In recognition of this, these mechanisms should be clearly and strongly reinforced through the framework.

In this submission, PIAC refers to low-income and residential consumers as 'customers'.

## 3. Effective communication and engagement

PIAC recognises the importance of developing a framework to encourage retailers to adopt good practice in assisting customers with their capacity to pay and sustainable payment plan options. Between the period of 1 July and 31 December 2015, 67 per cent of complaints that were

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<sup>1</sup> Australian Energy Regulator, *Sustainable payment plans framework consultation paper*, March 2016.

<sup>2</sup> Australian Energy Regulator, *Review of energy retailers' customer hardship policies and practices*, January 2015, 3.

received by the Energy and Water Ombudsman of NSW (EWON) were related to retailers. The areas of high or disputed bills, customer service (failure to respond, incorrect advice, poor attitude/service) and credit issues (disconnection, arrears, difficulty in payment, payment arrangement declined, debt collection) were among the top three issues raised by customers. EWON identified that affordability was an overarching theme among these issues.<sup>3</sup>

PIAC reiterates that open and honest communication between the retailer and customer is a key factor in determining a productive outcome for both parties.

### 3.1 Principles

PIAC endorses the principles outlined by the AER, which aim to guide retailers' engagement with customers throughout the payment plan process. These 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 principle to their engagement with payment plan customers, so that those with the same circumstances will receive the same standard of assistance.<sup>4</sup>

PIAC proposes an additional principle, 'collaboration and empowerment'. The International Association of Public Participation Australasia includes this within its significant components of engagement.<sup>5</sup>

PIAC believes that this principle emphasises the need for balance in the power dynamic between the customer and retailer. The term 'collaboration' reflects the importance of listening to a customer's experience of paying a bill,<sup>6</sup> and cooperating to achieve an ideal outcome. The term 'empowerment' means customers having an active voice in determining a suitable payment plan most appropriate to their needs. Although the existing principles touch on a shared communication goal, the additional principle consolidates the notion of 'working together' and emphasises the customer's right to seek support for what is an essential service.

The case study below illustrates the need for stronger engagement from the retailer. It shows the assumptions made by the retailer and their lack of knowledge about the customer, with a suitable outcome only achieved through EWON intervention. This example demonstrates the need for two-way communication, so the customer's needs are recognised, enabling the customer's voice to be heard.

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<sup>3</sup> Energy and Water Ombudsman NSW, *Complaint Statistics* (2016) available at: <http://www.ewon.com.au/index.cfm/publications/newsletters/ewonews-issue-32/complaint-statistics/>, accessed on 29 March 2016.

<sup>4</sup> Ibid 1, 6.

<sup>5</sup> International Association for Public Participation, *The IAP2 Public Participation Spectrum* (2016) available at: <https://www.iap2.org.au/resources/public-participation-spectrum>, accessed on 29 March 2016.

<sup>6</sup> Ibid 2, 11.

### 3.1.1 Case study from EWON <sup>7</sup>

When an officer arrived to disconnect her electricity supply for non-payment, Shirl explained she operates a nebuliser to manage her lung disease and the officer left without completing the disconnection. Her dual fuel account was overdue and she wanted to avoid the gas and electricity being disconnected, so she contacted EWON for help.

Shirl is on a disability pension and her partner had just become employed again. She explained that she couldn't pay the full \$600 she believed was owing on the account upfront, but that she could make a \$200 payment right away and they could then manage to pay \$100 per fortnight to bring down the arrears.

When [EWON] spoke with the retailer, they advised that there was \$1200 owing on the electricity account and \$305 on the gas account. They agreed to put a hold on the accounts and to accept the payment plan Shirl considered was manageable. They confirmed that Shirl was already receiving the Low Income Household Rebate and agreed to send her an application form for the medical energy rebate, which her circumstances suggested she might also be eligible to receive.

[EWON] advised Shirl that she could apply to a community agency for EAPA vouchers to help reduce her arrears and we provided her with referrals to EAPA agents in her area. Shirl said she would take the medical rebate form to her doctor to complete it.

In keeping with the principle of 'collaboration and empowerment', the issue above could have been resolved much earlier if there had been an emphasis on equal power and mutual objectives, allowing the customer to explain her situation, learn about available rebates and make informed choices.

