



SA Water RD20



Consumer Experts Panel

Background briefing: Review of the Water Retail Code – Major retailers

June 2019

How you can contribute to this review

The Essential Services Commission (**Commission**) is reviewing the Water Retail Code – Major Retailers (**Code**) as part of the SA Water Regulatory Determination 2020 (**SAW RD20**) process.

The purpose of this paper is to provide the Consumer Experts Panel with some background information to assist members to provide early views on the following matters:

- ▶ Do the key focus areas set out in this paper seem appropriate?
- ▶ Do you have any specific proposals for improving the Code that you would like the Commission to consider?
- ▶ Are there any other relevant issues that have not been identified that need to be explored further?
- ▶ Do you have information or evidence that would assist the Commission?

Any initial feedback on the issues that need to be further explored should be provided to the Commission by **30 August 2019**.

Workshop in June 2019

A workshop will be scheduled for **June 2019** to allow members to discuss the Code review together. We are happy to use this as an opportunity to record any feedback you would like to provide.

Written submissions

The Commission would also welcome written submissions from Consumer Experts Panel members.

It is the Commission's policy to make all submissions publicly available via its website (www.escosa.sa.gov.au), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to publish any submission based on length or content (for example containing material that is defamatory, offensive or in breach of any law).

Requests for targeted meetings or other workshops

The Commission would be happy to have further discussions with Consumer Experts Panel members, or the wider communities they represent, on any of the matters raised in this paper, or on any related matters.

Contact officer

Any feedback or requests for meetings should be directed to:

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1 Background

The [Water Retail Code – Major Retailers \(Code\)](#) is the principal consumer protection document for SA Water. It sets out the behavioural standards and minimum requirements that SA Water must comply with in the sale and supply of water and sewerage retail services. Further detail about its content is included in Appendix 1.

The Commission is in the early stages of considering potential improvements to the Code, and will consult publicly on any proposed amendments in February 2020, as part of its consultation on the SA Water Regulatory Determination 2020 (**SAW RD20**) Draft Determination.

Prior to that time, the Commission will issue a further Guidance Paper on this issue, to provide early information to stakeholders, assisting them in responding to the Draft Determination. This current round of early consultation will inform the Commission in preparing that Guidance Paper.

1.1 How have we identified our key focus areas to date?

Inputs to the review to date have been:

- ▶ issues raised in the Consumer Experts Panel Priorities Report
- ▶ customer complaint data (including from the Energy and Water Ombudsman SA (**EWOSA**), see Appendix 2)
- ▶ results from compliance and audit reports
- ▶ previous Commission decisions, inquiries and reviews
- ▶ developments in consumer codes in other jurisdictions, and
- ▶ improvements suggested by SA Water.

1.2 Our initial response to the Consumer Experts Panel Priorities Report

The Consumer Experts Panel Priorities Report has been a useful summary of the issues that are of importance to the communities its members represent.

SA Water will be publicly responding to these issues in its Regulatory Business Proposal, due at the end of October 2019. The Commission will also respond to these issues, and SA Water's responses to them, in its Draft Determination in February 2020.

However, not all of the matters raised in the Priorities Report are in-scope for our review of the Code, while others may only be partially addressed in our review.

For example:

- ▶ High bills and affordability are a key concern. One way the Code review will respond to this is by expecting SA Water to support any proposal to change service levels with evidence that customers are willing to pay for them. The broader SAW RD20 process will challenge SA Water to provide the overall package of drinking water and sewerage retail services that customers value at the lowest sustainable prices.
- ▶ The scope and accessibility of measures to assist customers experiencing hardship are a key concern for consumer advocacy groups.
 - The way SA Water communicates with customers about the assistance it provides to customers experiencing hardship, and limitations around debt collection and water restriction for hardship customers, are within the scope of our review.

