

Submission to IPART's Sydney Water Operating Licence Review 2023-24 Issues Paper

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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Recommendation: 1

That IPART make Sydney Water performance reporting public, easily accessible and non-aggregated.

Recommendation: 2

That IPART expand performance indicators collected from Sydney Water. Require more detailed performance data on consumer and community complaints, payment difficulties, service/supply restrictions for non-payment, concessions, customers affected by family violence and hardship programs.

Recommendation: 3

That the Operating Licence Include a requirement that water conservation, efficiency and long-term planning respond to the impacts of climate change.

Recommendation: 4

That IPART investigate how to incorporate the triple bottom line sustainability framework of assessment into Sydney Water's conservation efforts.

Recommendation: 5

That IPART use the Operating Licence to set efficiency and demand targets to track and encourage stronger water conservation efforts.

Recommendation: 6

Investigate and, if necessary, seek legislative change to provide clarity on Sydney Water's role in the community as a provider of climate resilience and adaptation programs. In particular, consider the shared roles of WaterNSW and Sydney Water and investigate opportunities for alternative funding contributions to resilience programs such as improving waterways and greening urban areas.

Recommendation: 7

Initiate interim and long-term solutions to ensure tenants receive rebates intended to compensate for circumstances which impact them.

Recommendation: 8

Undertake operating licence and other changes, including any necessary legislative reforms, to mandate a direct & separate usage billing and service relationship between tenants and Sydney Water.

Recommendation: 9

Key consumer outcomes regarding Sydney Water's (and other NSW water providers) be collected and published by IPART, including commentary and trends regarding restrictions, debt, payment plans, hardship programs and cross matched with statistics such as whether people are concession recipients and whether they have 'successfully' exited hardship programs in the recent past. IPART should recommend the NSW Government initiate reforms to ensure this information is consistently collected and published for all water providers.

Recommendation: 10

Key indicators of rebate, Payment Assistance Scheme and other supports provided by or through Sydney Water (and other NSW water providers) should be published by IPART, including commentary and trends regarding outcomes for consumers.

Recommendation: 11

Dishonour/declined payments (and late fees) should be minimised to reduce their negative impact on households experiencing disadvantage. IPART should ensure any fees are both necessary and cost-reflective where they are required.

Recommendation: 12

Initiate short term processes to improve tenant awareness of payment assistance available to them and develop recommendations (including legislative reform) to make more substantive longer-term improvements to the services and protections available directly to tenants.

Recommendation: 13

That IPART include PIAC's recommendations to improve Sydney Water's response to victim survivors of family violence, including by upgrading requirements relating to Sydney Water's Domestic and Family Violence policy.

1. Introduction

PIAC welcomes to opportunity to respond to IPART's Sydney Water Operating Licence Review 2023-24. Sydney Water's Operating Licence the crucial mechanism setting the terms for Sydney Water's decisions over the next regulatory period and determining how it will meet the needs and interests of the Sydney community in equitable access to safe, reliable and sustainable water services.

We congratulate IPART on further improving the accessibility of the review process, providing an accessible and more easily understandable issues paper. The paper highlights the principles and objectives that underpinning the operating licence and is largely free of overly technical language and jargon. We encourage IPART to continue to evolve this approach.

PIAC also congratulate IPART on their meaningful early engagement with consumer stakeholders prior to publication of the issues paper. This is a great step forward, recognising the importance of involving community advocates, and the need to develop new, accessible means of engaging community groups who have significant resource constraints. We look forward to working with IPART to build on this approach and further evolve IPART's direct engagement with a wider range of community and consumer stakeholders.

This submission will respond in detail to key elements of the Issues Paper, with particular focus on performance standards, water conservation, planning, climate response and obligations to customers and the community.

1.1 Licence objectives and design framework

We recommend IPART modify the following clause of the licence objectives:

b.ii "support its principal objective under the Act to be a successful business including by having regard to the interest of the community"

"Having regard to the interest of the community" is not a sufficiently robust direction to act in the interests of the community. This clause could be strengthened, with the following as an example.

"Support its principal objective under the Act to be a successful business which protects and promotes the interests of the community"

Regarding the design framework for the operating licence, PIAC recommends that IPART not frame ministerial discretion and licence conditions as a binary choice. PIAC regards these two options as part of iterative processes, as distinct options.