#### **Recommendation**

*PIAC recommends that an additional principle of 'collaboration and empowerment' be included in the framework to reinforce and consolidate the importance of proactive, two-way and balanced communication between the retailer and the customer.*

### 3.2 Early involvement

According to the NERL and NERR, a retailer is required to offer and apply a payment plan for 'hardship customers' and 'other residential customers experiencing payment difficulties **if the customer informs the retailer** in writing or by telephone that the customer is experiencing payment difficulties'.<sup>8</sup> PIAC considers that a significant proportion of eligible customers may not be aware of this right to seek assistance, nor always have the capacity to seek it.

It is known that customers experiencing financial difficulties often feel guilt or shame, and have little knowledge of what steps to take for help. Studies have shown that a large proportion of

<sup>7</sup> Energy and Water Ombudsman NSW, *Shirl's story: pensioner with health issues faces dual fuel disconnection* (2016) available at: <http://www.ewon.com.au/index.cfm/ewon-case-study-library/dual-fuel-case-studies/shirls-story-pensioner-with-health-issues-faces-dual-fuel-disconnection/>, accessed on 29 March 2016.

<sup>8</sup> National Energy Retail Rules, rule 33.

customers who have been disconnected borrow money from friends and family.<sup>9</sup> As a result, debt is transferred, without addressing the cause of the problem. Furthermore, affordability is often a multi-layered issue. For example, a customer may minimise spending on other basic needs, such as food, in order to have the utilities paid on time or to keep up with payment plans.

PIAC considers that retailers can play a vital part in assisting customers by taking an active customer service approach, rather than waiting for the customer to make the first move. PIAC is aware that such a proactive approach by retailers can impose assumptions on a customer, leaving the customer feeling judged. Therefore, a retailer would need to carefully apply the AER's principles in the offer of support.

The triggers for this contact could be missed or late payments, and occur significantly prior to being placed on a shortened collection cycle. The retailer could suggest additional external services such as financial counsellors or the ombudsman, and make sure the customer is receiving all available rebates. Ideally, the questions surrounding eligibility for rebates and concessions should be established when the customer first signed up, however, as individual circumstances can change, this information can be lost or forgotten.

PIAC also supports the use of multiple means of communication to engage with the customer. This includes telephone, email, mobile text message, face-to-face, via a community worker, carer or representative. PIAC supports the South Australian Council of Social Service's (SACOSS) idea of a maximum two-minute call holding period.<sup>10</sup> A call back option should be offered, which will assist a customer who cannot afford other means of communication. PIAC believes that this information be included under the framework's principle of 'flexibility' where the retailer must make clear to the customer that this option is available. The framework should reinforce to retailers that the communication method should always be the customer's choice.

### ***Recommendation 2***

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*PIAC recommends that retailers be encouraged through the framework to use a proactive approach toward customer service and respond to early signs of financial difficulty, without imposing assumptions.*

### ***Recommendation 3***

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*PIAC recommends that retailers be encouraged through the framework to offer multiple means of communication according to the customer's situation and preference, including a call back option.*

## **3.3 Initial conversation: asking what a customer can afford, and when it is not clear what a customer can afford**

It is recommended that retailers be encouraged to not make assumptions about customers' circumstances. This includes the assumption that the customer needs to immediately go onto a payment plan rather than an extension on a one-off payment.

PIAC endorses the concept of asking the customer what they can afford. This allows flexibility and reduces the stress that results from an amount being prescribed that may not be affordable.

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<sup>9</sup> Public Interest Advocacy Centre, *Cut off III*, April 2013, 45.

<sup>10</sup> South Australian Council of Social Service, *Better practice guideline for energy retailers*, November 2014, 8.

PIAC recognises this conversation may be challenging and upsetting for a customer experiencing financial difficulty. Therefore, PIAC recommends that the initial conversation be used to inform the customer of the process, that the retailer will need to ask questions in order to identify an appropriate payment plan, if desired, and to identify the types of additional support or entitlements the customer may benefit from. PIAC believes this will give the customer a sense of collaboration, and also acknowledge that the customer has the right to information about assistance prior to working out a payment plan. With approval from the customer to proceed, PIAC believes that the approach of asking what the customer can then afford will be a more informed choice.