- Changes to [SA Water's hardship policy](#) are not within the scope of our review. The specific provisions in [SA Water's hardship policy](#) align with the Minister for Human Services' requirements for a [hardship policy](#), as required under section 37 of the Water Industry Act 2012. However, our review may be a vehicle for raising to the Minister for consideration issues relating to those policies.
 - Extending application of the hardship policies to water consumers who are not SA Water customers (for example, tenants) is also not within the scope of our review.¹
- ▶ Water pressure and flow rates—particularly for in-fill development—are a concern for the property and development industries. The standards for network safety and technical matters, including water pressure, are primarily the responsibility of the Technical Regulator, and so are not in-scope for our Code review.² However, our Code could include further requirements about how SA Water communicates with its customers about water pressure issues.
 - ▶ Connection and augmentation costs are a concern for the development industry. The Code requires SA Water to set out the requirements around connections in a [connections policy](#). It also allows SA Water to require customers to pay relevant fees.
 - In-scope for our Code review are the communications and information provision requirements set out in clause 14 of the Code, and service standards related to connections (see section 2.5 below).
 - Out-of-scope for our Code review (but in-scope in the wider SAW RD20 process, as explained below) is the specific content of the connection and augmentation policies, including fees and charges and the methodology for calculating them.

The broader SAW RD20 process will examine the Commission's regulatory approach to SA Water's services, including connection services, that are not provided on a mass-market basis (known as excluded retail services), and ensure consistent connection and augmentation policies.

The Commission expects SA Water to consult with customers on its excluded retail services as part of its process for developing its Regulatory Business Proposal (see our October 2018 [Guidance Paper 2: Revenue Regulation and Pricing Principles](#)).

¹ This is because the Code's definition of a customer is consistent with the definition in section 4 of the Water Industry Act 2012, ie 'a person who owns land to which a retail service is provided'.

² SA Water's standard customer contract provides that it will use its 'best endeavours to provide you with a flow rate to meet your reasonable needs', noting that some customers may need to provide additional on-site infrastructure so as the flow rate is sufficient for all purposes, and that in some instances 'special characteristics' may apply that limit flow rate (clause 7.2).

Excluded retail services

Section 4 of the [current revenue determination](#) sets out the requirements for SA Water in setting prices for 'excluded retail services'. Excluded retail services include:

- ▶ standard and non-standard connection services (including developer services)
- ▶ trade waste services
- ▶ non-domestic hauled waste services
- ▶ easement extinguishment and encumbrance services
- ▶ hydrant and fire plug services
- ▶ meter services, and
- ▶ network analysis and audit services.

2 Initial areas of focus

So far, we have identified five areas for potential improvements which, subject to input from Consumer Experts Panel members, will become focus areas for our review. A short summary of each area follows.

2.1 Communication requirements

The way SA Water communicates with its customers is changing. An expanding number of communication channels (for example, email, phone, letter, text messages, mobile apps, websites and social media) provide the opportunity to tailor communications to customer preferences and needs.

Specific issues for the Code review are:

- ▶ the extent to which communication channels should be prescribed in making requirements for timely and accurate communication
- ▶ prescription of requirements for customers with particular needs (for example, language, disability, level of digital literacy), and
- ▶ relevance of the customer charter as a way to tell customers about their rights and obligations set out by the standard contract.

2.2 Billing and accounts

Most SA Water cases escalated to EWOSA relate to billing, with most cases driven by a concern about unexplained usage.

While EWOSA has not identified systemic issues underlying these cases, we are considering the potential for improvements around metering accuracy, leak identification, and communication with customers about high bills.

The Code review is also considering specific billing changes suggested by SA Water, including that meter reads by customers (submitted as photos) be allowed as actual meter reads, and that the amount and detail of bill content be reduced.

2.3 Hardship provisions

We have heard that stakeholders are concerned about:

- ▶ accessibility of SA Water's hardship program, specifically for customers with particular needs
- ▶ early identification of customers in hardship
- ▶ timely access to financial counsellors for customers in hardship, and
- ▶ provisions for tenants in hardship.

We are examining the potential for Code requirements to address each of these issues, noting that Code requirements currently extend to:

- ▶ defining when and how SA Water must advise customers of its hardship policy, and
- ▶ placing limitations on debt management, water flow restriction, and reconnection fees for hardship customers.

