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Issues paper



SA Water Regulatory Determination 2024 - Water Retail Code and Monitoring and Evaluating Performance Framework

June 2023

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Request for submissions

The Essential Services Commission (**Commission**) invites written submissions from members of the community on this paper. Written comments should be provided by **28 July 2023**.

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).

Responses to this paper should be directed to: **SA Water Regulatory Determination 2024 - Water Retail Code and Monitoring and Evaluating Performance Framework**

It is preferred that submissions are sent electronically to: reviews@escosa.sa.gov.au

Alternatively, submissions can be sent to:
Essential Services Commission
GPO Box 2605
ADELAIDE SA 5001

Telephone: (08) 8463 4444
Freecall: 1800 633 592 (SA and mobiles only)
E-mail: reviews@escosa.sa.gov.au
Website: www.escosa.sa.gov.au

Contact Officer: Rowan McKeown, Senior Policy Officer

Contents

Glossary of terms	4
1 Introduction	5
2 Aim and scope of the review	5
3 Water Retail Code	6
3.1 SA Water RD20 Code amendments	8
3.2 Minimum service standards.....	9
3.3 Consumer protections for tenants.....	11
3.4 Family violence provisions	12
4 Monitoring and Evaluating Performance Framework.....	14
4.1 MEPF implementation.....	15
5 Next steps.....	17

Glossary of terms

AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Code	Water Retail Code – Major Retailers WRC-MR/03
Commission	Essential Services Commission, established under the <i>Essential Services Commission Act 2002</i>
CRM	Customer Relationship Management
ESC Act	<i>Essential Services Commission Act 2002</i>
ESCV	Essential Services Commission Victoria
EWOSA	Energy and Water Ombudsman of South Australia
MEPF	Monitoring and Evaluating Performance Framework
RBP	Regulatory Business Proposal
SACOSS	South Australian Council of Social Service
SAWRD20	SA Water Regulatory Determination 2020
SAWRD24	SA Water Regulatory Determination 2024
WI Act	<i>Water Industry Act 2012</i>
WI Regulations	Water Industry Regulations

1 Introduction

The purpose of this Issues Paper is to seek feedback on the effectiveness of the current [Water Retail Code – Major Retailers WRC-MR/03 \(Code\)](#) and the [SA Water Monitoring and Evaluating Performance Framework \(MEPF\)](#).

The Essential Services Commission of South Australia (**Commission**) is undertaking a review of the Code and MEPF as part of the SA Water Regulatory Determination 2024 (**SAWRD24**). The Commission makes a regulatory determination for SA Water every four years, setting the maximum revenues and minimum service standards for drinking water and sewerage services. The next regulatory period is from 1 July 2024 – 30 June 2028. The Code sets out consumer protections (standards and requirements) that apply to the sale and supply of water and sewerage services by SA Water, the only major water retailer in South Australia.¹ It includes obligations relating to customer information, customer service, connections, and retailer supply.²

The MEPF establishes the reporting requirements and regulatory expectations that apply to SA Water.³ Its requirements relate to service standards and performance targets, expenditure and revenue outcomes, key investment areas, and long-term asset management and planning.

The Commission welcomes submissions from stakeholders on the questions identified in the Issues Paper, and any other relevant matters by 28 July 2023. A draft decision on proposed changes to the Code and MEPF will be published in January 2024. A final decision will be published in June 2024.

2 Aim and scope of the review

The review will ensure the Code and MEPF are aligned with the Commission's statutory objective of protecting the long-term interests of consumers with respect to the price, quality, and reliability of essential services, as established by the *Essential Services Commission Act 2002 (ESC Act)*. The review will also allow the Code and MEPF to contribute to the intended outcomes of SAWRD24, which challenge SA Water to:

- ▶ provide water and sewerage services at the lowest sustainable price for the quality and reliability levels valued by customers, and
- ▶ have in place sound long-term asset management, operating, and financing strategies, which support the provision of those services for current and future customers.

In reviewing the Code, the objective is to establish:

- ▶ minimum service standards that reflect the level of service quality and reliability that is valued by customers, and
- ▶ other consumer protections that respond to the need of consumers to access SA Water's retail services on fair and reasonable terms.

