



Ms Sarah Proudfoot
General Manager, Consumers and Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

14 January 2019

Lodged online: AERConsumerandPolicy@aer.gov.au

Dear Ms Proudfoot,

RE: Hardship Guideline issues paper submission

As the peak body for the health and community services sector in South Australia, the South Australian Council of Social Service (SACOSS) has an established history of interest, engagement and provision of proposed advice on the necessary market mechanisms and policy for essential services, including electricity. SACOSS would like to thank the Australian Energy Regulator (AER) for providing us with the opportunity to comment on its Hardship Guideline Issues Paper, dated December 2018 (the Issues Paper).

This submission builds on our previous submission to the AER on the Standardised Statements Issues Paper,¹ as well as our submissions to the Australian Energy Market Commission (AEMC) on the AER's Hardship Rule Change Proposal,² and our June 2018 *Report on the Effectiveness of Supports for Customers Experiencing*

¹ SACOSS, Submission on AER's standardised statements for use in customer hardship policies, 7 December 2018.

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/181207_SACOSS_Submission_Standardised%20Statements_AER_w_attachments.pdf

² SACOSS, Submission to the AEMC on the National Energy Retail Rules Amendment (Strengthening protections for customers in hardship) Rule 2018, 28 June 2018

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/180628_SACOSS_Submission_AEMC_Hardship_Policy_Rule_Change.pdf and

SACOSS, Submission to the AEMC Draft Rule Determination: National Energy Retail Amendment (Strengthening Protections for Customers in Hardship) Rule 2018, 18 October 2018

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/181018_SACOSS_Submission_AEMC_Hardship_Policy_Draft_Rule_Determination.pdf

*Payment Difficulties under the NECF.*³ Both our submissions and June 2018 Report supported the AER's rule change request to allow for the development of a binding customer hardship policy guideline (Hardship Guideline). SACOSS commends the AER for initiating the rule change request and strongly supports the new Rules 75A and 75B in the *National Energy Retail Rules Version 16*⁴ (Retail Rules).

We acknowledge the AER's comments that a range of broader issues identified during the AEMC's rule change consultations are unlikely to be addressed by the Hardship Guideline.⁵ Nevertheless, we strongly submit standardised statements dealing with processes for retailer identification of hardship customers⁶ may go some way towards addressing the issues of access to support and inconsistent levels of assistance created by differing retailer's definitions of hardship.⁷ We refer to our previous submission to the AER on the Standardised Statements Issues Paper, and suggested Identification Flow Chart in support of this view.

We submit that more work is needed to ensure retailers are complying with their consumer protection obligations under the *National Energy Retail Law (South Australia) Act 2011*⁸ (Retail Law) and the Retail Rules to *all* small customers, not just hardship customers.⁹ We welcome the AEMC's forthcoming review into how retailers support the broader group of customers experiencing payment difficulties, and how those obligations operate with hardship obligations.

SACOSS has provided comment on the four key consultation issues identified by the AER in its Issues Paper, below:

Question 1: How should the Guideline best ensure that consumers are effectively informed about their rights?

SACOSS strongly agrees with the AER that 'for consumers to participate effectively in markets, they need to be aware of and informed of their rights, and be protected at times that they are unable to safeguard their own interests.'¹⁰

SACOSS submits the AER should include measures within the Hardship Guideline which will require retailers to provide all customers identified as experiencing payment difficulties with information about payment plans and hardship supports as soon as they become aware the customer is having trouble paying their bills. The provision of this information by the retailer to the customer should form part of the early identification processes set out within the retailer's customer hardship policy.

SACOSS submits that it is through the process of **retailer identification** that customers can be effectively and proactively informed by the retailer about their rights to support and protection. Therefore, the Hardship Guideline could best ensure consumers are effectively informed about their rights through the standardised statements dealing with processes for retailer identification of hardship customers.