2.4 Family violence provisions

Customers experiencing family violence may require specific types of consumer protections (relating to, for example, account security, debt management, violence as a cause of payment difficulty, and links with external support services). These issues have recently been addressed in other states' consumer protection codes.³

We are considering the extent to which these types of consumer protections are already provided by the Code, and whether further, specific, provisions are required.

2.5 Service standards

Establishing the service standards that will apply in SAW RD20 is an important task for the Code review, and one that will be largely considered following receipt of SA Water's Regulatory Business Proposal in October 2019.

In October 2018, the Commission set out its expectation in [Guidance Paper 3: Service Standards](#) that SA Water include a proposed set of service standards in its Regulatory Business Proposal. Importantly, this included a requirement that the service standard proposal must be supported with evidence from customer engagement. This differs from the Commission's approach in SAW RD13 and SAW RD16, where the Commission developed service standards through its own public consultation.

The [current service standards](#) are set out as Schedule 1 to the Code.

At this stage, we are interested in understanding your views on the current set of service standards:

- ▶ Do they include the elements of service that matter most to the communities you represent? What is missing?
- ▶ Are they easy enough to understand? How could they be clearer?
- ▶ Do you use the Commission's current reporting on SA Water's performance? How could it be improved?
- ▶ Are they effective in driving the right consumer-focused behaviour from SA Water?

³ See: Essential Services Commission of Victoria [Urban Water Businesses Customer Service Code](#), 2018, section 14, Essential Services Commission of Victoria, [2019 Energy Retail Code changes to support family violence provisions for retailers](#), and the Independent Pricing and Review Tribunal [Sydney Water Operating Licence Draft Decision](#), 2018, section 6.5.

Appendix 1: Description of Water Retail Code – Major Retailers

The Water Retail Code – Major Retailers (**Code**) is an industry code made by the Commission under Part 4 of the Essential Services Commission Act 2002. SA Water’s licence requires it to comply with the requirements of the Code.

The Code sets out behavioural standards and minimum requirements with which SA Water must comply in the sale and supply of retail services to customers. Its content includes:

- ▶ Customer charter – the requirement to have, and inform customers of, the respective rights and obligations of SA Water and its customers.
- ▶ Standard form customer sale contract – the requirement for SA Water to seek the Commission’s approval prior to using or amending a standard form customer contract for a broad class of customers.
- ▶ Connection obligations – the requirement for SA Water to connect customers to its network in accordance with the terms of its connection and augmentation policies, as approved by the Commission, and provide for the termination of a standard customer sale contract by a customer, in limited circumstances.
- ▶ Retail supply obligations – the requirement for SA Water to minimise supply interruptions, provide information to customers on interruptions and use its best endeavours to meet the customer service and network reliability standards developed by the Commission.
- ▶ Enquiry, complaint and dispute resolution procedures – the requirement for SA Water to have internal procedures for handling customer enquiries, complaints and disputes, which must include escalation to an independent dispute resolution body (that is, EWOSA), where the issue cannot be satisfactorily resolved by SA Water.
- ▶ Billing – minimum requirements around billing to ensure that customers receive accurate billing information in a timely manner and that their needs are addressed when billing errors are determined. These requirements also deal with undercharging and overcharging.
- ▶ Payments and payment difficulties – minimum requirements for payment terms, payment methods and managing payment difficulties experienced by customers. Includes a requirement for SA Water to inform residential customers about its Hardship Policy at various points of contact with its customer, and assess customer eligibility for participation in that program.
- ▶ Disconnections and restrictions for non-payment – limitations on the grounds on which water and sewerage services may be restricted or disconnected and obligations on SA Water prior to restricting a customer.

Minimum customer service and reliability standards are set out in Schedule 1 of the Code.⁴

The matters covered in each section of the Code are summarised in Figure 1.