In reviewing the MEPF, the objective is to determine:

- ▶ how effectively the monitoring and evaluation framework has been implemented
- ▶ whether implementation of the monitoring and evaluation framework has been successful in achieving its original aims of improving transparency of investment planning, and
- ▶ whether any amendments need to be made to the monitoring and evaluation framework for SAWRD24.

¹ The Code's consumer protections apply to retailers with more than 50,000 customers.

² Essential Services Commission of South Australia, [Water Retail Code – Major Retailers \(WRC-MR/03\)](#), 2020.

³ Essential Services Commission of South Australia, [SA Water Regulatory Determination 2020 monitoring and evaluating performance](#), 2021.

Requirements relating to SA Water's compliance systems and reporting (in Water Industry Guideline No. 1) and provision of information (in Water Industry Guideline No. 2) will be updated to align with review outcomes.

The scope of review will not include consideration of the legal and regulatory obligations on SA Water set by other regulators. This includes environmental, health, safety and technical requirements set by the Environment Protection Authority, SA Health, and the Office of the Technical Regulator. This Issues Paper sets out the proposed focus areas for the review. These focus areas have been identified through consideration of:

- ▶ issues that were identified in the SAWRD20 final determination as needing further consideration in SAWRD24
- ▶ SA Water's operational performance reporting to the Commission⁴
- ▶ changes to best practice in consumer protection policy in other jurisdictions
- ▶ issues identified by the Energy and Water Ombudsman SA (**EWOSA**), and SA Water in applying the current consumer protection framework
- ▶ submissions to the SAWRD24 Framework and Approach and Guidance Papers,⁵ and
- ▶ issues emerging from SA Water's stakeholder engagement, including its Customer Challenge Group and Peak Bodies Engagement Forum.

The Commission seeks stakeholder feedback on the focus areas set out in this issues paper and any other relevant matters.

3 Water Retail Code

The Water Retail Code is an industry code established by the Commission under the ESC Act.⁶ It sets out a series of consumer protections (summarised briefly in Box 1) in accordance with the legislative framework established by the *Water Industry Act 2012 (WI Act)*.

Compliance with the Code is a condition of SA Water's retail licence.⁷ SA Water must demonstrate to the Commission that it has in place adequate systems and processes to comply with the Code's requirements and report breaches of its obligations.⁸

As part of the review of the Code, the Commission will look at:

- ▶ **SAWRD20 Code amendments** – whether changes to the Code made as part of the SA Water Regulatory Determination 2020 (**SAWRD20**) have been successfully implemented, and whether refinement is needed.
- ▶ **minimum service standards** – whether the existing service standards address the areas that customers value, and whether there are gaps or areas for improvement.

⁴ Information about SA Water's regulatory performance is on the Commission's website at: [ESCOSA - Water regulatory performance](#)

⁵ Essential Services Commission of South Australia, 2021, [SA Water regulatory determination 2024 – framework and approach](#), Framework and approach paper and submissions. Essential Services Commission of South Australia, 2021 – 2022, [SA Water regulatory determination 2024 – Guidance papers](#), Guidance papers and submissions.

⁶ One of the Commission's functions established by the ESC Act at section 5(c) is making codes relating to the operations of regulated industries or entities. As per section 17 of the WI Act, the water industry as a regulated industry for the purposes of the ESC Act. The WI Act 25(1)(b) requires that the Commission must make a licence subject to compliance with those code provisions.

⁷ Compliance is pursued in accordance with the Commission's [Enforcement Policy](#), August 2021.

⁸ As set out in the Commission's [Water Industry Guideline No 1 – Compliance System and Reporting](#), July 2020.

- ▶ **consumer protections for tenants** – whether improvements to consumer protections for tenants established by the Code are possible within the existing legislative framework.
- ▶ **family violence** – whether the consumer protection framework that applies to SA Water (which sets minimum obligations for SA Water in its dealings with customers) needs to be refined to better support people experiencing family violence.

The findings of the review will inform whether the Commission proposes improvements to the Code as part of SAWRD24.