³ SACOSS, *Report on the effectiveness of supports for customers experiencing payment difficulties: strengthening protections for customers under the NECF*, June 2018 see link: https://www.sacoss.org.au/sites/default/files/public/documents/Reports/180629_SACOSS_Report_Effectiveness_Of_Supports_0.pdf

⁴ See National Energy Retail Rules Version 16 at: <https://www.aemc.gov.au/regulation/energy-rules/national-energy-retail-rules/current>

⁵ AER, Hardship Guideline Issues Paper, December 2018, pp. 9-10

⁶ Minimum requirement contained in section 44(a) of the Retail Law.

⁷ AER, Hardship Guideline Issues Paper, December 2018, p. 10

⁸ See National Energy Retail Law (South Australia) Act 2011 at [https://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20\(SOUTH%20AUSTRALIA\)%20ACT%202011.aspx](https://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20(SOUTH%20AUSTRALIA)%20ACT%202011.aspx)

⁹ Note section 205 of the Retail Law which requires the AER to perform its regulatory powers in a manner that is 'compatible with the development and application of **protections for small customers**, including (**but not limited to**) protections relating to hardship customers'.

¹⁰ AER, Hardship Guideline Issues Paper, December 2018, p.11

Retailers are required, under the law, to have processes to identify customers experiencing payment difficulties due to hardship.¹¹ Retailers are also required, by law, to offer and apply payment plans for customers the retailer believes are having difficulty paying their bills.¹² As we have previously submitted,¹³ in order to identify customers experiencing payment difficulties due to hardship, retailers must first identify all customers experiencing payment difficulties (as hardship customers are a subset of this broader group). A simple analysis of energy bill debt, or payment patterns should be sufficient to trigger a belief in the retailer that a customer is having trouble paying their bill. Once this belief is triggered, the retailer is then under a legal obligation to offer support to that customer (in the form of a payment plan, or where the customer requires more tailored support, the hardship program). We submit that effective communication from the retailer to the customer, informing the customer of the supports available should occur at this early stage in the process of retailer identification.¹⁴

It is worth noting that the AER's 2017-2018 Performance Report shows the average electricity debt for a residential customer (non-hardship) is \$1001, with the average electricity debt for South Australian customers increasing by \$586 to \$1524. The average debt for customers on entry into hardship programs has also increased to \$1146. As noted by the AER, 'given that the average debt at time of entry to a hardship program is also increasing, retailers could do more to proactively identify customers experiencing payment difficulty and work with them to provide a range of assistance.'¹⁵ SACOSS agrees with the AER's findings, and suggests requiring retailers to proactively provide information to customers about their rights and retailer obligations as soon as the retailer becomes aware the customer is experiencing energy bill debt, may lead to earlier and more meaningful support, including through participation in hardship programs.

SACOSS notes the positive obligations on retailers under the Retail Law and Retail Rules to communicate information about its hardship policy to customers in certain limited circumstances (including *after* being identified as a hardship customer).¹⁶ SACOSS submits a consistent, clear and reliable process requiring retailers to proactively contact all customers as the first step (*early* in the debt cycle), to inform them of their rights and retailer obligations,¹⁷ would lead to better informed consumers, more meaningful support and a reduction in debt.

Further, SACOSS strongly agrees with the AER's assessment that obligations relating to circumstances alone are not sufficient to ensure effective communication; 'what information the customer is given and how it is given...are key to meaningful compliance with the law and achieving better outcomes'.¹⁸ The Issues Paper therefore suggests the Hardship Guideline include 'additional and complementary improvements to accessibility of information,'¹⁹ requiring retailers to present hardship materials in an accessible way. SACOSS strongly supports the measures suggested on pages 12-13 of the Issues Paper, and considers early identification and proactive communication of customer rights and retailer obligations by retailers to customers, coupled with measures to ensure greater accessibility of that information for customers, will lead to more engaged customers, and more effective participation in the market.

