Developing a Water Services Customer Code
Issues paper – version 2

Looking after all our water needs

Department of Water
March 2011
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Version 2

The Department of Water has revised version 1 of this paper to correct some factual errors that were brought to our attention and to improve clarity in some sections. We trust that this has improved both the accuracy and the readability of this document.

This second version will replace the original issues paper.
Summary

The Department of Water is preparing a code of conduct – the Water Services Customer Code – which will govern the relationships between water service providers (WSPs) and their customers. The code will incorporate and extend the current customer provisions in the water service licence conditions, and will align customer protection in Western Australia’s water services with other jurisdictions in Australia and with other essential services, such as electricity and gas.

The department is preparing the code for the Minister for Water in a participatory process. This issues paper is the first step in this process and forms the basis for discussions with an external working group over a four-month period. The outcomes of these meetings will inform a draft position paper which will be available for public comment for eight weeks by early September 2011. The final position paper will be ready for approval by the Minister for Water by the end of the year. The drafting of the code through the Parliamentary Counsel Office will be based on that paper.

The following list contains the proposed elements of the code and issues identified for each of them. These issues will guide the working group’s discussions and input from other interested parties to help us achieve a balanced and fair outcome for both customers and water service providers (WSPs).

Managing the code

1. At what intervals should the code be reviewed?
2. Should the frequency of review be stipulated in the code or decided by the consultative committee?

Plain English version of the code

3. Should a plain English guide for the customer code be produced?
4. Who would be responsible for producing a plain language guide for the code – the Department of Water, Economic Regulation Authority (ERA) or the licensees? Should this be stipulated in the code?
5. Would a customer charter be sufficient by way of ‘plain language’ explanation?

Who the code applies to

6. Should the code include all four water service areas or would separate codes for the different services be preferable? Would a combined code be too complex?
7. Could schedules accommodate the different needs of the different service classes? Would such a structure make the code too cumbersome?
8. Should the code be written for water supply and sewerage providers first and extended or amended to include the other services of irrigation and drainage at a later date?
Types of customers

9 Which types of customers should be covered by the code?

10 Should there be any differentiation between customers; for example, domestic, small business and large business? Should the distinction be based on usage?

11 Should the code distinguish between customers and consumers (which would include tenants)?

Preliminary

12 No issues; except definitions, which should be resolved in relation to particular issues.

Marketing

13 What marketing areas should the code cover?

Connection and service provision

Conditions of connection

14 Should the licence conditions relating to 'conditions of connection' be moved to the code?

15 If so, should the code require WSPs to make their own 'conditions of connection' or should those conditions be specified in the code?

16 Would it be sufficient to require suppliers to provide customers and prospective customers with the conditions of connection or should the schedules be more specific for the different services?

Obligation to connect (timeframe)

17 How many days would be a reasonable time to make a standard connection to a water service? Would this time vary between service classes, providers and location (metropolitan or rural)?

18 Should the timeframe(s) be specified in the code?

Contracts and agreements

19 Should provisions for non-standard agreements be included in the code rather than in individual licence conditions?

20 Should the general provisions of the code still apply when water services are provided under an agreement between the licensee and the recipient of the service; for example, billing, metering, payments and complaints?

21 Should an obligation be included to provide certain information to the customer before they enter into an agreement or as part of the agreement? What information should that include?
Guaranteed service standards and guaranteed service-standard payments

Service standards and performance standards

22 Should water service standards continue to be addressed through licence conditions or would the code (schedules) be a more suitable vehicle?

23 If specified in the code, which quality, reliability and supply criteria should be included for each of the services?

24 How should the standards be determined?

25 What customer complaints standards should apply?

Guaranteed service-standard payments

26 Should service-standard payments or rebates apply?

27 How should service-standard payments be determined? How high should they be? Should amounts be specified in the code?

28 Should service-standard payments be automated?

Charges/fees

Concessions

29 How can the code best support the provision of information about the availability of concessions?

30 How can the code ensure that processes to make concessions available are user friendly?

Metering issues

Metering

31 Should water metering/measuring issues be included in the code? If so, how could this be done? What issues would arise?