PIAC endorses the Financial Rights Legal Centre's proposed introductory questions such as:

How/when/if do you think you can start paying more, or at least start affording your usage?<sup>11</sup>

Other questions could seek information about whether the customer was eligible for external services such as rebates, energy saving schemes and more (discussed further on page 10). PIAC notes some existing retailers have developed scripts for capacity to pay conversations in their hardship policies, particularly in situations where it is not clear what a customer can afford. For example, Click Energy has questions with regard to usage, arrears and the customer's capacity to pay. Questions include:

Has your energy usage changed recently?

What is the best payment method for you?

Would you prefer to pay the account a bit at a time?

What frequency of payment (weekly, fortnightly) would best suit you?

What would be more helpful; paying in arrears or advance?<sup>12</sup>

Again, PIAC reiterates that the framework principles should underlie the questions being asked by the retailer. PIAC also notes that customers sometimes are not sure what they can afford. PIAC recommends that the framework permit flexibility for a customer to seek a financial counsellor's advice prior to committing to a payment plan, with a 'freeze' on the account to protect the customers from being disconnected or exposed to an increase in arrears due to late payment. As another option, PIAC supports the concept of a short-term payment arrangement that can be amended once professional advice has been received.<sup>13</sup>

In addition to a customer seeking external professional advice, Energy Australia (see below 3.3.1) has recognised throughout their hardship policy a community engagement approach (specific to their policy and energy efficiency usage information). This practice acknowledges customers may be able to best respond to conversations about payment plans with the support or environment in which they feel most comfortable. PIAC believes the Sustainable Payment Plans

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<sup>11</sup> Financial Rights Legal Centre, *Submission to the AER's Sustainable Payment Plan Framework*, December 2015, available at: <http://financialrights.org.au/wp-content/uploads/2016/02/Feedback-on-AER-Capacity-to-Pay-Framework-Financial-Rights.pdf>.

<sup>12</sup> Click Energy, *Payment difficulties* (2016) available at: <https://www.clickenergy.com.au/payment-difficulties/>, accessed on 28 March 2016.

<sup>13</sup> *Ibid* 1, 10.

Framework should encourage retailers to think more broadly to accommodate customers' cultural and environmental needs, and apply similar practice when working out a payment plan.

### 3.3.1 Energy Australia Hardship Policy (extracts)<sup>14</sup>

#### 9 Communicating with customers in hardship

##### 9.1 Indigenous Australians

EnergyAustralia recognises that Indigenous Australians prefer to communicate person-to-person. We will build relationships with community elders, and in partnership we will work to inform community members about efficient energy use.

##### 9.2 Culturally and Linguistically Diverse Backgrounds

EnergyAustralia is committed to providing services to people from culturally and linguistically diverse backgrounds, and to provide access to our hardship program. We will work with community organisations to provide resources and bilingual training in efficient energy use for people from non-English-speaking households.

##### 9.3 Literacy

EnergyAustralia recognises that a disproportionate number of customers experiencing financial difficulty also struggle with literacy. EnergyAustralia is committed to providing energy efficiency resources for customers with literacy issues.

#### 10 Training

##### 10.2 Community

EnergyAustralia will forge strong ties with the community. In partnership with community groups, we will conduct train-the-trainer sessions to share our energy efficiency knowledge and to encourage community groups to share this information with their membership.

Retailers should also consider the needs of people living with a disability, veterans, those living with a mental health issues and the variations of support that may be required. These are only a few examples of groups who may be more prone to additional living costs and/or could be more financially vulnerable than others.

The assessments taken place should determine whether a customer is experiencing financial hardship as a permanent or temporary situation.

#### **Recommendation 4**

*PIAC recommends that retailers be encouraged through the framework to ensure that the initial conversation begins by briefly informing the customer of the process.*

#### **Recommendation 5**

*PIAC recommends that retailers be encouraged through the framework to permit flexibility about a customers right to seek a financial counsellor's advice prior to committing to a payment plan, with a 'freeze' on the account to protect customers from being disconnected or exposed to an*

<sup>14</sup> Energy Australia, *National Hardship Policy*, September 2012, 12.

