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Lodged online: [www.wrc.sa.gov.au](http://www.wrc.sa.gov.au)

Dear Ms Westell,

**RE: OC27375-9.63.1.3-Hardship Policy-Wakefield Regional Council**

As the peak body for the health and community services sector in South Australia, the South Australian Council of Social Service (SACOSS) undertakes policy and advocacy work in areas that specifically affect disadvantaged and low income consumers in South Australia. SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. SACOSS has an established history of interest, engagement and provision of proposed advice on policies relating to the cost of living,<sup>1</sup> and has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like electricity impacts greatly and disproportionately on vulnerable and disadvantaged people.

SACOSS would like to thank the Wakefield Regional Council for providing SACOSS with the opportunity to comment on the Council's Draft Hardship Policy for ratepayers. We commend Wakefield Regional Council for recognising the impact of cost of living pressures on low-income households in your region, and for taking steps to outline the ways in which you will assist those households to meet their rate payment obligations. We also strongly support the Council's proposal to make Direct Debit available to ratepayers from 2018/19, which we understand is to be considered separately to the proposed Hardship Policy.

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<sup>1</sup> See SACOSS, Utilities Cost of Living Election Policies  
[https://www.sacoss.org.au/sites/default/files/Cost%20of%20Living%20Policies\\_FINAL.pdf](https://www.sacoss.org.au/sites/default/files/Cost%20of%20Living%20Policies_FINAL.pdf)

SACOSS has recently written a Report on the effectiveness of supports for customers experiencing difficulties paying their energy bills<sup>2</sup> (SACOSS' 2018 Report). Our 2018 Report reviewed the recent proposal by the Australian Energy Regulator (the AER) to change the National Energy Retail Rules to allow for the development of a binding hardship guideline. The AER's proposal is in recognition of the failure of current policies and practices of energy retailers to adequately support customers experiencing payment difficulties. Broadly speaking, the National Energy Retail Law places obligations on retailers to provide supports to customers experiencing payment difficulties, and customers experiencing payment difficulties due to hardship (hardship customers). The distinction between these two groups of customers has created serious limitations on access to supports, as under the relevant Law, the retailer can identify hardship customers on the basis of its own criteria, leading to inconsistencies and inequity in application.

As outlined in your Draft Hardship Policy and Debit Option Report, section 182 of the *Local Government Act 1999* (the Act) permits Council to partially or wholly remit rates or to postpone payment of rates on the basis of hardship, on the application of a ratepayer. In addition, your Report states that 'any ratepayer who is experiencing difficulty in meeting standard payment arrangements is able to contact our Rates Officer to discuss alternative arrangements'. SACOSS believes these are two different sets of circumstances. Under the Act, the obligation is on the ratepayer to apply for a partial or whole **remission** of rates, or to postpone paying payment of rates, on the basis of hardship. Whereas the supports for ratepayers who are having trouble meeting standard payment arrangements relates to **how** ratepayers **pay** their bill, not how council **remits** the bill or **postponement** of payment. We believe the Act doesn't constrain the Council from offering payment supports (in the form of payment plans, Centrepay etc.) to the **broad** group of ratepayers experiencing payment difficulties, and therefore suggest a more inclusive and appropriate Policy could be developed which completely avoids identifying ratepayers as 'hardship customers'.<sup>3</sup>

In support of our suggestion, it is worth briefly looking at the Essential Services Commission of Victoria's (ESC Vic's) recent, extensive work in the area of providing supports for customers experiencing payment difficulties. In October 2017 the ESC Vic amended the Energy Retail Code to include a new Payment Difficulty Framework<sup>4</sup> which will come into effect on **1 January 2019**. In introducing the new Framework, the ESC Chairperson, Dr Ron Ben-David stated that (our emphasis):

*'In May 2017, we released a new draft decision that replaced the earlier proposal. Our new proposal took a very different approach from our earlier attempt. We took as our starting proposition that payment difficulty was too complex and too varied to be addressed through highly prescriptive regulation. **Because each customer's situation is unique, the framework needed to allow for assistance to be designed in a way that best meets each customer's circumstances.** We needed to shift from a rules-based approach to one that was focused on positive results for customers.'*