32 Would a separate metering code or regulations be a better vehicle to deal with metering?

Accuracy of meter readings and meter testing

33 Should information about meter checks be made more widely available?

34 Under what circumstances should a meter be tested?

35 Who tests the meter? Is independent testing desirable, possible or feasible?

36 How are the costs for testing calculated? Who will pay?

37 Should the code deal with meter testing or should regulations or a future metering code provide for this?
### Billing

38 **Should the code prescribe the minimum contents of a bill?**

#### Billing cycle

39 **Should the length of billing cycles be prescribed in the code?**

40 **Could the frequency of meter readings be increased? What other positive and negative outcomes – besides increased costs – would result from more frequent reading of meters?**

#### Shortened billing cycle

41 **Should shortened billing cycle options be made available? To all customers or only to those who have difficulties paying their bills?**

#### Leaks and leak allowance

42 **How could a fair leak allowance be included in the code?**

#### Other billing issues

43 **Should the relationship between tenants and WSPs be formalised so that water usage accounts become the responsibility of tenants? Would such an arrangement be desirable? What other issues would arise?**

44 **What would it take for tenants to receive bills directly?**

45 **How can repayment options and financial assistance be made available to tenants?**

### Payments

#### Bill smoothing

46 **Should the code prescribe bill smoothing, conditions and allowable fees?**

47 **How should this option be arranged? Would extra charges apply?**

#### Overdue accounts, penalty interest and late payment fees

48 **Should customers in financial hardship be exempt from paying penalty rates on overdue accounts and late payment fees?**

49 **Should the regulations or the code deal with this?**

### Payment difficulties and financial hardship

#### Payment difficulties

50 **Should the code prescribe different methods of payment that may be offered to customers with payment difficulties?**

51 **Should the code include an obligation for WSPs to contact a customer who has not paid a bill and offer assistance, before a Warning of Restriction notice is sent?**
### Financial hardship

52 Should the code require WSPs to have a hardship policy?

53 Should staff training and flexible payment arrangements be part of such a policy?

54 How can the issue be resolved of tenants not having access to alternative payment methods and HUGS grants?

### Review of hardship policy

55 Who would review the hardship policies of WSPs?

56 How often should a hardship policy be reviewed? Would every second year be sufficient and acceptable?

### Actions for non-payment

#### Restrictions and disconnection

57 Should personal contact with the occupant of the premises to which water supply is planned to be restricted be made part of the code?

58 Should there be the minimum amount of money owed at which a WSP can take action?

### Reconnection

59 Should the code specify a reasonable time period for reconnection?

### Works and maintenance

60 Which rights and obligations should be specified in the code?

### Information and communication, customer inquiries

61 What type of information should be made available to customers and how?

62 Is there a need to have different types of information for different types of customers; for example, culturally and linguistically diverse (CALD) people?

### Customer consultation

63 Should customer consultation be included in the customer code?

64 Are the current guidelines for customer consultation in the licence conditions sufficient or should the code be more prescriptive?

65 Who would approve and check on the level of consultation employed by the WSP?

66 Should the requirement to conduct customer surveys be included in the code?

67 Who would evaluate the results of customer consultations and ensure the outcomes are acted on? Who checks on implementation?
## Customer charters

| 68 | What are the advantages and disadvantages of having customer charters? |
| 69 | Should the Water Services Customer Code follow the electricity code and dispense with the requirement for service providers to have a customer charter? |

## Complaints and disputes

| 70 | Are existing licence conditions for complaints handling appropriate and adequate? Should they be adopted in the code ‘as is’ or are changes needed? |

## Record keeping

| 71 | Is there a need to prescribe which records have to be kept by WSPs in the code? If so, what kind of records should be kept and for how long? |
1 Introduction

1.1 Purpose of the issues paper

This paper outlines issues associated with a code of conduct for the water services industry in Western Australia – the Water Services Customer Code. It forms a basis for discussions with interested and affected parties to help us develop a position paper and the final code to achieve a balanced and fair outcome for both customers and water service providers (WSPs).

In particular, this paper:

- outlines the approach the Department of Water will use to develop a code of conduct
- explains how water customers and WSPs currently interact
- conveys the department’s role as policy maker in improving customer protection in the water services area
- outlines areas that could be covered in the code
- identifies issues associated with developing the code.

1.2 What is a code of conduct?

Generally, codes define technical and service standards within a legal framework for a section of, or an entire industry. Different types of codes (e.g. codes of conduct, codes of practice, customer or customer service codes) may vary in content and context, but still pursue the objectives of setting consistent standards.