*increase in arrears; alternatively, a short-term payment arrangement that can be amended once professional advice has been given to the customer.*

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#### **Recommendation 6**

*PIAC recommends that retailers be encouraged through the framework to accommodate customers' cultural and environmental needs when working out a payment plan.*

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#### **Recommendation 7**

*PIAC recommends that retailers be encouraged through the framework to ensure that assessments determine whether financial hardship is a permanent or temporary situation.*

### **3.4 Negotiation of payment plans**

Negotiation of payment plans can be difficult if the parties do not agree. This disagreement could be due to a number of reasons, and is particularly problematic for customers who are experiencing severe financial difficulty and cannot commit to a plan. Within the framework, it is suggested that retailers be made aware of the possible reasons for the discrepancy between what a customer has committed to pay, to what the customer can actually pay.

In response to whether customers can increase payment amounts, PIAC agrees that payment plans should be flexible, with customers made aware that they can change their plan throughout the process to reflect fluctuating financial circumstances. This includes allowance to decrease payment plan amounts as well as increase.

PIAC believes retailers should not set specific timeframes on the repayment process. Although placing time limits on payment plans can give a sense of warranty for the retailer, if a customer's capacity to pay changes, this will need to be accounted for. Pre-payment options should be offered to customers if it will assist them monitor their usage.

PIAC suggests retailers review the customer's market contract to ensure it is the most appropriate one in light of usage type and payment. Customers should be given the choice to seek a second opinion through a financial counsellor if desired. This practice should be reiterated throughout the steps in the framework, as well as to prior to asking what a customer can afford.

It is not advised that retailers suggest customers to read their hardship policy for further information. As identified in the AER's hardship review, most retailers' policies require mid-high level literacy and assume customers have access to online facilities. Options should be made available upfront, and a waiver of late payment fees should be implemented if a capacity to pay conversation transpires.

Online payment calculators can be beneficial but would not suit all customers. PIAC considers retailers could offer to assist the customer through this process if the customer is willing.

It is recommended that contact details for the jurisdictional ombudsman be supplied at the end of each negotiation process, so if the customer feels dissatisfied, they have an additional option for support.

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**Recommendation 8**

*PIAC recommends that retailers be encouraged through the framework to ensure that payment plans are flexible, and customers are made aware that they can change their plan throughout the process in response to changed financial circumstances, including decreasing or increasing payment amounts.*

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**Recommendation 9**

*PIAC recommends that retailers be encouraged through the framework to review the market contract that the customer is currently on.*

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**Recommendation 10**

*PIAC recommends that retailers be encouraged through the framework to not suggest that customers read their hardship policy for further information without providing further options or context.*

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**Recommendation 11**

*PIAC recommends that retailers be encouraged through the framework to supply jurisdictional ombudsman contact details at the end of each negotiation process.*

### **3.5 Missed payments**

PIAC suggests that when a customer misses a payment, the retailer initiate contact and re-arrange an affordable payment plan. This communication would initially be by the customer's preferred means of contact (previously established). As mentioned above, the customer's capacity to pay may have changed, and it requires an empathetic approach in deciphering if there is an additional problem and in what way this can be supported – either through retailer's internal practices or external services.

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**Recommendation 12**

*PIAC recommends that retailers be encouraged through the framework to initiate contact and re-arrange an affordable payment plan if a customer misses a payment.*

### **3.6 Inactive accounts**

The consultation paper asks whether inactive accounts should be included in the framework. PIAC believes that inactive account holders are still customers of the retailer if debt is owed – even if the debt is transferred to a debt collection agency and becomes apart of the customer's credit file. In this vein, PIAC recommends that the retailer hardship program be made accessible at all times at the customer's discretion. This would include debt and fee waivers applicable in order to best assist the customer in reducing arrears. PIAC recommends the framework be made available for inactive accounts even if the customer has switched retailers at time of entry into the hardship program, as the framework reinforces principle-based conversations.

PIAC agrees that immediate contact should be made if the customer is disconnected and the capacity to pay conversations and payment plans do not work.

### **Recommendation 13**

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*PIAC recommends that retailers be encouraged through the framework to include inactive accounts even if the customer has switched retailers.*

## **3.7 Energy efficiency advice**

PIAC agrees that energy efficiency advice should be offered to customers at all levels of assistance within the framework. This advice is to be developed in collaboration with technical experts. The advice given to customers initially should range from no-cost household activities to low-cost household activities. In addition, PIAC encourages referral to any applicable retrofitting offers and programs being implemented by local stakeholders, and any other relevant free services such as home energy audits, phone audits, website advice.