Box 1: Summary of Code requirements

The Code includes requirements for SA Water to:

- ▶ have a customer charter that sets out the rights and obligations of SA Water and its customers ⁹
- ▶ have a standard form customer sale contract, and have any amendments approved by the Commission ¹⁰
- ▶ connect customers to its network in accordance with the terms of its connection and augmentation policies as approved by the Commission
- ▶ minimise supply interruptions, provide information to customers on interruptions and use its best endeavours to meet customer service and network reliability service standards ¹¹
- ▶ have enquiry, complaint and dispute resolution procedures that provide for escalation to an independent dispute resolution body ¹²
- ▶ meet minimum billing requirements to ensure that customers receive accurate billing information in a timely manner, and make provision to resolve billing errors, undercharging and overcharging
- ▶ meet minimum requirements for payment terms, methods and managing payment difficulties, ¹³
- ▶ limit restrictions for non-payment to specific circumstances and fulfil certain obligations prior to restricting a customer, and
- ▶ not disconnect services for non-payment, and only disconnect services in limited prescribed circumstances (including at customer request, and in response to illegal use or refused access for meter reading).

⁹ See *SA Water Customer Charter*, September 2021.

¹⁰ See *SA Water Standard Customer Contract*, June 2018.

¹¹ Service and reliability standard are set out in [Schedule 1](#) of the Code.

¹² The Energy and Water Ombudsman of South Australia is SA Water's approved dispute resolution body.

¹³ SA Water, *Hardship Policy for Residential Customers*, 2018.

3.1 SA Water RD20 Code amendments

In SAWRD20, the Commission made changes to the consumer protections in the Code.¹⁴ This review will consider whether the implementation of these changes has been effective, and whether further refinement is required. Four main areas of changes will be reviewed:

1. The Commission changed the Code to support SA Water's use of newer communication channels (such as SMS, mobile applications, websites, email, and social media). The amended Code provided for bills, notices, and other documents, as well as notice of planned interruptions, to be sent using each customer's reasonable preferred form of communication.¹⁵
2. A similar Code amendment required SA Water to provide bills, notices, and other documents in alternative formats (for example, Easy English, talking bills or Braille) for customers with specific needs, such as needs related to disability or low levels of literacy. This change was made to support SA Water's work supporting customers with specific needs, particularly those living with disability.¹⁶

The Commission considered that more information would be needed before additional consumer protections to support the needs of customers living with disability could be introduced.¹⁷ SA Water indicated that it planned to scope the practicalities and costs of providing additional support to customers living with disability through its Wider World Initiative.¹⁸

At that time, SA Water considered identifying customers with critical needs in its Customer Relationship Management (CRM) system as a prerequisite for providing additional support. The Commission noted SA Water's intention *'for the critical needs of customers with disability to be able to be registered in the CRM by 2022'*.¹⁹ The Commission will review the progress on this, and the Wider World Initiative more broadly (which has informed SA Water's Disability and Access Inclusion Plan²⁰) in making its regulatory determination for SAWRD24.

3. The Code was amended to allow meter reads taken by customers to be accepted as actual meter reads, where SA Water considers them to be accurate.²¹ Previously, meter reads taken and submitted by customers were accepted as estimated reads. Bills based on estimated reads were subject to adjustment (that is, recovery of any overcharged or undercharged amounts) following the next actual meter read.

This change removed uncertainty about future bill adjustments and created provisions to manage the risk of customers providing inaccurate reads.²²

¹⁴ See Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), Chapter 5 and minor amendments summarised in Table 5.1, 2020.

¹⁵ Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), section 5.2.2.

¹⁶ Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), section 5.2.3.

¹⁷ For example, additional notice ahead of planned interruptions, see Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), section 5.2.2, p. 63.

¹⁸ Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), p. 63.

¹⁹ Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), p. 63.

²⁰ SA Water, [Disability and Access Inclusion Plan 2020 – 2022](#), October 2019. The Plan has been extended to 2023.

²¹ Essential Services Commission of South Australia, [SAWRD20 Final Determination: Statement of reasons](#), section 5.2.5.

²² These are set out in clause 18.4.2 of the Code, which gives SA Water discretion over how customer reads are provided (for example, as a photo) and over whether to accept reads it does not consider accurate. This clause also gives SA Water responsibility to provide an explanation to a customer within five business days if it does not accept a read, send a field officer to inspect the meter within 10 business days of that explanation, provide clear instructions for customers about how to take a meter read, and to set out a process for managing disputed meter reads.