2. Performance Standards

Performance standards set the terms of the acceptable quality and level of service that households and the community receive from Sydney Water and are the foundation for decisions Sydney Water makes in subsequent regulatory proposals. Reporting on performance and quality is a key transparency mechanism, providing insights into how Sydney Water is delivering on key consumer outcomes. IPART's role in monitoring is important in understanding the experiences and outcomes for water consumers and helping to ensure the water system is working for them.

PIAC supports the role of monitoring as an important guidance for future licencing, policy and reform and encourages IPART to view this as an opportunity to improve the foundation of information and evidence for future licencing and policy processes.

2.1 Improving performance reporting

PIAC recommends that IPART use this current operating licence review to raise the standard of performance reporting for Sydney Water as part of ongoing measures to create consistent standards and reporting for all NSW water consumers. In particular, the information collected from Sydney Water should be expanded and made more easily publicly accessible.

- **Ensure Sydney Water performance reporting is public, easily accessible and includes stand-alone data on Sydney Water not aggregated with other urban water utilities.**
 - For example, most Sydney Water performance data can only be found in the 'National Performance Report: Urban Water Utilities' which is published on the Bureau of Meteorology website. Consumers and other stakeholders looking for this information would most likely visit the Sydney Water or IPART websites to find this information, not the Bureau of Meteorology. This results in Sydney Water's performance data being technically partially public, but functionally hidden. IPART should include provisions for Sydney Water to make this information available and accessible, while also pursuing measures to provide this information (alongside similar information for other water providers) on an independent platform.
- **Expand the performance standard indicators collected from Sydney Water.**

PIAC recommend IPART require more detailed performance data on consumer and community complaints, payment difficulties, service/supply restrictions for non-payment, concessions, customers affected by family violence and hardship programs.

 - We recommend IPART review the Australian Energy Regulator's (AER) Retail Performance Reporting Procedures and Guidelines¹ to provide a comparison between the minimal data currently required of Sydney Water and the data required of energy retailers. While a direct comparison cannot be made between Sydney Water and energy retailers, provision of an essential service should require an equivalent level of transparent data reporting.
 - We note that the AER is currently undergoing a review of their retail reporting guidelines and will likely be requiring even greater level of detail from retailers in their performance reporting from 2024 onward².

¹ Australian Energy Regulator *Performance reporting procedures and guidelines (retail law) 2019*
<https://www.aer.gov.au/retail-markets/guidelines-reviews/performance-reporting-procedures-and-guidelines-retail-law-2019>

² Australian Energy Regulator *Retail performance reporting procedures and guidelines(2023 update)*
<https://www.aer.gov.au/retail-markets/guidelines-reviews/retail-performance-reporting-procedures-and-guidelines-2023-update>

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2.2 Minimum service levels

Minimum service levels should not be subject to consumer preference. PIAC is concerned that the issues paper indicates Sydney Water's current customer engagement will inform the minimum service levels specified in the operating licence, including the potential to lower current standards.

Minimum services levels must be regarded as 'needs' which cannot be traded off by consumers. Where consumer preferences are to be incorporated into decisions around service levels, it should only be when considering service levels above, beyond or outside these minimums. For example, a band from minimum acceptable up to 'optimum' on what is required to deliver on community needs, where higher standards may be delivered through trade-offs against affordability or other appropriate considerations.

When considering where consumer preferences are appropriate, PIAC recommends identifying whether the question at hand is a matter of standards or community expectations. If the question is one of standards, then the input consumers and the community can have should only be about going above those standards, or providing direction on qualitative factors impacting how those standards should be met. Where the question is more purely about community expectations, finding a solution should be led by meaningful consumer engagement that seeks to understand the outcome expectations of the community and how trade-offs & preferences should deliver those outcomes.

3. Water conservation & efficiency & long-term planning

Conservation, efficient-use and long-term planning for water resources are integral to Sydney Water's role protecting and promoting the long-term interests of the community.