The Water Services Customer Code will be a code of conduct to govern the relationships between WSPs and their customers in Western Australia. Service providers will have to comply with this code as part of their licence conditions.

1.3 Why have a code of conduct?

Compared with the current customer charters, which represent a specific WSP’s commitment and vary widely, the benefit of a code of conduct is that it will unify customer service provisions across different service classes. It will clarify customer responsibilities and the obligations of WSPs towards their customers. A code will also bring water services in line with other essential services, such as electricity and gas.

The Water Services Customer Code is being developed as part of a broader legislative reform process. A new Water Services Bill is being prepared with the aim of consolidating and modernising existing water law. The Bill will contain new customer relations requirements for WSPs in the form of a code of conduct.
1.4 Approach to developing the code

Water Services Customer Code Working Group

The department established a working group following a request for expressions of interest from stakeholders. The group has representatives from various sectors to gain a balanced view of the requirements and content of the code.

The working group consists of:

- a chairperson and a project team from the Department of Water
- members from the water services industry
- members from customer and consumer groups
- members from relevant government agencies
- an independent observer.

See Appendix A for a list of group members. Appendix B contains the working group’s terms of reference.

Position paper

The working group will use this issues paper as the basis for discussions on the code and to arrive at recommendations for a draft position paper. Additional meetings with relevant parties will be held as necessary.

The final position paper is scheduled for release by the end of the year.

Consultation and feedback

The release of this issues paper will be widely promoted – through the Department of Water’s website, a message to contacts on our email list and a media release. While we seek no formal feedback at this stage, any comments are welcome and will be included in the draft position paper as appropriate.

The draft position paper will be made available for formal comment for eight weeks. We will consider further consultation, if required.

The feedback received from community and industry consultation and the outcomes from working group discussions will inform the final position paper.

Getting the code in place

While the Water Services Bill is progressing through parliament, the Department of Water will undertake a Regulatory Impact Assessment for the code. Once the Bill has been passed, the code will be submitted to the Parliamentary Counsel Office for drafting so that it can come into effect at proclamation of the Act.
1.5 **Proposed timeline**

- **Issues paper published**: March 2011
- **Feedback on issues paper**: until end June 2011
- **External working group meetings**: monthly March to June 2011
- **Release of the draft position paper for comment**: early September 2011
- **Close of public consultation**: end October 2011
- **Final position paper for Minister for Water’s approval**: end December 2011
- **Drafting of code by Parliamentary Counsel Office**: January 2012
2 Background and context

2.1 Licensing requirements

The rights and interests of Western Australian water service customers are protected under the *Fair Trading Act 2010*\(^1\), existing water and health legislation, and through provisions in licences the Economic Regulation Authority (ERA) grants to WSPs. Water services include water supply (potable or drinking water and non-potable), sewerage, irrigation and drainage.

WSPs are required to obtain a licence from the ERA. Each licence contains standards for water service delivery and the ERA regularly monitors compliance with these standards. Depending on the water service class, standards may relate to:

- water quality, continuity, pressure and flow
- infrastructure and delivery
- customer service and complaints handling.

The water services licence conditions also require service providers to produce customer service charters that set out the details of services delivered and available to customers. Customers who are dissatisfied with any aspect of their water service are encouraged to contact their WSP in the first instance. If the issue cannot be resolved to the customer’s satisfaction they can contact the Department of Water. The department receives up to 100 such complaints each year.

If licensees breach their water service licence conditions, including the charters, the ERA can take action under Section 39 of the *Water Services Licensing Act 1995*. In severe cases, the governor can cancel a licence.

Current licensees (see Appendix C) include five drinking water providers, 24 non-potable water providers (including 19 local government authorities), 22 sewerage providers (of which 18 are local government authorities), five irrigation providers and two drainage providers.

Drinking water providers (Water Corporation, Aqwest, Busselton Water, Hamersley Iron, Rottnest Island Authority) must have a memorandum of understanding (MoU) with the Department of Health. The MoU requires water testing and reporting to ensure water quality standards are maintained to safeguard public health. The Department of Health ensures compliance with the requirements of the MoU.