Other billing-related changes include reducing the time limitation on SA Water recovering any undercharged amount (unless the customer is at fault) from 12 to nine months.²³ An obligation for SA Water to include a comparison of water usage with other similar customers on residential bills was also removed.²⁴

4. To accommodate changes in Australia Post delivery times, changes were made to the date of receipt definition (to allow for more time after sending), timeframes for pay-by dates specified in bills and reminder notices, and the application of minimum restriction warning notice periods.²⁵

The Commission will draw on all available evidence, including stakeholder feedback, to evaluate the implementation of these changes and whether further improvement to the Code is required.

Questions for stakeholders

- ▶ Have changes to the Code which allowed SA Water to use customers' reasonable preferred means of communication been implemented effectively by SA Water and useful to consumers? Are further refinements required?
- ▶ Have changes to the Code to require bills, notices and other documents to be provided in alternative formats for customers with specific needs related to low levels of literacy or disability been implemented effectively by SA Water and useful to consumers? Are further requirements required?
- ▶ Have changes to the Code to allow meter reads by customers to be accepted as actual meter reads been implemented effectively by SA Water and useful to consumers? Are further refinements required?
- ▶ Have changes to the Code to ensure that definitions and timeframes reflect Australia Post delivery times been helpful? Are further refinements required?

3.2 Minimum service standards

The Code establishes minimum service standards for the retail services SA Water provides to its customers.

The service standards reflect the service areas valued by customers. Each service standard has an associated performance target. These are based on SA Water's historical performance and are generally set to maintain average historical performance outcomes.²⁶

There are currently 22 service standards set out in Schedule 1 of the Code.²⁷ The service standards relate to four key areas: responsiveness of and satisfaction with customer service, timeliness of connections, response to interruptions, and restoration of service.

Minimum service standards for SAWRD20 were established using a 'propose-respond' approach. As a result of that review the Commission introduced three new customer service standards, and two service standards for responsiveness to low-priority water network events.²⁸

²³ Essential Services Commission of South Australia, *SAWRD20 Final Determination: Statement of reasons*, section 5.2.6.

²⁴ SA Water may still provide appropriate comparative information through other channels. See Essential Services Commission of South Australia, *SAWRD20 Final Determination: Statement of reasons*, section 5.2.4.

²⁵ Essential Services Commission of South Australia, *SAWRD20 Final Determination: Statement of reasons*, section 5.2.9.

²⁶ Three performance targets were set to improve outcomes, where there was evidence of customer support and no obvious or directly identifiable costs. See Essential Services Commission of South Australia, *SAWRD20 Final Determination: Statement of reasons*, Table 5.2 and section 5.4.3.

²⁷ Essential Services Commission of South Australia, *Water Retail Code – Major Retailers (WRC-MR/03)*, Schedule 1, 2013.

²⁸ See SA Water Regulatory Determination 2020, *SAWRD20 Final Determination: Statement of reasons*, section 5.4.2.

The three new customer service standards relate to customer satisfaction, first contact resolution, and complaint escalation. SA Water proposed one service standard for low-priority water network events, and the Commission introduced separate service standards for metropolitan Adelaide and regional areas.

SA Water is obliged to apply its best endeavours to achieve the performance targets.²⁹ Where SA Water does not meet a performance target, the service standard may still be satisfied provided SA Water has applied its best endeavours.

The Commission will review performance trends across the SAWRD20 period and consider those trends in establishing the service standards and performance targets that will apply to SAWRD24.

SA Water generally achieves its service standards. In the first two years of SAWRD20, SA Water met performance targets for 20 of its 22 service standards:

- ▶ In 2020-21, it did not meet performance targets for sewer overflow clean-up in the Adelaide metropolitan area, and water event responsiveness (low priority) in the Adelaide metropolitan area.
- ▶ In 2021-22, it did not meet performance targets for sewer overflow clean-up in the Adelaide metropolitan area or for regional areas.

SA Water has advised the Commission that it is unlikely to meet the 2022-23 performance target for sewer overflow clean-up in the Adelaide metropolitan area. SA Water considers its performance against this service standard is affected by customer requests for clean-ups to occur at a different time of day, and by instances where clean-ups are delayed due to access or safety issues.

For further information about SA Water's performance against its service standards and historical performance outcomes, see [SA Water's regulatory performance](#) and [SA Water – Our performance](#).