PIAC recommends that water conservation, efficiency and long-term planning includes a requirement to address and plan to respond to the impacts of climate change. Increasingly common instances of extreme temperatures, extended periods of hot and dry weather, more frequent extreme rainfall events and altered patterns of rainfall distribution are just some of the significant challenges that already significantly impact Sydney Waters' operation and planning. While we respond further below to the separate section on climate risk readiness, we caution against seeing climate risk readiness and water conservation as separate.

Sustainable demand exceeds sustainable supply in Sydney, a circumstance only exacerbated with expected growth and increased volatility of rainfall. While Sydney Water has recognised the

urgency of long-term change to meet this challenge, we are concerned that too great an emphasis is placed on securing supply, and not enough on reducing and better managing more efficient demand as part of a more holistic response to the needs of the community.

PIAC recommends IPART investigate how to incorporate the triple bottom line sustainability framework into assessment of Sydney Water's conservation efforts. We remain concerned there is too strong a focus on *economic* efficiencies in the issues paper compared to genuine water conservation. Water is an ecological and social resource, not just a product for which there is an 'economically efficient level of demand' to be met by Sydney Water. We note that IPART is awaiting a longer-term implementation plan for the Greater Sydney Water Strategy and in the interim suggests maintaining the Current Economic Method to assess water conservation methods.

There is an undue focus on drought response as a placeholder for more robust and genuine water conservation efforts. We recommend the operating licence set efficiency and demand targets that can track and encourage stronger water conservation efforts on the part of Sydney Water. These could include targets for average demand per household and targets for system efficiencies that link to the stated goals of the Greater Sydney Water Strategy to save 38 GL/year of drinking water by 2030 and 49 GL/year by 2040.

PIAC does not consider it appropriate for the Minister to have discretion to direct Sydney Water to change its assessment of conservation efficiency or approve a changed approach. Assessment of the approach to conservation should be undertaken through a transparent, independent process subject to community and stakeholder input.

In regards to long-term planning for Sydney's water resources Sydney Water should be required to cooperate with other relevant stakeholders and engage in reviews of relevant plans and implement actions as required. Making this explicit in Sydney Water's operating licence provides a level of certainty for consumers and the community. IPART should consider stipulating that Sydney Water must consider the long-term interests of consumers and the community in all long-term planning processes.

Recommendation: 3

That the Operating Licence Include a requirement that water conservation, efficiency and long-term planning respond to the impacts of climate change.

Recommendation: 4

That IPART investigate how to incorporate the triple bottom line sustainability framework of assessment into Sydney Water's conservation efforts.

Recommendation: 5

That IPART use the Operating Licence to set efficiency and demand targets to track and encourage stronger water conservation efforts.

4. Climate risk readiness

PIAC supports strengthening the operating licence to better prepare Sydney Water to meet the challenges and risks of climate change. Our previous section on water conservation and efficiency included some discussion on this, the remainder of this section will discuss climate resilience, adaptation and the role of Sydney Water.

PIAC is focused on how the operating licence can improve outcomes for Sydney Water consumers and the community. We would like greater clarity on how outcomes for consumers and community would be changed or improved by the addition of explicit reference to climate change before commenting on whether a licence objective amendment is necessary.

4.1 Resilience, adaptation and the role of Sydney Water

PIAC recommends that IPART investigate and if necessary, seek legislative change to provide clarity on Sydney Water's role in the community as a provider of climate resilience and adaptation programs. There is a question to be answered as to whether Sydney Water is a public utility that provides community water services (a broad remit) or a business providing water (a narrow remit). This is a tension that we have identified in Sydney Water's active and proposed climate resilience and adaptation programs, that has been corroborated by attending Sydney Water customer engagement sessions. This ambiguity of role is only further complicated by the fact Sydney Water shares responsibility for catchment and water source management with WaterNSW.

Climate resilience programs such as improving waterways and greening urban areas are important work but Sydney Water's current primary function in climate response is to conserve water assets. From their customer engagement sessions there was clear community support for the work Sydney Water does in improving waterways and greening urban areas but significant confusion about why the government does not pay for this out of general revenue. As a regulated monopoly whose costs must be recovered from water users, there is a need to assess whether some functions undertaken by Sydney Water should be funded through Government or other programs. There was strong consumer sentiment that Sydney Water is well placed to do this work, but that it should not be paid for by consumers through Sydney Water bills.