Section 19 of the *Water Services Licensing Act 1995* provides for exempting WSPs from licensing based on a public interest test. Environmental, public health, economic and pricing factors need to be considered, as well as alignment with government objectives. Local government authorities in Western Australia are currently exempt

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\(^1\) This law applies the *Competition and Consumer Act 2010* (Cwlth), schedule 2 (also known as the national Australian Consumer Law) in Western Australia and replaces the *Consumer Affairs Act 1971*, the *Fair Trading Act 1987* and the *Door to Door Trading Act 1987*. 
from licensing requirements for their drainage services. A WSP granted exemption is not subject to statutory conditions imposed on licensees and does not need to have a customer charter for that service.

2.2 Customer service charters

Customer service charters have a range of purposes, such as customer protection and education about customers’ rights and WSP obligations. They also differentiate service providers in a competitive market. While they form part of enforceable licence conditions they are not statutory\(^2\). The benefit derived from a charter usually corresponds to the effort invested by the licensee in developing and reviewing the document.

The ERA (2010) has defined charters as published statements that contain:

- a list of customer entitlements
- details of a licensee’s services
- information relevant to the relationship between customer and licensee.

Licence conditions require WSPs to develop a customer service charter that the ERA approves and publishes on its website. A charter sets out details of the services delivered or available to customers that vary with the class of service and the supplier, including:

- connections
- conditions and standards of supply
- information about rebates
- details of billing or charging procedures
- contacts for customer inquiries and complaints.

In addition, some service providers also prepare financial hardship policies\(^3\).

The water service licensees in Western Australia have to review their customer service charters every three years, unless otherwise specified by the ERA. The reviewed charters are submitted to the ERA for approval and publication. Any other amendments to a charter need the ERA’s approval. The review or amendment and the ERA’s assessment of these are published on the ERA website.

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\(^2\) Excerpt from a licence: It is a condition of the licence that the licensee provides services in a way which is consistent with its customer service charter. This condition is not intended to create a statutory duty nor provide any third party with a legally enforceable right or cause of action.

\(^3\) Currently, financial hardship policies are mandatory for energy providers in Western Australia, but water service providers are not required to have them. Only customers of a service provider with a hardship policy are able to access the government’s Hardship Utility Grant Scheme (HUGS). Water Corporation, Aqwest and Busselton Water have hardship policies.
2.3 The Water Services Bill

New water services legislation is being prepared and proposes provisions to improve customer protection in Western Australia’s water services industry.

If the Water Services Bill is enacted it will replace and modernise a host of current acts, some of which date back to 1904\(^4\). Many of the elements in the current legislation will be retained in the Bill, but there will be changes, additional powers and provisions that may affect the way customers and WSPs interact.

In the Bill, a water service will mean a water supply, sewerage, irrigation or drainage service. Any of these services will have to be licensed unless an exemption has been granted by the Minister for Water. The Minister for Water can request the governor to cancel a licence if he or she is satisfied that a licensee is not complying with licence conditions.

The Bill will enable the minister to make the initial code of conduct that addresses how licensees interact with their customers – the Water Services Customer Code. The Bill will also stipulate that the ERA administers the code, monitors compliance and can amend or replace it. This code will be subsidiary legislation and will be part of the licence conditions. The minister can also make other codes of practice under the Bill.

The Bill will also provide for a consultative committee to be set up and administered by the ERA. The committee advises on and reviews the code of conduct as required.

Regulations can be established under the Bill to deal with other matters, including the setting of charges and other pricing issues.

Another new provision in the Water Services Bill will be the creation of a Water Ombudsman. The ombudsman will independently investigate customer complaints and arbitrate in cases where a WSP does not satisfactorily resolve a customer complaint. The Water Ombudsman will be established with the Energy Ombudsman. The service will be industry-funded and replace the customer complaints handling function the Department of Water currently provides. Unlike the department, the ombudsman will be able to make binding decisions.

The new legislation will more closely align Western Australia with other states, all of which have undertaken major reviews and reforms of their water services legislation in recent times.

It should be noted that the proposed water services legislation remains subject to Cabinet approval at the time of writing, prior to its introduction into parliament. All references to the Water Service Bill should be read in that context.

Codes in other jurisdictions and industries

Codes are commonplace in other industries and jurisdictions in Australia, as well as overseas.