The Commission expects SA Water to propose minimum service standards to apply in the next regulatory period in its Regulatory Business Proposal (RBP) and provide supporting evidence of the impact of any proposed changes.³⁰

The Commission will review SA Water's proposed services standards and other evidence to determine whether amendments to the service standards should be proposed for SAWRD24.

Questions for stakeholders

- ▶ Do the service standards address the service areas and service levels that customers value?
- ▶ Are there gaps or areas for improvement in the service standards that apply to SA Water?
- ▶ Has the introduction of new service standards at SAWRD20 on customer satisfaction, first contact resolution, complaint escalation, and low priority water network events been useful to consumers? Is further refinement required?

²⁹ The Code defines best endeavours to mean acting in good faith and using all reasonable efforts, skill and resources.

³⁰ Essential Services Commission of South Australia, [SA Water regulatory determination 2024 – framework and approach](#), 2021; Essential Services Commission of South Australia, [Guidance Paper 2: Stakeholder engagement for the regulatory business plan](#), 2022, pp. 6-7.

3.3 Consumer protections for tenants

Most consumer protections in the Code relate to customers, defined as an owner of land to which a retail service is provided.³¹ In places, the Code extends its protections to include consumers, that is, end-users of retail services.³²

Stakeholders have expressed concerns about the different levels of consumer protections that exist for residential owners compared with tenants and are particularly concerned about tenants' access to payment difficulty and hardship provisions.³³

The WI Act and associated *Water Industry Regulations 2012 (WI Regulations)* define the nature of consumer protections the Commission may establish, and where it may extend those protections to consumers.³⁴

Matters the Code must address include provisions to assist customers experiencing specified forms of hardship. Code provisions may be made with respect to customers, and designated classes of customers.³⁵ While a customer is a landowner in most cases, the definition is extended to include consumers in some prescribed circumstances: limiting grounds for disconnection, dispute resolution processes, and the Ombudsman scheme.³⁶

The WI Act separately requires SA Water to adopt a hardship policy and comply with that policy as a licence condition enforceable by the Commission.³⁷ In this section of the WI Act, a residential customer is defined as 'a customer or consumer who is supplied with retail services for use at residential premises'.³⁸

The review of the Code will examine the consumer protections for tenants established by the Code and the possibility for improvement within the existing legislative framework.

The Commission will separately consider SA Water's implementation of its hardship policy and potential improvements.

As part of the review the Commission will consider:

- ▶ matters already raised by stakeholders in relation to consumer protections for tenants³⁹
- ▶ how SA Water applies existing consumer protections to tenants, the nature of support and services it currently extends to tenants, and any plans for improvement

³¹ In the Code, a customer has the same meaning as in the WI Act, where customer is defined as a person who owns land in relation to which a retail service is provided.

³² In the Code, a consumer means a person supplied with retail services as a consumer or user of those services.

³³ EWOSA, the South Australian Council of Social Service (**SACOSS**) and Uniting Communities raised concerns in their submissions to the SAWRD20 Draft Determination.

³⁴ Matters the Code must address are set out in section 25 of the WI Act.

³⁵ WI Act section 25(1)(b) allows that Code provisions be made with respect to customers and designated classes of customers. Designated customers are those designated by the Minister by notice in the Gazette (see WI Act section 4(2)). There are two groups of designated customers, residential and non-residential customers (see South Australian Government Gazette 83, p. 5708).

³⁶ The definition of customer in the WI Act section 4(2) allows for this extension in prescribed circumstances. The prescribed circumstances are described in the WI Regulations section 4. This definition of customer is consistent with statutory debt recovery and enforcement rights made by the *South Australian Water Corporation Act 1994*. This establishes the landowner as the party ultimately responsible for water debt.

³⁷ See WI Act section 37.

³⁸ See WI Act section 37(5).

³⁹ Including during the early stages of SAWRD24, SAWRD20, and the Commission's 2014 [Inquiry into reform options for SA Water's drinking water and sewerage services](#).

- ▶ discussion with the Department for Environment and Water about potential improvements to consumer protections for tenants within the existing legislative framework,⁴⁰ and
- ▶ analysis of consumer protections for tenants in other jurisdictions, particularly those with a similar legislative framework.