Recommendation: 6

Investigate and, if necessary, seek legislative change to provide clarity on Sydney Water's role in the community as a provider of climate resilience and adaptation programs. In particular, consider the shared roles of WaterNSW and Sydney Water and investigate opportunities for alternative funding contributions to resilience programs such as improving waterways and greening urban areas.

5. Sydney Water's obligations to its customers

5.1 Rebates

PIAC remains concerned that rebates do not always reach the occupants who suffer the conditions and consequences rebates are intended to compensate for. Whilst the *Residential Tenancies Act 2010* (NSW), s 39(6) requires that a 'landlord must ensure that the tenant receives the benefit of, or an amount equivalent to, any rebate received by the landlord in respect of any

water usage charges payable or paid by the tenant', PIAC is aware that the power imbalance between landlords and tenants mean that this does not always occur in practice.

We urge IPART and Sydney Water to work with PIAC and other stakeholders, including the Tenants Union, to determine an alternative to relying on landlords to ensure that the rebate is passed on to tenants. In the short term, this could include crediting the usage component of the bill. PIAC regards this as an interim solution until Sydney Water develops more robust and consistent direct relationships with tenants which would enable direct crediting to tenants.

Recommendation: 7

Initiate interim and long-term solutions to ensure tenants receive rebates intended to compensate for circumstances which impact them.

5.2 Tenancy

Where IPART considers it necessary, they should recommend legislative change to facilitate (and require) a direct relationship between tenants and Sydney Water. This should be focused on ensuring Sydney Water bills tenants directly for the usage component of the bill (where efficiency circumstances allow) and can deal directly with service issues experienced by tenant customers. The current arrangements disadvantage over 30% of households Sydney Water services and are not fit for purpose.

PIAC has been a part of ongoing conversations with IPART, community stakeholders and Sydney Water regarding tenants issues in relation to water access, services, billing and protections.

Issues raised include:

- Not receiving bills in a timely manner from landlords and, notwithstanding provisions in tenancy laws, being required to pay bills regardless of age.
- Receiving bills in bulk, rather than as they are due.
- Not receiving official Sydney Water bills.
- Supply interruption rebates going to landlords, not the occupants who experience the inconvenience.
- Difficulty accessing rebates and supports they should be entitled to.
- Being required to disclose financial circumstances to landlord to access any supports, impacting the security of their tenancy.
- Relative invisibility of usage making it difficult to track usage and difficult to identify when there are hidden leaks. This is further compounded by issues enforcing any requests to resolve leakages.
- Difficulty enforcing water efficiency requirements and being required to pay usage related to inefficient fixtures.
- Tenants in granny flats paying entire usage bills, including for the main house.

IPART's role in facilitating and prioritising these conversations is very welcome. The consistent feedback from community stakeholders has strongly recommended the development of direct usage billing and service relationship between Sydney Water and tenants to ensure fair treatment and access to service and protections.

We recognise that efforts have been made by IPART and Sydney Water to provide better outcomes and protections for tenants. However, these changes are insufficient to overcome the inherent power imbalance between landlords and tenants. An update of legislation and reform of responsibilities and systems is required to ensure the growing proportion of renters can expect fair and equal services and protections.

Recommendation: 8

Undertake operating licence and other changes, including any necessary legislative reforms, to mandate a direct & separate usage billing and service relationship between tenants and Sydney Water.

5.3 Payment assistance

With increased costs of living and expectations of investment driven increases in long-term costs of energy and water, it is a crucial to ensure Sydney Water's payment assistance is effective in who and how it helps. Payment assistance should have the objective of maintaining an affordable connection to water and help ensure people are not paying for their water bill by forgoing other essentials such as food and medicine.

PIAC's research into the use of unregulated and lightly regulated credit products (such as Buy Now Pay Later (BNPL)) in paying energy bills provides relevant lessons for the water industry. People need and value payment options which break up large irregular bills into smaller more regular amounts which align with their income cycles. The research also highlights the need for supports to be provided in a positive way and that wherever possible, people should not have to explain why they can't afford to pay their bills. The research shows the more onerous requirements to access 'positive' payment assistance leads to shame and encourages the use of BNPL and other more harmful products which are easier to access, but leave them worse off.³

The effectiveness of payment assistance and the need for data

The current framework for monitoring and publishing assistance make it impossible to determine how effective Sydney Water's payment assistance systems and practices are. In energy, each retailer is required to report on a significant number of consumer outcomes to the Australian Energy Regulator (AER) who publishes these statistics quarterly, and provide commentary on key trends such as disconnections, consumer debt levels and numbers of consumers in hardship programs.⁴ Further commentary is provided in the AER's annual State of the energy market report.