In Western Australia, the government and the ERA are striving to align customer protection provisions across all regulated industries. So far, the electricity and gas industries have established customer codes. The Code of Conduct for the Supply of Electricity to Small Use Customers is legislated through the *Electricity Industry Act 2004*, while the Gas Customer Code 2010 (Schedule 2 of the Compendium of Gas Customer Licence Obligations) and the Gas Marketing Code of Conduct 2008 are established under the *Energy Coordination Act 1994*.

Besides the customer code, electricity retailers and distributors in Western Australia have to comply with a number of other codes; for example, the Metering Code, Network Quality and Reliability Code, Customer Transfer Code and Access Code. The ERA monitors compliance with the codes and other regulations relevant to the electricity industry.

Energy distribution and retailing are also regulated nationally as agreed to by the Council of Australian Governments' Ministerial Council on Energy (COAG MCE). The National Energy Customer Framework is being implemented in all states, except Western Australia, where the ERA carries out a stand-alone framework. There is no national agreement on the regulation of water services.

Water services customer codes in Australia generally apply to water supply and sewerage providers, but some also apply to irrigation and drainage services. The structure and content of most codes are similar, varying mainly with regard to legislative arrangements. Most jurisdictions either have established customer codes (Victoria, Tasmania, Queensland and the Australian Capital Territory) or are in the process of preparing them (South Australia). For details of codes in other Australian jurisdictions see Appendix D.
3 The Water Services Customer Code

3.1 Objectives of the code

The primary intent of the Water Services Customer Code is to protect customers from the risk of misuse of monopoly power that arises from a lack of effective competition in the water industry. The code also offers a uniform approach to ensuring customer rights across different services and clarifies the obligations of WSPs towards their customers.

The Water Services Customer Code intends to:

- consolidate the current customer provisions under the operating licences of WSPs in Western Australia
- expand existing customer rights and standardise consumer protection practice
- clarify the obligations of WSPs and customers
- establish minimum standards for customer service by existing and future WSPs
- clarify the conditions of service and supply that customers can expect to receive
- specify redress options to customers when WSPs do not meet mandatory service standards
- outline avenues for customer complaints
- identify assistance available for customers experiencing payment difficulty and/or suffering financial hardship
- detail customer obligations.

3.2 Proposed contents of the code and their issues

Some of the following proposed elements of the code may not apply to all classes of water services in the same way. Elements that only apply to certain service classes could be contained in separate schedules.

Managing the code

The code must be managed once it is in place. It will have to be reviewed regularly and any associated issues considered when they arise.

The ERA will be responsible for its administration, enforcement and amendments with advice from a consultative committee.

Consultative committee

Similar to the Electricity Industry Act 2004, the Water Services Bill will enable the ERA to set up a permanent consultative committee to advise on the code and review it. The committee may determine its own terms of operation within those set by the
ERA. The ERA will provide support and may reimburse committee members for their efforts, as recommended by the Public Sector Commissioner.

**Review period**

The Bill will state that the code has to be reviewed at least every five years. The consultative committee or the ERA could decide when to review the code within the five-year timeframe, but the frequency could also be set in the code itself.

While a five-yearly review provides greater certainty for WSPs, it may not be frequent enough to correct any problems with the code, especially initially, or enable adjustments in response to changes in legislation or practices relating to the code. The committee could make minor changes in a simple consultative process, but a full review of the code is much more involved and takes considerable time and effort.

The electricity code is reviewed every two years. The process puts a substantial burden on the ERA and the Electricity Code Consultative Committee (ECCC), particularly because it involves public consultation. A review of the water code every three years could be sufficient, perhaps with the first review conducted within two years of its publication to address any initial issues.

**Issues**

1. At what intervals should the code be reviewed?
2. Should the frequency of review be stipulated in the code or decided by the consultative committee?

**Plain English version of the code**

The ERA has published a plain English explanatory guide for the Code of Conduct for the Supply of Electricity to Small Use Customers, which is available on the authority’s website. A similar document would be desirable for the Water Services Customer Code to make it more accessible to customers.

However, if the code should require WSPs to produce a customer charter, this may be sufficient by way of explanatory literature.