Questions for stakeholders

- ▶ Given the existing legislative framework, how could the consumer protections for tenants established by the Code be improved?

3.4 Family violence provisions

There is growing recognition of the role essential service providers play in providing fair and equitable responses to consumer vulnerability, including vulnerability arising from family violence. Regulators in other jurisdictions have taken steps to establish better practice protections for consumers experiencing family violence, including the Essential Services Commission Victoria (ESCV),⁴¹ the Government of Western Australia,⁴² the Australian Energy Market Commission (AEMC),⁴³ and the Australian Energy Regulator (AER).⁴⁴

Family violence refers to any behaviour that is violent, threatening, controlling, or intended to make someone or their family feel scared and unsafe.⁴⁵

Family violence is prevalent in Australia. On average, one woman every nine days and one man a month are killed by a current or former partner.⁴⁶ One in six women and one in 16 men have experienced physical or sexual violence by a current or former partner.⁴⁷

Perpetrators of family violence can exploit essential services to control victim-survivors, perpetuate psychological abuse, affect their financial security, and potentially cause injury or death. Economic or financial abuse is a form of family violence where perpetrators control the victim-survivor's finances to ultimately control them. Economic abuse is directly linked to financial hardship and can have a profound impact on a

⁴⁰ The Commission will continue discussions with the Department for Environment and Water on its review of the WI Act and provide input to and feedback on that review process where appropriate. The Commission will also consider how the legislative framework established by the WI Act relates to other legislative provisions, including those in the *SA Water Corporations Act 1994* and the *Residential Tenancies Act 1995*.

⁴¹ This work was undertaken in response to the 2015 Victorian Government's Royal Commission into Family Violence. It included the publication of the [Better practice in responding to family violence](#) guide in 2019. Implementation involved amendments to the Essential Services Commission of Victoria's rural and urban Water Customer Service Codes.

⁴² In December 2020 the Government of Western Australia published its [Guidance for water service providers in addressing family violence](#), and introduced its [Water Services Code of Practice \(Family Violence\) 2020](#), which prescribes minimum requirements for supporting residential customers affected by family violence.

⁴³ Australian Energy Market Commission, [National Energy Retail Amendment \(Protecting customers affected by family violence\) rule, 2022](#).

⁴⁴ The Australian Energy Regulator recently released an [Interim guidance note](#) on the new family violence protections in the Retail Rules due to commence on 1 May 2023.

⁴⁵ Domestic and family violence can occur in a range of relationships, including between current and former partners or spouses, parent/carer-child relationships, and relationships between siblings and extended family members. See Services Australia Safe and Equal, [Guidelines for Better Practice Responses to Family Violence for the Essential Services Commission and essential service providers](#), 2022.

⁴⁶ Australian Institute of Health and Welfare, [Family, domestic and sexual violence in Australia: continuing the national story](#), 2019.

⁴⁷ Australian Institute of Health and Welfare, 2019.

victim-survivor's ability to access essential services. Examples of the ways perpetrators use essential services to cause harm, include:⁴⁸

- ▶ insisting an account is in a victim-survivor's name and refusing to contribute to the cost, resulting in the victim-survivor being forced to bear the financial cost of utilities to ensure ongoing access to services
- ▶ putting a service in the name of the victim-survivor without their knowledge or consent
- ▶ holding a joint account with the victim-survivor and refusing to contribute to the cost
- ▶ holding the account in their own name and not paying bills, accumulating debt and ultimately resulting in disconnection or restriction to the home the victim-survivor lives in⁴⁹
- ▶ holding the account in their own name and threatening to have the service cut off at any time or when the perpetrator leaves the shared home, and
- ▶ threatening the victim-survivor's safety by accessing their personal information in any correspondence with the essential service provider.

Examples of consumer protections implemented in other jurisdictions include requiring essential services providers to:

- ▶ develop, implement, and regularly review a family violence policy for customers and staff
- ▶ provide training to customer service staff to help them detect and assist impacted customers
- ▶ adopt processes that avoid impacted customers from repeat disclosures of family violence or providing evidence
- ▶ securely handle customer information and prioritise the safety of impacted customers
- ▶ specify their approach to debt management and recovery
- ▶ provide information on external family violence services that can be accessed for support, and

The Code does not currently contain specific provisions for customers experiencing family violence. Currently, SA Water supports customers experiencing family violence through its existing hardship protections. This involves including relevant customers in its hardship (Customer Assist) program and referring customers to assistance.