¹¹ National Energy Retail Law, section 44(a)

¹² National Energy Retail Law Section 50(1)

¹³ See SACOSS, Submission on AER's Standardised Statements, December 2018, p.##

¹⁴ Our view aligns with the requirements in section 46 of the Retail Law which requires that '*a retailer must, in accordance with the Rules, inform a residential customer of the retailer's hardship policy where it appears to the retailer that non-payment of an energy bill is due to the customer experiencing payment difficulties due to hardship*' noting the obligation is on the retailer to inform a '*residential customer*' NOT a '*hardship customer*', therefore the obligation is placed on the retailer at the earliest stage in the retailer identification process, as opposed to after the customer has been identified as a hardship customer, as required by Rule 71(1).

¹⁵ AER Performance Report 2017-2018, p. 52

¹⁶ AER, Hardship Guideline Issues Paper, December 2018, p. 11

¹⁷ Contained within the standardised statements dealing with retailer identification within the Hardship Guideline.

¹⁸ AER, Hardship Guideline Issues Paper, December 2018, p.12

¹⁹ AER, Hardship Guideline Issues Paper, December 2018, p.12

Question 2: How should the Guideline support consistent application of the Retail Law minimum standards?

SACOSS strongly agrees with the AER’s observation that ‘customers experiencing payment difficulties are not receiving a consistent level of assistance and access to hardship programs, and access to their rights and entitlements under the retail law can differ depending on their retailer.’²⁰ We also strongly agree that ‘early identification of customers maximises opportunities for effective intervention to help customers overcome and manage their financial difficulties – however there is no uniformity across industry as to when this intervention occurs.’²¹

We repeat our previous submission to the AER that the standardised statements dealing with identification of hardship customers, in particular processes dealing with retailer identification, present an important opportunity to ensure equitable access to supports through uniform retailer intervention. SACOSS submits uniformity can be achieved through the imposition of identifiable and reportable²² early triggers in the identification process, requiring retailers to proactively contact, inform and offer supports to customers. SACOSS refers to the Essential Services Commission of Victoria’s Payment Difficulty Framework which requires retailers to contact households **when they first get into debt** to tell them about:

- their rights
- options to lower energy costs
- government and non-government assistance
- how they can set up an affordable payment plan.

SACOSS recognises the ESC was not constrained by the NECF in the development of the PDF, but nevertheless submits the same result can be achieved through the imposition of clear retailer identification processes within the standardised statements. All retailers monitor customer debt, and we have suggested an identifiable trigger could be the existence of ‘energy bill debt’.²³ Ideally, SACOSS would support the trigger being as early as possible, and acknowledges and supports the predictive modelling processes used by some retailers to identify customers who are likely to experience payment difficulties, noting that this practice aligns with the ESC’s PDF which outlines supports for ‘all residential customers **anticipating** or facing payment difficulties’.²⁴

SACOSS submits consistency in the application of supports can only be achieved through uniform processes which can be monitored and enforced. Requiring retailers to comply with clear proactive contact obligations as part of the process of retailer identification of hardship customers will lead to more meaningful access to supports for all customers experiencing payment difficulties.

We strongly support the AER’s proposal that the Hardship Guideline include requirements that retailer’s hardship policies will:²⁵

- describe the types of systems the retailer has in place to assist in early identification and assistance for customers experiencing hardship

²⁰ AER, Hardship Guideline Issues Paper, December 2018, p. 14

²¹ Ibid, p.14

²² We have previously submitted the identification processes should link to relevant performance indicators, including indicators relating to payment difficulties and disconnection, as well as hardship indicators.