EWON has highlighted that changes relating to energy usage may not occur straight away, and there may be a delay before a customer receives the benefits of changed consumption patterns. This could be due to inefficient appliances or infrastructure, which can be outside of a customer's control.<sup>15</sup> PIAC suggests that this be taken into account when negotiating an appropriate payment plan.

### **Recommendation 14**

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*PIAC recommends that retailers be encouraged through the framework to refer customers to any energy efficiency retrofitting offers and programs currently being implemented by stakeholders, and any other free services such as home energy audits, phone audits, website advice.*

## **4. Identifying stakeholders**

As previously noted, the conversation surrounding capacity to pay can be difficult for some customers. It is not only challenging to discuss, but it is also an arduous task to understand the complexity of the energy market processes and entitlements. Often, retailers are the main contact customers have. It is therefore imperative for retailers to have active relationships with their stakeholders, particularly when dealing with customers who are experiencing financial difficulty.

Some of these stakeholders and services include:

- Financial counsellors (providing free financial assistance)
- Centrelink (providing payment options such as Centrepay)
- Ombudsman services (free conflict resolutions services)
- Community Welfare Organisations (No Interest Loan Schemes and the Energy Accounts Payment Assistance (EAPA))
- Third party assistance (translation services, carer or community worker representative)
- Federal and State Governments (concessions and rebates, as well as energy saving schemes or products e.g. NSW Office of Environment and Heritage Home Energy Action Program or retrofit programs)

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<sup>15</sup> Energy and Water Ombudsman NSW, *Submission to Essential Services Commission's Supporting Customers, Avoiding Labels. Energy Hardship Inquiry* (2 October 2015) Available at: <http://www.esc.vic.gov.au/getattachment/f7529816-cb4b-4bce-a656-ab01555496d7/Energy-and-Water-Ombudsman-NSW.pdf>, accessed on 28 March 2016.

PIAC recommends the framework include the requirement for retailers to regularly connect with local stakeholders to ensure that they are able to advise customers of relevant external services. PIAC recommends this practice to be included under the principle of ‘collaboration and empowerment’ as well as implemented throughout options A, B and C in the flow chart. Referral to these services should be at no additional cost to the customer, and retailers should assist customers to contact these stakeholders if required.

PIAC also suggests that the framework include a warning about credit ‘fix’ agents and the additional fees that are incurred, increasing burden on the customer.

#### **4.1 Retailers relationship with debt collection agencies**

A default listing on a customer’s credit file can dramatically affect their ability to secure a loan or credit card. The implications of this for a vulnerable customer can be very stressful. Credit service providers (such as energy utility companies) have certain obligations to issue notices prior to this process occurring.

The debt collection industry has certain guidelines for collectors and creditors.<sup>16</sup> Although the framework under consideration does not directly relate to the practices of debt collection agencies,<sup>17</sup> PIAC suggests the Sustainable Payment Plan Framework be diligently used to assist the customer to not end in a default listing on a credit file.

##### ***Recommendation 15***

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*PIAC recommends that retailers be encouraged through the framework to make regular contact with their local stakeholders to ensure that customers are advised of relevant external services and/or all necessary referrals are made.*

#### **4.2 Training of staff**

PIAC recommends that retailer staff conducting capacity to pay conversations are provided with professional training in communicating with customers who may be experiencing financial difficulty. PIAC also encourages, where applicable, for in-house financial counsellors to assist other staff in capacity to pay conversations.

In reference to Energy Australia’s Hardship Policy (see 3.3.1), increasing community knowledge about a customers rights and obligations when experiencing payment difficulty can build capacity for support. PIAC recommends this practice where appropriate.

##### ***Recommendation 16***

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*PIAC recommends that retailers be encouraged through the framework to ensure that the staff who deal with capacity to pay conversations are given professional training.*

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<sup>16</sup> Ibid 1, 12.

<sup>17</sup> Ibid 1, 12.

## 5. The importance of framework transparency and evaluation

### 5.1 How will the framework be published?

PIAC would like a list of retailers who have adopted the framework to be published on the AER's website. However, the AER website is not frequently visited by customers seeking to understand their rights to retailer support. PIAC therefore recommends that retailers also publish their commitment to affordable and sustainable payment plans upon their websites.