Whilst data is available regarding Sydney Water's restrictions and legal actions for non-payment in the National performance urban water utilities reports, this information is not as detailed or accessible as the reporting in energy. It is effectively hidden as it is not provided by Sydney Water or the NSW Government, where the community would expect it to be available. The available data provides insufficient insight into the numbers of people in debt and what assistance they receive. It also fails to reveal how soon after restriction people have their service re-instated. These are important performance markers which IPART should work to make available for all NSW Water consumers.

³ PIAC (2023), '[Paying to pay: Using credit products to afford energy](#)'.

⁴ For example, see: <https://www.aer.gov.au/retail-markets/performance-reporting/retail-energy-market-performance-update-for-quarter-3-2022-23>

Recommendation: 9

Key consumer outcomes regarding Sydney Water's (and other NSW water providers) be collected and published by IPART, including commentary and trends regarding restrictions, debt, payment plans, hardship programs and cross matched with statistics such as whether people are concession recipients and whether they have 'successfully' exited hardship programs in the recent past. IPART should recommend the NSW Government initiate reforms to ensure this information is consistently collected and published for all water providers.

The [NSW Social Programs for Energy Code annual reports and associated data](#) reveal how various NSW energy rebates and Energy Accounts Payment Assistance are provided across the community. The NSW Government requires retailers to provide a range of data on usage, how the bills and consumption of rebate consumers compare to bills and consumption for non-rebate consumers, as well as outcomes such as disconnection. This provides insights into experiences of NSW households, and helps ensure there is transparency and accountability where government money is used to help household energy affordability. There is no transparency regarding Sydney Water's (and other NSW water providers) rebates and emergency assistance and how successfully they support household water affordability.

Recommendation: 10

Key indicators of rebate, Payment Assistance Scheme and other supports provided by or through Sydney Water (and other NSW water providers) should be published by IPART, including commentary and trends regarding outcomes for consumers.

Data that is available indicates that, before restrictions for non-payment were ceased during Covid-19 stay at home orders, Sydney Water's restriction for non-payment levels were relatively high. For example in 2018-2019, 8145 restrictions were made which is 4 in a thousand consumers, or 0.4%.⁵ Some other large metropolitan water utilities have much lower rates, such as South East Water (0.1%) and Yarra Valley Water (0.2%).⁶ NSW residential gas disconnection rates in 2019 were lower than Sydney Water's restriction rate at 0.24%.⁷ These figures indicate that there is scope to improve payment assistance for households to help reduce restrictions for non-payment and further demonstrate the value of consistent and transparent data collection.

Fees

PIAC notes that Sydney Water's fee for 2023-24 are:

- Dishonoured or declined payment for 2023-24 is \$18.48 (inc GST); and
- Late fee is \$6.12 (inc GST) a quarter (or interest can be charged).⁸

Fees for the largest three energy retailers are much smaller (all fees are GST exempt):

- Origin Energy: Late fee for standard contract is \$10.90 and for market contract is \$12.00.⁹

⁵ Australian Government Bureau of Meteorology (2023), 'National performance report 2021-22 Urban Water Utilities, Part B The complete dataset'.

⁶ Ibid.

⁷ Ibid.

⁸ Sourced from: <https://www.sydneywater.com.au/accounts-billing/paying-your-bill/our-prices/prices-other-services.html> (accessed 7/9/23).