²³ ‘**energy bill debt**’ (being an amount owed to a retailer that has been outstanding for 90 days or more) defined in *AER (Retail Law) Performance Reporting Procedures and Guidelines*, April 2018, p.18

²⁴ Clause 71 of the ESC Energy Retail Code, Version 12, 1 January 2019

<https://www.esc.vic.gov.au/sites/default/files/documents/COD%20-%20RR%20-%20Amended%20Energy%20Retail%20Code%20-%20Version%2012%20incorporating%20obligations%20for%20exempt%20sellers%20-%20~%2020180917.pdf>

²⁵ AER, Hardship Guideline Issues Paper, December 2018, p. 15

- identify that the retailers' hardship personnel have undergone dedicated hardship training before handling hardship enquiries, and are able to answer questions
- identify that the retailers has systems in place to support the delivery of the retailers' obligations under the law, rules, the Guideline and their own hardship policy
- state that the retailer regularly reviews its hardship personnel training.

SACOSS has previously submitted²⁶ that retailers should use specially trained staff to proactively contact customers experiencing payment difficulties to offer appropriate supports, depending on the customer's circumstances. We submit the 'hardship personnel' (as referred to by the AER above) should deal with **all** customers experiencing payment difficulties, not just hardship customers, as this will facilitate the identification of hardship customers, and the early intervention and support for all customers experiencing payment difficulties, leading to better informed customers and reduced debt. We submit the process of early retailer identification requires a specialised team using its best endeavours to proactively contact all customers experiencing payment difficulties, not simply 'handling hardship enquiries'.

From an organisational perspective, there should be no impediments to implementing these practices, noting that retailers operating in Victoria will be required to contact a residential customer who has not paid a bill by its pay-by-date and who has arrears of more than \$55 (inclusive of GST) within 21 business days after that pay-by-date. The retailer must provide the residential customer with information about the assistance to which the customer is entitled and how to access it.²⁷ The ESC Vic' Guidance Note suggests this contact may be in the form of written information in a reminder notice, or separate to a reminder notice. Guidance Note 4.14.5 provides:

'The provision of assistance is considered to be received by a customer when either:

a) The retailer provides the customer with the information about their entitlement to assistance over the telephone and has sufficient records (clause 111A(d)) of the conversation; or

b) If the retailer posts the information to the customer, according to the ordinary course of post (clause 87(3)); or

c) the retailer has successfully sent the customer the information electronically.'

SACOSS submits if Victorian retailers can implement these organisational practices, then all retailers should be able to ensure all customers experiencing energy bill debt are contacted and provided with information about supports available to them.

In terms of ensuring the consistent application of the remaining minimum requirements (leaving aside the minimum requirement dealing with identification and access covered above), SACOSS refers to our previous submission on the standardised statements, where we supported the development of statements which link to performance indicators, allowing for consistent application across retailers through monitoring and compliance action.²⁸

Question 3: How should the Guideline support consumers most in need of hardship assistance to receive it?

Improving the early identification of customers facing payment difficulties

²⁶ SACOSS, Submission to the AER on the Draft Standardised Statements Issues Paper, 7 December 2018, p.16

²⁷ See Clause 80(2) of the ESC Vic's Energy Retail Code, Version 12, 1 January 2019

<https://www.esc.vic.gov.au/sites/default/files/documents/COD%20-%20RR%20-%20Amended%20Energy%20Retail%20Code%20-%20Version%2012%20incorporating%20obligations%20for%20exempt%20sellers%20-%20~%2020180917.pdf>

²⁸ SACOSS, Submission to the AER on the Draft Standardised Statements, 7 December 2018, p. 6-7

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/181207_SACOSS_Submission_Standardised%20Statements_AER_w_attachments.pdf

SACOSS strongly agrees with the AER's statement that 'where early identification of customers facing payment difficulties occurs, this maximises opportunities for effective intervention to help customers overcome and manage these difficulties in the short term. This ensures that customers in need of assistance through retailer's hardship programs are able to receive help in a timely manner before difficulties grow or escalate'.²⁹ SACOSS notes the AER has referred to the 'early identification of customers facing payment difficulties' as opposed to hardship customers. This statement aligns with SACOSS' view that retailers must identify all customers experiencing payment difficulties, in order to then identify customers in need of more targeted hardship supports, allowing for effective intervention with appropriate supports. Noting that retailers must offer and apply payment plans to all customers experiencing payment difficulties under the Retail Law.³⁰