⁴ <https://www.escosa.sa.gov.au/industry/water/codes-and-guidelines/service-standards>

Figure 1: Content of Water Retail Code – Major Retailers

Customer information obligations	Connection obligations	Retailer supply obligations	Customer service obligations	Miscellaneous
<ul style="list-style-type: none"> • Customer charter • Enquiries, complaints and resolutions • Customer communications • Price disclosure • Water efficiency advice • Leak monitoring and notification • Concessions, rebates or grants • Life support equipment • Customer hardship policies 	<ul style="list-style-type: none"> • Provision of retail services • Customer sale contracts • Continuation of retail services on land transfers • Connections • Termination of retail service 	<ul style="list-style-type: none"> • Retailer supply obligations • Service standard 	<ul style="list-style-type: none"> • Billing • Changes in tariff types or rates • Billing disputes • Undercharging • Overcharging • Payments • Credit and debt management • Payment difficulties and flexible payment plans • Restriction of water supply • Disconnections • Restoration of supply 	<ul style="list-style-type: none"> • Force majeure • Appointment of operator • Illegal use

Further information and resources

SA Consumer Experts Panel

- ▶ Priorities Report: <https://www.escosa.sa.gov.au/industry/water/retail-pricing/sa-water-regulatory-determination-2020/sa-consumers-expert-panel>

Essential Services Commission

- ▶ Water Retail Code – Major Retailers: <https://www.escosa.sa.gov.au/ArticleDocuments/334/20160606-Water-Retail%20Code-MajorRetailersWRC-MR02.pdf.aspx?Embed=Y>
- ▶ Minimum service standards: <https://www.escosa.sa.gov.au/industry/water/codes-and-guidelines/service-standards>
- ▶ Regulatory Performance Reporting – SA Water: <https://www.escosa.sa.gov.au/industry/water/regulatory-reporting/regulatory-performance-reports>
- ▶ SA Water Regulatory Determination 2016: <https://www.escosa.sa.gov.au/projects-and-publications/projects/water/sa-water-regulatory-determination-2016/sa-water-regulatory-determination-2016>

SA Water

- ▶ Customer charter: https://www.sawater.com.au/_data/assets/pdf_file/0005/6773/Customer-Charter.pdf
- ▶ Standard customer contract for drinking water, recycled water and sewerage services: https://www.sawater.com.au/_data/assets/pdf_file/0008/6776/Standard-Customer-Contract.pdf
- ▶ Hardship policy: https://www.sawater.com.au/_data/assets/pdf_file/0005/288977/hardshippolicy_0818.pdf