⁹ Sourced from: <https://www.originenergy.com.au/pricing/additional-charges/> (accessed 7/9/23)

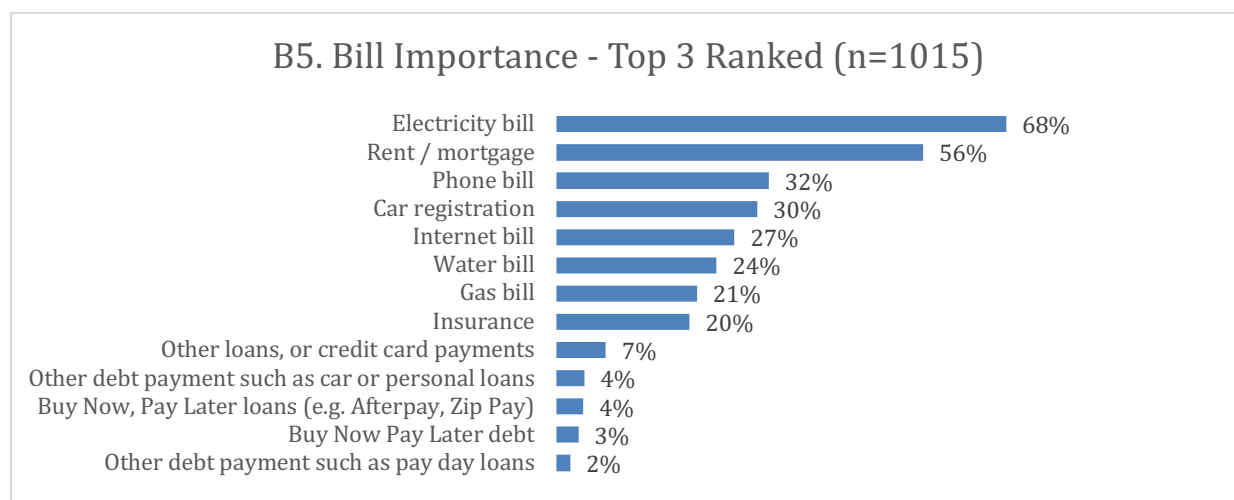
- AGL: Late fee for standard contract and for market contract is \$12.00.¹⁰
- Energy Australia: Late fee for standard contract is \$10.90 and for market contract is \$12.00.¹¹

Energy Australia and Origin Energy do not charge these fees to pensioners or people receiving the Medical Energy Rebate. In comparison PIAC considers Sydney Water’s dishonoured or declined fee is particularly high.

In our Paying to Pay research,¹² we examined whether people experiencing disadvantage pay more because of their method of payment. It found that many people on low incomes pay more for their energy bills because of the way they pay, because they cannot otherwise afford to pay the bill in full on time. One service provider explained:

The late fees and the missed direct debit and then the fees in the bank account because they’ve missed the payment, all those things mean the cost... you can sit here and say, “the electricity only cost \$X”. Fact is, plus for Defer-It,¹³ plus the missed direct debit, plus the late fee, plus the paper statement fee. What’s the real cost? The real cost is if you are of lower income, if you are lower financial literacy and lower literacy, you will have the disadvantage surcharge. – Financial Counsellor, NSW

Other service providers interviewed referred to fees that penalise people who are experiencing disadvantage. People who have difficulty paying their bills on time often do not understand or have access to internet billing; cannot make quarterly repayments by direct debit; need to defer some bills while paying off other bills, are likely to get charged late fees, dishonour fees, additional fees and/or interest accruing on amounts owing (if using a credit card).



¹⁰ Sourced from: <https://www.agl.com.au/content/dam/digital/agl/documents/pdf/terms-and-conditions/fee-schedules/2023/agl-feeschedule-standardretailcontracts-nsw-july2023.pdf> and <https://www.agl.com.au/content/dam/digital/agl/documents/terms-and-conditions/energy/rates-and-contracts/market-retail-contracts/nsw/agl-feeschedule-marketcontracts-nsw-july2023.pdf> (accessed 7/9/23).

¹¹ Sourced from: <https://www.energyaustralia.com.au/home/help-and-support/faqs/late-fees> (accessed 7/9/23).

¹² This aspect of the research is yet to be published, but further details can be provided by PIAC. The research methodology can be found [here](#).

¹³ Defer-It is a Buy Now Pay Later credit product.

People on low incomes prioritise paying their water bills. An additional survey conducted by Action Market Research as part of the research indicated that 24% of people surveyed consider their water bill to be in their top 3 bill priorities.