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<sup>2</sup> See SACOSS' Report into The Effectiveness of Supports for Customers Facing Payment Difficulties, June 2018 [https://www.sacoss.org.au/sites/default/files/public/documents/Reports/180629\\_SACOSS\\_Report\\_Effectiveness\\_Of\\_Supports.pdf](https://www.sacoss.org.au/sites/default/files/public/documents/Reports/180629_SACOSS_Report_Effectiveness_Of_Supports.pdf)

<sup>3</sup> We also question whether 'ratepayers' should be identified as 'customers' within the Draft Policy, recognising that the Draft Policy draws on the MIR Water Hardship Policy, which rightly refers to customers

<sup>4</sup> <https://www.esc.vic.gov.au/document/energy/54904-payment-difficulty-framework-final-decision/>

The new framework was designed to respond to the findings of the ESC's hardship inquiry which (inter alia) found that (our emphasis):<sup>5</sup>

- customers need assistance that varies with the type of payment difficulty they are facing
- **labelling customers as 'hardship customers' is a barrier to accessing assistance**
- customers do not know what assistance is available
- **eligibility for assistance is very largely at retailers' discretion**
- not all customers facing payment difficulty receive assistance.

The ESC's new Framework therefore **steers clear of identifying customers as 'hardship customers'** and instead provides *residential customers anticipating or facing payment difficulties* with minimum entitlements to assistance from their retailer when they are facing payment difficulty. The purpose of Part 3 of the Energy Retail Code<sup>6</sup> (the Code) provides:

*The purpose of this Part is to set out the minimum standards of assistance to which **residential customers anticipating or facing payment difficulties** are entitled, so that disconnection of a residential customer for not paying a bill is a measure of last resort.*

SACOSS notes and supports the inclusion of 'anticipating' payment difficulties in the purpose of the framework. Throughout the Code, reference is broadly and inclusively made to '**residential customers**', with Division 2 dealing with 'standard assistance' that applies to all 'residential customers'. The Code is focused on outcomes and does not prescribe how retailers act in every situation. Retailers will need to exercise their judgment about how to comply with the Code taking into account individual customer circumstances<sup>7</sup> with defined minimum standards of assistance that must be provided depending on the type of payment difficulty a customer is facing.<sup>8</sup>

The Code does require retailers to prepare a Financial Hardship Policy, which must include the minimum requirements contained in Division 3 of the Code. Division 3 deals with 'tailored assistance' for residential customers. The tailored assistance division applies to '**all residential customers who are in arrears**' (clause 78 of the Code). Therefore, if a customer is in arrears, then they attract the minimum assistance contained in the 'tailored assistance' Division, as contained within the retailer's hardship policy.

We believe the Council could create a policy outlining supports available to **all ratepayers experiencing payment difficulties**. The eligibility criteria could simply be if the ratepayer is in arrears, or if the ratepayer has informed the Council that they are having difficulty paying their rates. The need to identify ratepayers as 'being in hardship' is not, in our opinion, necessary, and the availability of supports for ratepayers experiencing payment difficulties should not be constrained by the need to apply narrow identification criteria. We believe the distinction between 'hardship' and 'payment difficulties' is problematic, often artificial, and doesn't recognise the multitude of factors which can lead to a person experiencing payment difficulties.