**Issues**

3. Should a plain English guide for the customer code be produced?
4. Who would be responsible for producing a plain language guide for the code – the Department of Water, ERA or the licensees? Should this be stipulated in the code?
5. Would a customer charter be sufficient by way of ‘plain language’ explanation?
Who the code applies to

Classes of water services

The Water Services Bill will identify water services as water supply, sewerage, irrigation or drainage services. Water supply includes potable or drinking water and non-drinking water (treated wastewater, stormwater, greywater, groundwater and rainwater). The code could apply to all these water services, which would contribute to consistency of application across all services.

Similar to current licences, the main body of the code could deal with issues common to all providers of water services, while schedules could contain specific issues.

Water supply - potable and non-potable

WSPs operate in the metropolitan area, towns and rural areas. They supply water for drinking but also non-potable water for other purposes. Drinking water supply includes supply of water to businesses.

The Water Corporation, Aqwest and Busselton Water are the main drinking water suppliers in Western Australia. Hamersley Iron and the Rottnest Island Authority have a limited customer base. Many local government authorities and some irrigation cooperatives provide non-potable water for watering of crops and livestock as well as open space.

Sewerage and trade waste

The Water Corporation and a number of local government authorities provide domestic and non-residential sewerage services, either in conjunction with water supply or as a separate service.

Both the Metropolitan Water Supply, Sewerage and Drainage By-laws 1981 (as amended) and the Country Towns Sewerage By-laws 1952 define industrial waste as being the liquid, solid or gaseous refuse from any business, industry, warehouse or manufacturing premises other than domestic sewage, stormwater, or unpolluted water. The wastewaters from staff amenities or offices at industrial premises are specifically excluded. The terms ‘industrial waste’ and ‘trade waste’ are used interchangeably in waste disposal publications (DoW 2009).

Currently, the Water Corporation provides an optional trade waste removal service, which is not part of the standard sewerage connection. It requires application for an Industrial Waste Permit, as stated in the Metropolitan Water Supply, Sewerage and Drainage By-laws 1981 (Regulation 28.1).

Under the Water Services Bill ‘trade waste means … wastewater other than wastewater of the kind and volume ordinarily discharged from an ordinary dwelling used solely or primarily as the dwelling of the occupants’. The Bill will make discharge of trade waste subject to the (licensed) service provider’s approval. Regulations can be made to deal with trade waste; it may be too complex an issue for the code.
Irrigation

Mostly, irrigation service providers are cooperatives established under the Co-operatives Act 2009. Irrigation cooperatives usually consist of two independent companies, with one owning and managing the assets and the other operating as a trading entity that manages the irrigation business. All members of cooperatives own shares in each company, equivalent to the size of the water allocation they have purchased.

According to the Bill, the definition of customer does not include members of licensees and, therefore, the code would only apply to irrigation cooperatives if they provide a water service to customers who are not members.

Drainage

Given that local government drainage services are exempt from licensing requirements, it may not be necessary to have a code dealing with drainage services in the immediate future. The code would only apply to the Water Corporation and the Rottnest Island Authority as the only licensed drainage providers.

Issues

6 Should the code include all four water service areas or would separate codes for the different services be preferable? Would a combined code be too complex?

7 Could schedules accommodate the different needs of the different service classes? Would such a structure make the code too cumbersome?

8 Should the code be written for water supply and sewerage providers first and extended or amended to include the other services of irrigation and drainage at a later date?

Types of customers

A water service licence defines a customer as ‘a person or organisation to which water services are sold or supplied for consumption by the licensee’.

According to the Water Services Bill:

a customer, of a licensee, means a person to whom water services are provided by the licensee or who is entitled to the provision of water services by the licensee, other than a person who is a member of the licensee….

Since neither the water licences nor the Bill distinguish between different types of customers, the code could apply to all customers receiving ‘standard services’\(^5\), including domestic and business customers and others, such as customers of irrigation cooperatives who receive water for livestock and garden watering. This would include customers across the state – in the metropolitan area, in towns and in rural and remote areas.

\(^5\) For which service standards (as stipulated in the licence or the code) can be fulfilled regardless of service type.
Some states distinguish between small and large customers (e.g. in Queensland a small customer uses up to 100 kL a year, while the ACT differentiates between large franchise customers and others). In the energy industry such distinction is regularly made. The Bill will not distinguish between different levels of use so the code could apply to water users independent of the amount they use.

The Bill will set out the terms and conditions for provision of water services. If any of these conditions cannot be fulfilled, agreements or contracts between WSPs and customers can set out certain terms and conditions to provide ‘non-standard’ services. Regulations under the Bill could make provisions for standard term contracts and specify details of non-standard term contracts.