Dishonour fees and late fees make a material and detrimental difference in the lives of people on low incomes where every dollar (and cent) counts. For the people in PIAC's research, paying late is not a matter of forgetting to pay a bill, but is due to juggling competing expenses, including food.

IPART should ensure that Sydney Water's fees are truly cost reflective, with dishonour fees a material cost that needs to be passed on to all customers. I

Recommendation: 11

Dishonour/declined payments (and late fees) should be minimised to reduce their negative impact on households experiencing disadvantage. IPART should ensure any fees are both necessary and cost-reflective where they are required.

Payment assistance and tenants

PIAC recommends Sydney Water work with organisations such as the Tenants Union and other community stakeholders to improve information to tenants regarding the supports or assistance available to them.

Although the *Residential Tenancies Act 2010* (NSW), s 39(4) states that a 'tenant is not required to pay the water usage charges if the landlord fails to request payment from the tenant within 3 months of the issue of the bill for those charges by the water supply authority,' This seldom occurs in practice and it is not uncommon for tenants to be provided with a number of Sydney Water bills all at once. The power imbalance between landlords and tenants often results in them paying even if a tenant is aware they are not legally required to, in order to keep their tenure safe.

In their [Response to IPART's Issues Paper](#), Sydney Water outline why billing and making payments directly to tenants directly is difficult. We understand these complications but recommend IPART and Sydney Water work with PIAC and other stakeholders, including the Tenants Union, to develop better systems and protections for tenants. IPART should recommend the NSW Government initiate any required legislative reforms to enable this. i

Recommendation: 12

Initiate short term processes to improve tenant awareness of payment assistance available to them, and develop recommendations (including legislative reform) to make more substantive longer-term improvements to the services and protections available directly to tenants.

5.4 Family Violence

PIAC supports Sydney Water being required to maintain and update a family violence policy. IPART and Sydney Water should apply learnings coming out of the Victorian Essential Services Commission's review into family violence protections. Family violence is an area where the community is increasing its understanding rapidly and Sydney Water's family violence must be required to reflect current best practice.

PIAC considers Sydney Water's Family Violence policy robust and well developed. However, there is scope for further development and we recommend the following improvements to promote better outcomes for victim survivors:

- Have a positive upfront message that Sydney Water understands that water, as an essential service, can be used by perpetrators to inflict harm. That the nature of family violence can make staying on top of bills difficult. People will be believed and will not be required to explain their circumstances or provide evidence. Sydney Water considers the safety and welfare of people affected by family violence to be a priority.
- Include a broad definition of family violence so it is clear to victim survivors that Sydney Water understands that abuse can take many forms and is broader than intimate partner or former intimate partner relations.
- The word 'customer' is used in the policy, although later the policy states that the assistance also applies to tenants, not just owners. Where possible, community facing documents should use the term 'people' and avoid labels wherever possible.
- If it does not already occur, training in family violence should occur for all staff and contractors, including senior managers, not only frontline service-providers. Job specific training should occur, such as for community facing roles and systems designers. It is important for victim-survivors to see that Sydney Water takes family violence seriously by communicating that all staff and contractors receive family violence training.
- If it does not already occur, victim survivors (and other people experiencing payment difficulty) should be given flexibility to miss some payments without voiding their payment plan (and continue to be subject to the protections that this provides).
- Where possible, victim-survivors should be able to elect when they can be contacted, using their preferred contact method.
- Late fees and dishonour fees should not be applied to the accounts of victim-survivors.
- The accounts of victim-survivors should not be able to be referred to external debt collectors.
- A list of appropriate, local support services could be included at the end of the policy.
- If they don't already, Sydney Water should have a policy to support their staff experiencing family violence, including access to family violence leave.

Recommendation: 13

That IPART include PIAC's recommendations to improve Sydney Water's response to victim survivors of family violence, including by upgrading requirements relating to Sydney Water's Domestic and Family Violence policy.

5.5 Complaints & Dispute Resolution

PIAC supports retaining current operating licence requirements for both internal complaints and external dispute resolution. IPART should consider additional measures requiring Sydney Water to make information regarding these procedures available across a number of communications formats, including on bills. IPART should consider making data on the types and frequency of complaints more robust and readily available, as suggested previously in this submission.