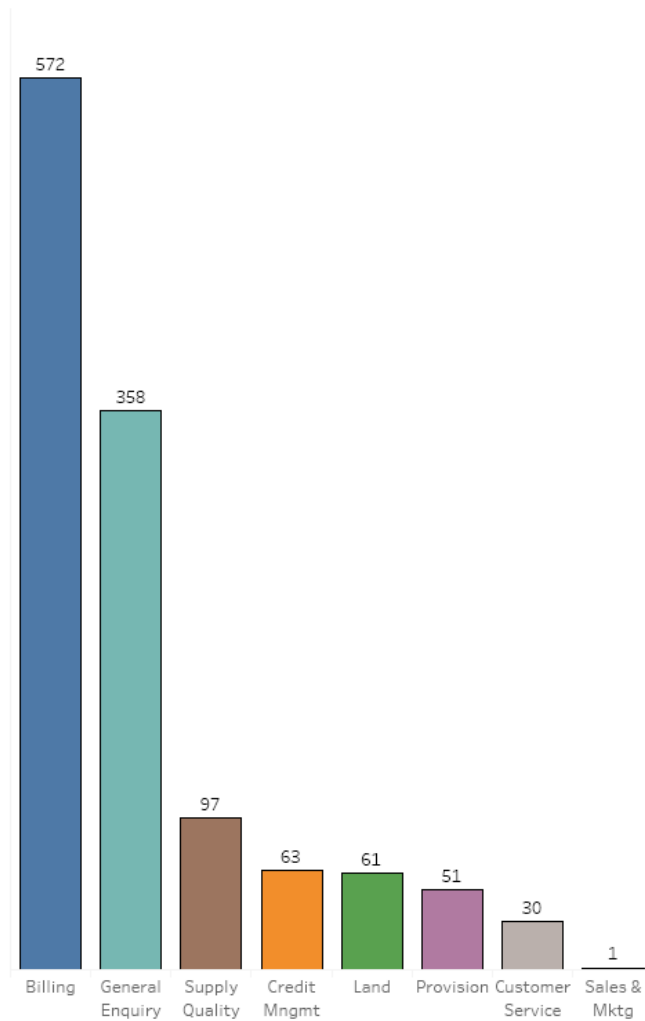
Department for Human Services

- ▶ Hardship policy for residential customers of major water retailers: https://dhs.sa.gov.au/_data/assets/pdf_file/0010/7597/hardship-policy-for-customers-of-water-industry-entities.pdf