As noted earlier in this submission, the AER's 2017-18 Annual Performance Report showed increased debt for non-hardship customers, as well as increased debt on entry into a hardship program.³¹ The AER's 2017-18 Performance Report also reported 'customers are entering a hardship program with a greater amount of electricity debt and an increased proportion of customers had significant debt at over \$2500. This year a total of 10% of all hardship customers had electricity debt over \$2500: this is 4257 more customers with high debt than last year.'³² This concerning data supports the conclusion that customers are not being provided with assistance early enough in the debt cycle, and that once debt has reached unmanageable levels it is difficult to reduce it, even with hardship supports.

The Issues Paper suggests the Guideline should require retailers to note in their hardship policies:

*'a short description of their process for assessing the eligibility of a customer for their hardship program. This could be a short, readily understood graphic or flow chart that will help customers understand the steps involved.'*³³

SACOSS considers that all customers experiencing payment difficulties should be provided with supports tailored to their individual circumstances, but we recognise the regulatory framework distinguishes between hardship customers and customers experiencing payment difficulties more broadly, providing more tailored supports for customers identified by the retailer as 'hardship customers'. We believe it is unhelpful to list factors which may lead to a customer being identified as a hardship customer; the factors which lead to hardship are many and varied, and to define those factors is to limit them. SACOSS submits 'a short description of (retailers') processes for assessing the eligibility of a customer for their hardship program' should involve contacting the customer as soon as the retailer becomes aware the customer is experiencing payment difficulties (as evidenced by energy bill debt, or payment patterns), and then having a conversation with that customer about their individual circumstances. Retailers need to ensure early and meaningful conversations with all customers experiencing payment difficulties, in order to identify hardship customers.

Addressing unreasonable conditions on entry or re-entry to a retailer's hardship program

SACOSS strongly agrees with the AER that conditions on customers entering or re-entering a hardship programs are contrary to the intention of the Law and Rules. In previous submissions we have cited feedback from SACOSS' member organisation, the South Australian Financial Counsellor's Association (SAFCA) which indicates that retailers may be limiting access to hardship programs, including through:³⁴

²⁹ AER, Hardship Guideline Issues Paper, December 2018, p.15

³⁰ Section 50(1) of the Retail Law

³¹ AER, *Annual Report on Compliance and Performance of the Retail Energy Market 2017-18*, p. 51 and 59

³² AER, *Annual Report on Compliance and Performance of the Retail Energy Market 2017-18*, p. 62

³³ AER, Hardship Guideline Issues Paper, December 2018, p.16

³⁴ South Australian Financial Counsellors Association, Survey of 23 financial counsellors re: proposed AER Rule Change, 19 June 2018

- experience of dealings with obstructionist staff, untrained staff and inaccessible staff (indicating a lack of operational commitment to hardship programs by the retailer)
- consistent failures of retailers to proactively identify customers in hardship, despite customers' burgeoning debt levels (sometimes in the thousands of dollars)
- evidence of retailers limiting access to hardship programs by requiring customers 'demonstrate a willingness or commitment to pay' through a series of fortnightly payments which the customer cannot meet (gatekeeping practices).