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<sup>5</sup> ESC Victoria Payment Difficulty Framework Final Decision, 10 October 2017, p.63

<sup>6</sup> Amendments to the Energy Retail Code: Payment Difficulties, October 2017  
[file:///C:/Users/Georgina/Downloads/energy-retail-code-amendment-payment-difficulties-october-2017-20180117.pdf%20\(1\).pdf](file:///C:/Users/Georgina/Downloads/energy-retail-code-amendment-payment-difficulties-october-2017-20180117.pdf%20(1).pdf)

<sup>7</sup> ESC Vic Payment Difficulty Framework Final Decision, 10 October 2017, p.72

<sup>8</sup> ESC Vic Payment Difficulty Framework Final Decision, 10 October 2017, p.72

We strongly support the 'Principle(s)' in your Draft Policy, although we suggest the Council resists from referring to 'hardship customers' and instead refers to 'residents experiencing payment difficulties', or 'ratepayers experiencing payment difficulties'. We also strongly support two of the 'Objective(s)' of your Policy. We would suggest that the objective 'to establish guidelines for assessing financial hardship application in an equal and fair way' may be relevant to the obligation on Council in how it remits rates or postpones payment under the Act, but we don't believe a 'hardship application' is required for the Council to offer supports in accordance with the Principle contained in the Draft Policy 'to better manage bills through flexible payment options'. Once again, we believe the **remission or postponement of payment** of rates, and the **payment options and supports** available to customers are two different considerations.<sup>9</sup>

We believe the first paragraph of the 'Application of the Policy' is appropriate, except for the use of 'financial hardship' and suggest using instead the term 'payment difficulties' which is more inclusive and steers clear of the problematic need to identify ratepayers experiencing 'hardship'. Unlike energy and water retailers, the Council is not constrained by relevant legislation in its identification of 'customers' experiencing payment difficulties, and therefore SACOSS strongly supports the Council adopting a broad and inclusive policy which is aimed at supporting **all ratepayers** experiencing payment difficulties.

The Draft Policy outlines the following measures, which SACOSS unequivocally supports being offered by the Council to all residents experiencing payment difficulties:

- An individual payment plan
- Direct Debit payment channel
- Centrelink Centrepay service.

Of concern to SACOSS is the requirement under the Draft Policy for the ratepayer to submit a hardship application 'in writing to Council, supported by documentation with evidence of financial hardship'. SACOSS submits this requirement is unnecessary. The objective of the Policy is to identify and clarify (for the benefit of ratepayers and Council staff) the supports and options which the Council will offer ratepayers who are having trouble paying their bills. The offer of Payment Plans, Direct Debit and Centrepay should not be dependent on a ratepayer making a written application with supporting evidence of their financial circumstances.

Centrepay is an incredibly useful payment option for every person receiving Centrelink payments, and should be offered to **all eligible ratepayers** (i.e. every ratepayer receiving Centrelink payments). The AER's voluntary Sustainable Payment Plans Framework states that energy retailers should offer Centrepay and conduct concession checks to every customer who receives income from Centrelink, as this is a very easy way to assist this particular group of vulnerable customers,<sup>10</sup> and SACOSS strongly agrees. We note that in the Draft Policy (under payment plans) Council has stated it will offer:

- Information about and referral to Commonwealth and South Australian Government concessions, rebates, grants and assistance programs, as well as

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<sup>9</sup> Council may consider dealing with 'hardship applications' for remission or postponement of payment under the Draft Policy, and could consider defining 'hardship' more broadly for this purpose to include all 'ratepayers experiencing payment difficulties'.

<sup>10</sup> AER's Annual Performance Report on Compliance and Performance of the retail energy market 2016-17, p.36

- Information about financial counselling services.

SACOSS strongly supports the Council providing this information to **all ratepayers experiencing payment difficulties**, the availability of concessions and financial counselling services for vulnerable residents is of central importance in providing effective supports.

Payment Plans are also an important tool in assisting ratepayers to better manage their debts, and should be broadly offered to all ratepayers ‘anticipating or facing payment difficulty’<sup>11</sup>. Under the National Energy Retail Law, all energy retailers are required to offer payment plans to energy customers who they ‘otherwise believe’ are experiencing payment difficulties. The obligation to offer payment plans is very broad, and not confined to ‘hardship customers’.