If a non-standard agreement is made between a WSP and a customer, the code’s general provisions could still be relevant; for example, those relating to billing, complaints, payments, payment difficulties and hardship. Only sections that deal with service standards may not apply. Currently these agreements are made using a template that specifies which standards cannot be met or which conditions are modified (see section on contracts and agreements below). These agreements do not restrict any of the other licence conditions, such as those dealing with customer service, payments or complaints. For other agreements, such as commercial contracts for large water supply, it is up to the contract parties to negotiate terms and conditions (governed by contract law), and the code may not apply.

Customers unable to settle a dispute with a WSP will have the option of involving the Water Ombudsman (if the amount of a determination or direction in relation to a dispute is under $20 000 or $50 000 if both parties agree; larger claims have to be taken to court – see S. 8.1 in the Charter of the Gas Industry Ombudsman (Western Australia) Limited).

The ACT Consumer Protection Code (ACT 2010) distinguishes between customers and consumers – the customer is in a contractual relationship with the utility whereas a consumer is a user of the service. For example, for water services, the landlord is the customer responsible for payments and the tenant is the consumer who uses the water. In instances where there is no contract between a customer and a utility, the consumer is responsible for paying the bills.


7 Contracts are covered by various pieces of legislation under Commonwealth law:
Corporations Act 2001: deals with capacity
Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010: implied terms, misleading conduct, unconscionable conduct

8 Financial liability of a consumer: In the absence of an existing Customer Contract in relation to supply of a Utility Service to a Consumer’s Premises, a Consumer is liable for the cost for the Utility Service supplied to, and consumed at, the Consumer’s Premises from the time the Consumer first started consuming the Utility Service at the Consumer’s Premises. This is generally taken to be the date of commencement of a tenancy, in the case of a tenant, or the date of transfer of ownership, in the case of an owner.
Issues

9 Which types of customers should be covered by the code?

10 Should there be any differentiation between customers; for example, domestic, small business and large business? Should the distinction be based on usage?

11 Should the code distinguish between customers and consumers (which would include tenants)?

Preliminary

The preliminary part contains basic provisions; usually they are as follows:

• purpose
• commencement
• interpretation (definitions).

Issues

12 No issues, except definitions, which should be resolved in relation to particular issues.

Marketing

In the electricity code, marketing covers contracts, information provided to customers and marketing conduct. Most of these provisions refer to activities of marketing agents who sign up customers. The Gas Marketing Code of Conduct covers similar provisions.

Currently, the water services industry does not employ marketing agents and only a limited amount of services are supplied under non-standard agreements. It is unclear if the code should include marketing provisions that currently exist in the electricity code:

‘marketing’ includes engaging or attempting to engage in any of the following activities by any means, including door to door or by telephone or other electronic means—

(a) negotiations for, or dealings in respect of, a contract for the supply of electricity to a customer, or

(b) advertising, promotion, market research or public relations in relation to the supply of electricity to customers.

It may be desirable to have a section dealing with ‘information to be given before entering into a contract’ in the code (see section 2.3 of the electricity code) and also a section dealing with conduct for making contact with customers (via telephone or in person).
Issues

13 What marketing areas should the code cover?

Connection and service provision

Conditions of connection

At present, licence conditions require licensees to set out in writing their ‘conditions for connection’ which have to be made available to those who apply for or inquire about connection. This requirement applies to all water services.

Under the Bill, ‘standard terms and conditions of service’ will have to either be specified in a standard customer contract, contained in the licence conditions or published on the licensee’s website if they are not covered by either a contract or licence conditions. Since the code will form part of the licence conditions it could require service providers to maintain the current practice or it could spell out conditions for connection, perhaps as part of the schedules.

Issues

14 Should the licence conditions relating to ‘conditions of connection’ be moved to the code?

15 If so, should the code require WSPs to make their own ‘conditions of connection’ or should those conditions be specified in the code?

16 Would it be sufficient to require suppliers to provide customers and prospective customers with the conditions of connection or should the schedules be more specific for the different services?

Obligation to connect (timeframe)

In other codes, this section usually requires a service provider to connect a service within a certain period after an application is received or a contract is signed. In normal circumstances, for a standard connection, a WSP should be able to connect a customer within a reasonable time. For example, under normal circumstances, both Aqwest and Busselton Water will connect a customer within 15 business days of receiving an application.