PIAC does not support any moves to allow alternative external dispute resolution. The NSW Energy and Water Ombudsman (EWON) is the established independent dispute resolution organisation with a proven track record across energy and water. The effectiveness and accessibility of independent dispute resolution depends on a clear understanding of where to go. This is materially undermined where multiple actors exist. IPART should not support any alternative external dispute resolution.

5.6 Customer Engagement

PIAC supports Sydney Water's operating licence explicitly including requirements for Sydney Water to retain enduring forms of structured community and stakeholder engagement. There is scope for the operating licence to further prescribe key aspects of this.

Sydney Water has elected to maintain a single body (its Customer and Community Reference Group or CCRG) to fulfil a number of different functions relating to its current licence and revenue determinations, as well as its ongoing community stakeholder engagement. PIAC considers that combining these functions is not a best practice approach and that retaining two separate (if potentially overlapping) groups to fulfil these functions is more effective and sustainable in the longer-term.

PIAC highlight the approach taken by Hunter Water (as well as NSW electricity and Gas distribution businesses) as examples of better practice which IPART could specify in the operating licence for Sydney Water. These approaches retain an ongoing, widely representative, community and stakeholder reference or advisory council (such as that stipulated in the existing licence and previously run by Sydney Water). A separate independent, expert or otherwise specifically constituted body to advise on, shape, interrogate and oversee processes related to the development of a revenue proposal (particularly the direct community engagement program) can then be initiated. PIAC considers this a best practice approach because it:

- Best facilitates the ongoing community and stakeholder advice body to be widely representative of all key elements and perspectives within the community. It does this by focusing on representation and setting a relatively 'low bar' for effective involvement and contribution by members. This ensures community groups, community representatives and other 'special interests' can be involved even where water services may be a relatively marginal priority for them, or where their own resource limitations mean deep engagement is not feasible.
- Ensures the role of advising on, shaping, interrogating and overseeing the licence and revenue determination process (and the direct community engagement which must inform it) can be undertaken by people with the expertise, resources and time to most effectively fulfil it.

- Allows scope crossover (and interaction) between these groups, without compromising the function of either, or limiting the engagement of groups with either (for example by setting the requirement for involvement too high for some groups to participate).

While the approach currently taken by Sydney Water is valid and has been embraced in good faith by Sydney Water, PIAC considers separate roles for ongoing community representation and advice, and independent oversight of engagement, to be best practice and a more enduring and effective approach.

IPART can (and should) prescribe that stakeholder engagement and direct community engagement are part of an effective community-centric approach to business decision-making and reflect this in Sydney Water's licence. Similarly, PIAC recommends the operating licence include further prescription that Sydney Water must:

- Retain an ongoing community representative advisory group (as has been previously stipulated in the operating licence), focusing on ensuring the widest representation of community and stakeholder perspectives and experiences.
- Ensure the timely initiation of an independent or expert advisory group to inform, shape, interrogate and oversee processes related to the review of the operating licence and the development of revenue proposals. This body should have a primary focus on ensuring engagement with customers and the community is shaping business decisions and that business decisions can clearly demonstrate they are shaped by and promote the interests and preferences of the community. The expertise of this group and the time and resource commitments involved should be commensurate with the task of input and oversight of Sydney Water's community engagement and revenue proposal development process. While this group may draw on members of other community advisory groups maintained by Sydney Water, it should be regarded as a separate and independent entity.
- Undertake direct community engagement informed and overseen by an independent or expert stakeholder advisory group. This engagement should be undertaken in line with best practice guidelines for good engagement and be capable of meaningfully shaping Sydney Water decision-making.

PIAC broadly support the current operating licence conditions regarding engagement, and strongly supports the additional aspects proposed by IPART on page 65 of the Issues Paper.

While we understand IPART's preference to stipulate the minimum requirements, there is greater scope to define what is currently regarded as the minimum. For instance, stipulations for engagement to be 'relevant, representative, proportionate, objective, clearly communicated and accurate' do not necessarily represent the current state of 'minimum requirements' for good engagement. IPART could provide updated criteria reflecting current best practice for consumer and community engagement, for example requiring a substantial deliberative element of engagement, and requiring engagement to be focussed on areas where the community can have a meaningful impact.