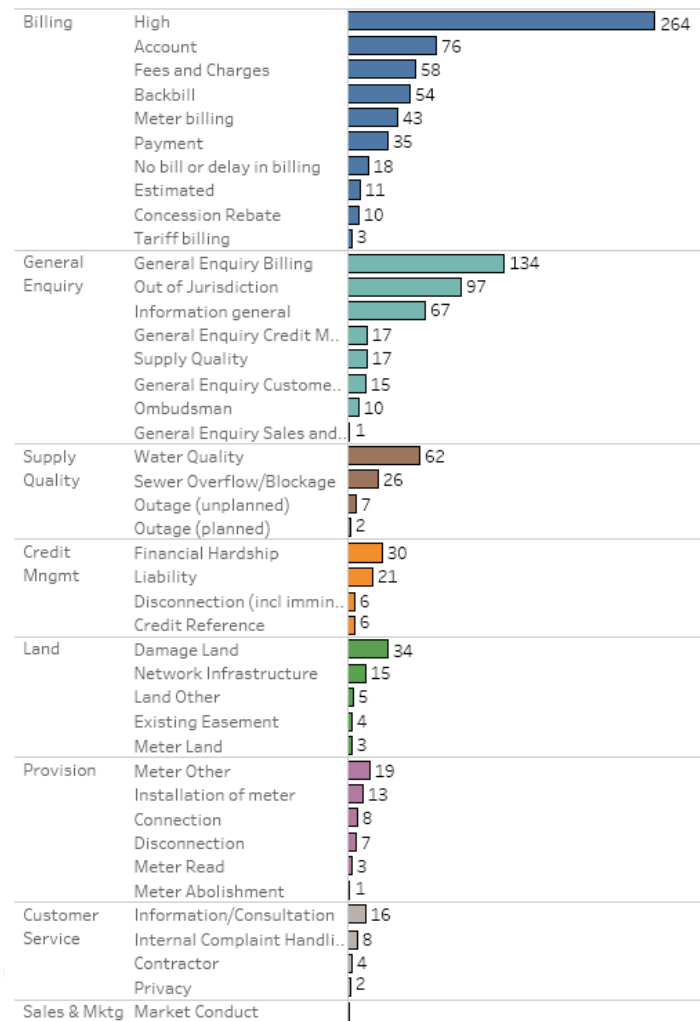
Appendix 2: EWOSA incoming cases

Figure 2: EWOSA incoming cases, 1 July 2016 – 4 March 2019

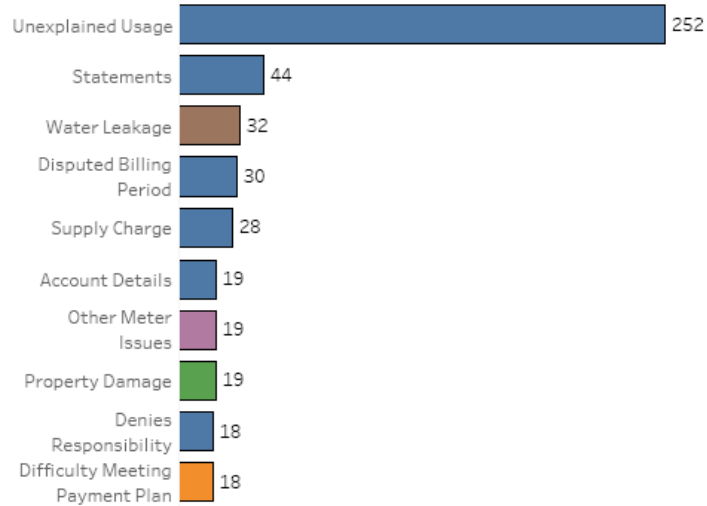
All Incoming Cases (Tier 1)



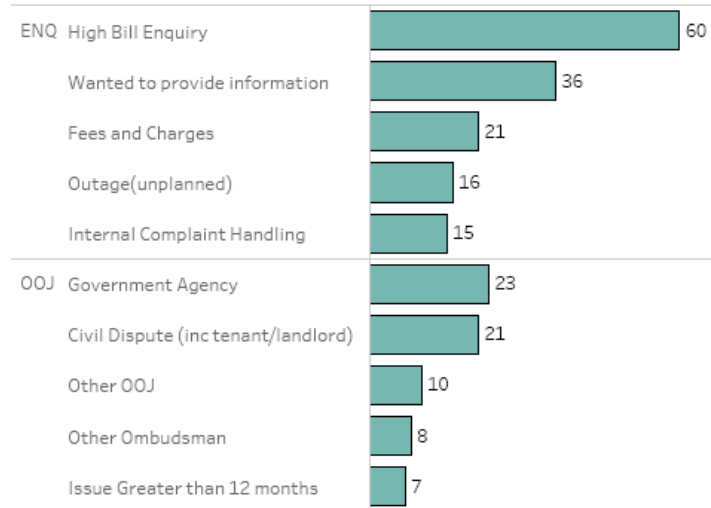
All Incoming Cases (Tier 2)



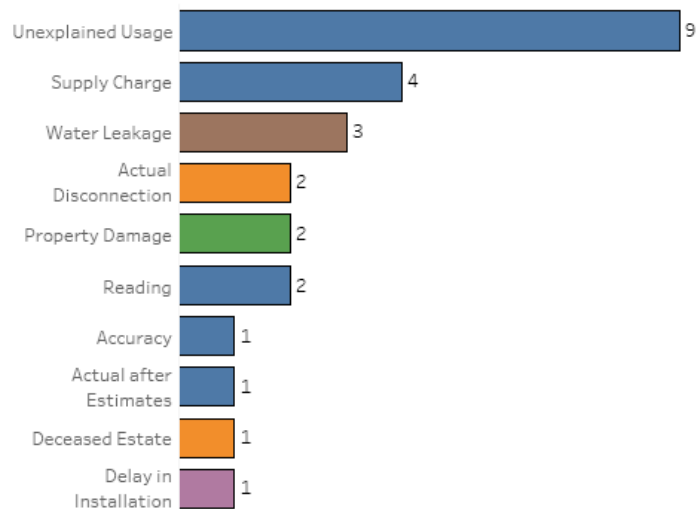
Top 10 Complaints (excluding Enquiry and OOJ)



Top 5 Enquiries & Top 5 OOJs



Top 10 Conciliation and Investigation issues



Supply Quality cases - metro vs rural

		Metro	Rural	Not Recorded
Water Quality	Water Leakage	20	11	3
	Water Pressure	10	5	
	Water taste	5		1
	Water Use Restrictions	3		
	Water colour	3		
	Odour		1	
	Sewer Overflow/Blockage	Sewer Overflow	13	
Sewer Blockage		9		1
Outage (unplanned)	Duration of Unplanned Outage	4		1
	GSL Rebate			1
	Frequency of Unplanned Outage	1		
Outage (planned)	Duration of Planned Outage	2		

Note: OOJ means Out of Jurisdiction enquiries (ie those not in scope for EWOSA).



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