We have previously submitted that:³⁵

*'the current practices of excluding customers from hardship programs, and applying pre-requisites to re-entry to those programs, does not align with retailers' obligations to both hardship customers and customers experiencing payment difficulties under the NECF...the central purposes of a retailers' hardship policy is to identify customers in hardship and to assist those customers to better manage their bills on an **ongoing basis**. Excluding customers from hardship supports is inconsistent with assisting customers on an ongoing basis, and imposing payment obligations prior to re-entry is inconsistent with retailers' broad identification obligations (including self-identification), and the principle of fair and impartial access.³⁶ Further, where a customer is excluded from a hardship program, they are reliant on the protections under the NECF for the broader group of 'customers experiencing payment difficulties', and it is not apparent that retailers are applying those protections consistently.'*

SACOSS strongly agrees with the AER's recommendation that the Hardship Guideline contain provisions that hardship policies cannot include:

- 'exclusionary or blanket statements that prevent entry or re-entry into a hardship program, particularly where the retailer states they will determine customer eligibility to a hardship program on a case by case basis
- conditions to entry or re-entry to a hardship program that are reliant on a customer meeting a certain obligation, such as attending financial counselling or being represented by third party such as a financial counsellor, submitting to an energy audit, or paying a certain number of instalments on their debt.³⁷

We also strongly agree that internal complaints handling and dispute resolution processes for hardship customers should be included in the Guideline.

Question 4: How should the Guideline facilitate more customers completing hardship programs successfully?

The AER's 2017-18 Performance Report found that:

'there was a significant increase in the number and percentage of overall electricity customers who were excluded from participating in a retailer's hardship program. Exclusions usually occur at the behest of the retailer because the customer fails to make contact with the retailer or make agreed payments toward their energy account. This increased by almost 16 000 customers and from 57% to

³⁵ SACOSS, Submission on AEMC's Consultation Paper on the National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018, 28 June 2018, p. 5

³⁶ Equitable access, Section 45(3) of the Retail Law

³⁷ AER, Hardship Guideline Issues Paper, p.17

64% of customers exiting hardship programs. These customers are most susceptible to being disconnected at a later point in time.’³⁸

This finding follows on from the AER’s 2016-17 Performance Report, which also identified significant increases in the proportion of customers excluded from hardship programs in 2016-17.³⁹ The AER noted in its 2016-17 Performance Report that AGL’s rate of exclusions for electricity **nearly tripled** (to 64 per 100 hardship customers who exited in 2016–17), reflecting an increase from 2100 to 11 200 excluded customers.⁴⁰

Also, the AER’s 2018 State of the Energy Market Report found that:

- fewer residential customers are on payment plans and those that are have a higher amount of debt
- more than half of all payment plans are cancelled by retailers
- fewer people are successfully graduating from hardship programs and more people are being excluded from hardship programs
- electricity and gas disconnections continue to rise.⁴¹

SACOSS is hopeful the inclusion of actionable statements within the Hardship Guideline (and therefore retailer’s hardship policies) dealing with the requirements under Rule 72, including capacity to pay conversations, will lead to more achievable and realistic payment plans for hardship customers. SACOSS agrees with the AER that further attention needs to be given to establishing realistic payment plans (not only for hardship customers),⁴² and strongly supports the recommendation that retailers include in their hardship policies:⁴³

- ‘the adoption of the AER’s Sustainable Payment Plans Framework as a good practice framework for assessing customers’ capacity to pay, or other relevant authoritative guidance, and
- a note to the effect that, in offering flexible payment options to hardship customers, the retailer will consider whether debt waivers or payment matching are appropriate.’

SACOSS refers to Attachment B to our previous submission to the AER on the standardised statements Issues Paper, which included recommendations for a general statement giving effect to the principles underlying Rule 72 and the AER’s SPPF.⁴⁴ Further to our previous submission, SACOSS considers it is not only essential to ensure payment plans are established in accordance with the requirements of Rule 72, and in line with the AER’s SPPF, it is also necessary to examine and address retailers’ processes in **cancelling** payment plans. This is of central importance, as hardship customers are only protected from disconnection if they are complying with a payment plan in the circumstances outlined in subrule 111(2) of the Retail Rules, which provides that:

(2) Where a customer is a hardship customer or a residential customer who has informed the retailer in writing or by telephone that the customer is experiencing payment difficulties, a retailer must not

³⁸ AER, *Annual Report on Compliance and Performance of the Retail Energy Market 2017-18*, p. 64

³⁹ An increase from 46 per cent in 2015/16 to 57 per cent in 2016/17 for electricity customers in NECF regions.