We once again repeat that we don’t believe the obligation under section 182 is relevant to the Principle stated in the Draft Policy, but leaving that to one side; it is worth pointing out the inadequacies of relying on self-identification to identify customers in hardship, as a UK study into consumer experience of vulnerability observed:

*“Nobody plans to become vulnerable and few people self-identify as being vulnerable. The situations and circumstances of ‘vulnerable’ individuals are diverse, complex and dynamic; the experience of vulnerability is unpredictable, and it can change over time. Many people manage to cope with their situation by believing – for better or for worse – that ‘things will improve’, that their situation is only temporary, and that ‘normality’ will soon return.”*<sup>12</sup>

We therefore strongly counsel against the inclusion of a requirement within the Policy that ratepayers be required to apply for access to supports on the basis of ‘financial hardship’. We submit that Council should offer all ratepayers who are having trouble paying their bills, the supports and protections outlined in the Draft Policy, without having to apply to meet ‘hardship’ criteria. This threshold test of ‘hardship’ has been found to be a significant barrier to meaningful assistance, and the failure of energy retailers’ policies and practices is testament to this fact.<sup>13</sup>

## Recommendations

We therefore make the following recommendations:

- The Policy is re-named Ratepayers Experiencing Payment Difficulties Policy.
- The Policy is re-drafted to outline supports Council will offer to: ‘ratepayers experiencing payment difficulties, where the ratepayer tells the Council that they are having difficulty paying their bills (in person, by phone or in writing), or the Council is aware that the ratepayer is in arrears’.
- The Council remove reference to ‘hardship customers’ and delete the ‘Details’ and requirement for a written application. Where the Council is concerned about the **remission or postponement of**

<sup>11</sup> In line with the Essential Services Commission of Victoria’s Payment Difficulty Framework.

<sup>12</sup> ESRO Ltd, Vulnerability exposed: The consumer experience of vulnerability in financial services, December 2014, p.3 <https://www.fca.org.uk/publication/research/vulnerability-exposed-research.pdf>

<sup>13</sup> A very significant amount of work is currently being undertaken by the Australian Competition and Consumer Commission, the Australian Energy Market Commission and the Australian Energy Regulator into the failure of hardship schemes and how to better assist customers to manage their energy bills.

**payment** of rates, as opposed to the offer of payment options and supports, SACOSS considers the Council continues with its current practices, or drafts a separate policy for this purpose.

- The Council states, within the Policy, its commitment to actively promoting and providing the following supports to ratepayers experiencing payment difficulties:
  - Offering Payment Plans and establishing those plans having regard to a ratepayer's capacity to pay, current financial situation and any arrears owing by the customer.
  - The option to pay rates through Direct Debit (including the right to have a debit redirected to a third person where the Council obtains consent in writing).
  - The option for all eligible ratepayers to pay their rates through Centrepay.
  - Providing information to ratepayers about government concessions and rebates.
  - Providing information to ratepayers about financial counselling services.
- The Council consider publishing a statement about supports for ratepayers experiencing payment difficulties (with perhaps a dedicated telephone number for questions) **on the rate notice**. For example, the statement could read 'If you are having trouble paying your rates, there are ways we can support you with different payment options, please call [telephone number] for further information'.

## Conclusion

Whilst SACOSS absolutely supports the clear expression of supports for ratepayers experiencing payment difficulties, and we commend the Wakefield Regional Council for endeavouring to achieve this through the creation of this Draft Policy, we consider the creation of a policy that defines criteria for identifying ratepayers in 'hardship', and requires ratepayers to make an application in order to be identified as being in hardship, is limiting. We suggest a Policy for Ratepayers (or Residents) Experiencing Payment Difficulties, may better align with the 'principle' of the Policy and may better achieve the objectives of supporting your vulnerable ratepayers to navigate the spiralling costs of living and resultant affordability crisis currently facing South Australians.

Once again, we applaud the Wakefield Regional Council for its efforts in ensuring that residents have access to the supports they need to help pay their rates. SACOSS would be very happy to provide any further assistance to the Council to meet this goal, if required.

We thank you in advance for consideration of our comments. If you have any questions relating to the submission, please contact Jo De Silva via [jo@sacoss.org.au](mailto:jo@sacoss.org.au) or 08 8305 4211.

Yours sincerely,



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