The AER review of retailer's hardship policies identified variances between how retailers communicate on their websites.<sup>18</sup> Some retailers' websites have highly visible assistance options with simple use of language such as "I need help paying my energy bill because of my financial situation. Can you help?". Other retailers require use of the search function to find the retailer's hardship policy. Hardship policies published on the retailer's website are often not in plain English, and require higher levels of literacy.<sup>19</sup> This is not always appropriate for customers in seeking assistance.

PIAC recommends appropriate standards for the retailer to publish the commitment to the framework on their website that involve easy to use functions and simple language. PIAC also recommends that retailers publish contact details for people experiencing payment difficulty on each customer bill.

#### ***Recommendation 17***

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*PIAC recommends that retailers be encouraged through the framework to publish a commitment to ensuring affordable and sustainable payment plans on their websites, with clear contact and instruction details.*

#### ***Recommendation 18***

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*PIAC recommends that retailers be encouraged through the framework to have easy to use functions and simple language when they publish their commitment to ensuring affordable and sustainable payment plans on their website.*

### 5.2 Processes for retailers not meeting Framework Standards

PIAC endorses the AER's proposal to remove the retailer from their website as an adoptee of the framework if a retailer is not systematically adhering to the framework principles and practices, if the issue has been raised by the AER with the retailer and there is no positive outcome. The removal of the framework from the retailer's website would also be prompted.

### 5.3 Evaluation and measuring the impact of the framework

PIAC agrees with the AER's recommended approach of collecting data on a range of indicators – using both existing and new means of capturing material. Using the indicators surrounding hardship programs and payment plans through retailers' existing performance reports will assist the AER to understand the framework's impact.

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<sup>18</sup> Ibid 2, 4.  
<sup>19</sup> Ibid 2, 25.

PIAC recommends that retailers who adopt the framework have the option of assisting in the evaluation of the framework by offering in-house data. The data would include the experience and outcomes for customers who were managed in accordance with the recommended framework. Incentives for retailers to take part in the evaluation process would be through a published evaluation report on the AER's website outlining retailers' results against best practice. Not only would this assist the AER in ensuring the framework is upheld by retailers, but it would also offer public disclosure whereby customers can access the information and feel confident that they are supported if they fall into financial difficulty.

PIAC recommends that the AER develop clear evaluation criteria prior to the release of the framework, with a regular period of review (either every six or twelve months). This may include indicators such as:

- Complaints to the jurisdictional ombudsmen schemes regarding:
  - Financial hardship programs
  - Types of complaints
  - Number of complaints
  - Retailer complaints
  - Qualitative evidence i.e. case studies
- Retailer's rate of payment arrangements i.e. plans which are active, completed or incomplete;
- Retailer's rate of capacity to pay enquiries;
- Retailer's rate of disconnections and associated case studies;
- Retailer's data surrounding follow-up contact with customers who have become inactive, or who have successfully completed payment plans;
- Number of credit defaults;
- Number and geographical region of disconnections;
- Type and number of rebates and concessions taken up by customers who are on payment plans;
- Number of referrals to external services from retailers.

If retailers argue that additional administration costs are required, PIAC submits that these processes coincide with hardship requirements under the NERL and NERR, and therefore should not require additional charges for implementation.

PIAC also welcomes the opportunity to provide feedback on the impact of the framework and is willing to assist further in developing methodology for evaluation.

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### ***Recommendation 20***

*PIAC recommends that retailers who opt in to the framework have the option to assist in the evaluation of the framework by offering in-house data.*

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### ***Recommendation 21***

*PIAC recommends the AER develop clear evaluation criteria prior to the release of the framework, with a regular period of review (either every six or twelve months).*

## **6. Conclusion**

PIAC wishes to thank the AER for the opportunity to provide feedback on the Sustainable Payment Plans Framework. PIAC considers the framework is a vital tool to support best practice in relation to payment plans. This includes effective communication strategies, flexibility in payment plans, stakeholder engagement and transparency of support services. PIAC anticipates the framework will assist customers with capacity to pay, particularly for those experiencing financial difficulty.

PIAC is willing to assist with further information or feedback if requested.