The Commission recognises the impact of family violence on people's access to essential services and considers addressing this to be integral to sound consumer protection framework design.

Questions for stakeholders

- ▶ What data, statistics and case studies are available on the impact of family violence on access to essential services in South Australia?
- ▶ What provisions could be added to the Code to better support people experiencing family violence?
- ▶ What are the costs and benefits of introducing additional consumer protections for customers experiencing family violence? What data and evidence are available to support consideration of costs and benefits?

⁴⁸ Victorian Government, *Royal Commission into Family Violence Summary and Recommendations*, 2016, p. 104.

⁴⁹ In the case of SA Water – services cannot be disconnected but can be restricted for non-payment of bills.

4 Monitoring and Evaluating Performance Framework

The Monitoring and Evaluating Performance Framework (MEPF) requires SA Water to publicly report on its performance and establishes a system of verified trust and accountability around that reporting. The scope and principles of the MEPF were established in the Commission's SAWRD20 final determination and finalised in 2021 following stakeholder consultation. The objectives of the MEPF are outlined in Box 2.

Under the MEPF, SA Water is expected to publicly explain its service, expenditure, and investment performance outcomes. SA Water self-publishes performance information and analysis alongside its reporting to the Commission.

The Commission's SAWRD20 final decision was for SA Water to provide public reports on:

- ▶ its performance against the service standards in the Code, on a quarterly basis
- ▶ its performance in delivering on network reliability and water aesthetics improvements
- ▶ its performance during major service interruptions or significant performance events, shortly after those events, and
- ▶ its progress in achieving the outcomes it has committed to deliver in its final regulatory business plan, on an annual basis.

The SAWRD20 final determination also set an expectation that SA Water would develop, and publicly report on, its longer-term asset management planning and expected expenditure profile, updated on a rolling annual basis. A summary of the public reporting SA Water currently undertakes is provided in Box 3.

The Commission verifies and provides assurance on SA Water's underpinning data collection, analysis and reporting systems through assurance statements, reviews and audits as required.

Box 2: Monitoring and Evaluation Performance Framework

The Monitoring and Evaluating Performance Framework (MEPF) is a set of regulatory arrangements and expectations that apply to the monitoring and reporting of SA Water's performance.

The MEPF is detailed in SAWRD20,⁵⁰ and requirements are made in Water Industry Guideline No. 1 (SA Water's compliance systems and reporting) and Water Industry Guideline No. 2 (Provision of information).

The objectives of the MEPF are to:

- ▶ provide all stakeholders with timely information about SA Water's levels of customer service and network reliability
- ▶ enable the Commission and other regulators of SA Water to understand the extent to which SA Water is meeting its regulatory obligations and take action where it is not
- ▶ provide stakeholders with annual updates on SA Water's progress in delivering the activities, projects, programs and outcomes proposed by SA Water in its 2020-2024 Regulatory Business Proposal and accepted in SAWRD20, and
- ▶ provide a comprehensive and longer-term view of SA Water's financial and operational performance that can be used as the foundation for SAWRD24 and subsequent regulatory determinations.

⁵⁰ Essential Services Commission of South Australia, *Final SA Water Regulatory Determination 2020 Monitoring and evaluating performance framework*, 2021.

Box 3: SA Water public reports

During the SAWRD20 regulatory period SA Water published the following reports:

- ▶ Annual reports to Parliament in accordance with the *Public Corporations Act 1993* and the *Public Sector Act 2009*.
- ▶ Quarterly performance reports which outline achievement towards the performance targets in the Code as well as other metrics such as the number of customers accessing hardship support or concessions.
- ▶ Annual performance reports which provide information on a wide range of operational, organisational and financial metrics.
- ▶ Annual reports on key investment areas. These reports provide information on actual investment during the financial year and how this investment is being used to support achievement of performance targets and other metrics.
- ▶ 30-year asset investment plans that provide a projected long-term view of capital investment requirements.

4.1 MEPF implementation

The MEPF has four initial areas of focus that the Commission aims to refine over time. This section explains those requirements and the progress to date.