⁴⁰ AER’s Annual Performance Report on Compliance and Performance of the retail energy market 2016-17, p.39

⁴¹ AER, *State of the Energy Market, 2018*, p.14 see also AER, *Annual report on compliance and performance of the retail energy market 2017–18*, December 2018

⁴² See AER’s Annual Performance Report 2017-18, p. 56: ‘about 56% of payment plans were cancelled during the year. This compares with 37% of payments plans cancelled the previous year. This highlights an area warranting further attention.’

⁴³ AER Hardship Guideline Issues Paper, p. 18

⁴⁴ See SACOSS, Submission to the AER on the Draft Standardised Statements, 7 December 2018, p. 28-29

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/181207_SACOSS_Submission_Standardised%20Statements_AER_w_attachments.pdf

arrange for de-energisation of the customer's premises under subrule (1), unless the retailer has offered the customer 2 payment plans in the previous 12 months and:

(a) the customer has agreed to neither of them; or

(b) the customer has agreed to one but not the other of them but the plan to which the customer agreed has been cancelled due to non-payment by the customer; or

(c) the customer has agreed to both of them but the plans have been cancelled due to non-payment by the customer.

SACOSS is concerned that retailers are cancelling payment plans after one missed payment, without engaging with the customer and allowing for customers to renegotiate affordable amounts. The SPPF recommends a missed payment should trigger another conversation about what the customer can afford. This conversation may 'result in the customer and retailer agreeing to a new payment plan'.⁴⁵ SACOSS questions whether the restructuring of the payments in an existing payment plan (as a result of the payments being unachievable and therefore missed) equates to a 'new', or separate payment plan from the previously agreed plan. In circumstances where a reassessment of payment amounts equates to an additional payment plan, the retailer can more easily claim cancellation of two payment plans within 12 months, leading to the customer losing their protection from disconnection under the Rules.

SACOSS submits the Hardship Guideline could specify what level of **non-compliance** will result in the payment plan being **cancelled** - is it two missed payments, three? What proactive engagement is required on the part of the retailer to ensure the payments (if missed) are achievable for the customer **prior** to cancellation of the plan and disconnection?

SACOSS also submits the Hardship Guideline should provide guidance around the circumstances which can lead to a customer 'exiting' the hardship program. For example, if a hardship customer is on a payment plan and that plan is cancelled for non-payment, is the hardship customer removed from the hardship program? In other words, does cancellation of a payment plan for non-payment result in the customer 'exiting' the hardship program? SACOSS believes retailers should be prevented from excluding customers from their hardship programs solely due to a failure to meet payments, unless retailers can demonstrate they have made every effort to contact the customers and renegotiate the payment amounts.

SACOSS also considers it is essential that customers are aware of the potential impact of missed payments (disconnection), and this should be clearly noted in the Guideline.

Therefore, the Hardship Guideline needs to ensure:

- payment plans are realistic and affordable, and the principles of the SPPF are adopted
- processes around cancellation of payment plans are included, to prevent retailers from cancelling payment plans due to non-payment without engaging with customers and making reasonable efforts to ensure the customer can afford the re-payments; missed payments alone, without customer engagement and renegotiation, should not be sufficient to cancel the plan
- cancellation of a payment plan should not be the sole reason for excluding a customer from a hardship program.

SACOSS also submits that renegotiating amounts on an existing plan should not make that plan a 'new' plan for the purposes of Rule 111(2).

⁴⁵ AER, SPPF, p. 3 <https://www.aer.gov.au/system/files/AER%20Sustainable%20payment%20plans%20framework%20-%20Version%201%20-%20July%202016.pdf>

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 or 08 8305 4211.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ross Womersley', enclosed in a thin black rectangular border.

Ross Womersley
Chief Executive Officer