4.1.1 Service standards with performance targets

The MEPF requires SA Water to report publicly on its performance against the service standards, as soon as practical after the end of each quarter, followed by an annual performance assessment.⁵¹ Financial hardship indicators are required to be included in this reporting.

Formal reporting commenced at the start of 2021-22.⁵² The Commission ceased its own quarterly reporting in favour of annual reporting of longer-term trends and systemic issues, and significant performance event reporting.⁵³

4.1.2 Expenditure and revenue outcomes

The MEPF requires SA Water to publish annual performance self-assessments of expenditure and revenue outcomes, as soon as practical after the end of each year. The self-assessments must include performance against key financial metrics, actual operating and capital expenditure, and the reasons for material variations in expenditure forecasts used to set the revenue caps. Additionally, the MEPF requires SA Water to submit annual and end-of-period assurance statements to the Commission and make summary statements public.

To date, SA Water has published two annual performance reports, which include information and commentary on expenditure, revenue and prices.⁵⁴ The Commission ceased publication of its own annual report summarising the key outcomes of SA Water's annual financial performance but continues to monitor

⁵¹ SA Water is required to report quarterly to the Commission on its performance against each service standard set out in Schedule 1 of the Code, this is a Code requirement made at clause 17.2.

⁵² See SA Water, [Our Performance](#).

⁵³ See SA Water, [Performance Summary for 2021-22](#).

⁵⁴ See SA Water, [Our Performance](#), performance reports under 'Annual performance measures' heading. Performance reports are online for 2020-21 and 2021-22.

SA Water's actual expenditure annually. SA Water continues to provide annual responsibility statements to the Commission in relation to its regulatory reporting on financial and operational performance.

4.1.3 Key investment areas

The MEPF requires SA Water to report publicly on its progress in relation to three key investment areas: network reliability, water quality improvements and reducing overflows of sewage to the environment. Reports should include information about the objectives, inputs, expected outputs and outcomes of expenditure.

The Commission also expects SA Water to publicly report on its progress on all programs, projects, and initiatives by the end of the SAWRD20 period.

To date, SA Water has publicly reported on key investment areas for 2020-21.⁵⁵ The report provides information on annual expenditure against the revenue permitted in SAWRD20 as well as progress towards associated performance targets.

4.1.4 Long-term asset management and investment planning

The MEPF set an expectation that SA Water would develop and publicly report on its longer-term asset management plans and expected expenditure profile on a rolling annual basis.

SA Water has published a 30-year asset plan, which was last updated on 30 June 2022.⁵⁶

The Commission will draw on all available evidence to assess the current arrangements and consider what monitoring, evaluation and reporting requirements might be needed for SAWRD24.

Questions for stakeholders

- ▶ How is SA Water's public reporting being used?
- ▶ Does SA Water's public reporting meet the expectations and requirements of stakeholders?
- ▶ Please provide any observations of SA Water's communication of its performance outcomes?
- ▶ Are there any gaps or areas for improvement in the MEPF?

⁵⁵ See SA Water, [Key investment areas reports](#) under 'Key investment areas'.

⁵⁶ See SA Water, [30-year asset investment plan](#), under '30-year asset plan'.

5 Next steps

SA Water's RBP is being released in tranches starting in May 2023. The complete RBP will be available by 14 August 2023. The Commission will undertake formal consultation on the RBP in September 2023.

The first tranche of the RBP was published in May 2023 and is available on SA Water's website. Feedback on the first tranche of the RBP is welcome in response to this Issues Paper, noting that it includes SA Water's service standards proposal.

The Commission will release its Draft Determination including the Code, Guideline and relevant regulatory instruments for public consultation in January 2024. The timeline for the review is outlined below.

Table 1: Key dates for remainder of the review

Stage	Timing
Consultation on Issues Paper	Until 28 July 2023
Consultation on SA Water's Regulatory Business Proposal	September 2023
Draft Determination published	January 2024
Consultation on Draft Determination	February 2024
Final Determination published	June 2024
New regulatory period begins	1 July 2024

6 Further information

Any queries relating to this consultation should be directed to:

- ▶ Rowan McKeown, Senior Policy Officer

If you would like to keep up to date with the Commission's water industry activities and the release of papers for consultation, subscribe at <http://www.escosa.sa.gov.au/subscribe.aspx>.