Issues

17 How many days would be a reasonable time to make a standard connection to a water service? Would this time vary between service classes, providers and location (metropolitan or rural)?

18 Should the timeframe(s) be specified in the code?
Contracts and agreements

In contrast to the water industry, standard form contracts are offered to customers of the energy industry in Western Australia (only Synergy and Horizon Power are obliged to offer such contracts, other energy providers may choose to do so). These contracts set out the conditions of supply.

While the current customer charters outline the conditions of supply for water services, current licence conditions – under Schedule 1 of the Water Services Licensing Act 1995 – include provisions for customer agreements that modify or restrict the terms and conditions of licences (e.g. where water cannot be provided under standard conditions). The templates for these non-standard agreements have to be approved by the ERA before they start or are amended, and the service provider has to annually report on these agreements.

Under the Bill, licence conditions can continue to deal with agreements that vary or displace standard conditions of water services. Since the code forms part of the licence conditions it could make provisions for such non-standard agreements. Either the licence conditions or the code could require the WSP to provide certain information to the customer before entering into a contract and specify that particular areas of the code apply; for example, billing and payments, hardship provisions and complaint procedures, or that certain clauses of the code do not apply or can be amended (compare S. 1.10 of the electricity code).

The Victorian metropolitan customer service code (ESC 2010) specifies that the same customer rights apply to customers that have a separate written agreement, unless the WSP ‘can demonstrate that satisfying the code requirements is not practical’ and provides to the customer in writing any departures from the code.

Issues

19 Should provisions for non-standard agreements be included in the code rather than in individual licence conditions?

20 Should the general provisions of the code still apply when water services are provided under an agreement between the licensee and the recipient of the service; for example, billing, metering, payments and complaints?

21 Should an obligation be included to provide certain information to the customer before they enter into an agreement or as part of the agreement? What information should that include?

Guaranteed service standards and guaranteed service-standard payments

Service standards and performance standards

An essential part of water service provision is setting standards – these define the conditions under which water services are supplied to customers. If these conditions are not met, especially if breaches occur on numerous occasions or for extended periods, customers may complain and request redress.
Currently, the ERA sets standards for the delivery of water services as part of the licence conditions. Some standards apply to all services, such as those relating to customer service and complaints handling. Other standards are service specific and can relate to water quality, pressure and flow as well as continuity (for drinking water or non-potable water); sewerage overflow and blocked sewers; irrigation water quality and delivery; and drain and levee design.

The licence conditions can also specify exemptions where the standard conditions cannot be met and set out criteria for agreements for connections where standards cannot be guaranteed (e.g. farmland services). Specific conditions may include notifying customers annually about their conditions of service, as well as other specifications, as needed, including the need for documentation of agreements.

The conditions under which services are delivered vary considerably between service classes but also between providers of the same service class. Licences deal with this issue by using schedules that specify different service standards. Similarly, the code could make general provisions that apply to all service providers and have schedules with standards for the different services, perhaps even for different service providers.

Setting standards should be based on customer expectations but also take into account the costs for achieving certain standards since, ultimately, customers will be affected by these costs. The CSIRO has developed a method that takes a balanced approach to undertaking such a cost/benefit analysis (Speers et al. 2002).

The current practice could continue since under the Bill a licence may be subject to standard terms and conditions for providing water services. Alternatively, the code could set out standard terms and conditions since they will form part of the licence conditions. Any exceptions could be dealt with through specific licence conditions or in the code’s schedules.

**Issues**

22 Should water service standards continue to be addressed through licence conditions or would the code (schedules) be a more suitable vehicle?

23 If specified in the code, which quality, reliability and supply criteria should be included for each of the services?

24 How should the standards be determined?

25 What customer complaints standards should apply?

**Guaranteed service-standard payments**

Service providers make service-standard payments to customers for breaches in water service standards, usually in the form of set payments or rebates to customers. These payments can also be seen as incentives for WSPs to provide the level of service they are bound to by their licence conditions or other requirements.
At present, electricity providers have to make service level payments under the electricity code, which are not automated except in the case of wrongful disconnection. Gas providers have service level payment obligations under their access arrangements which are automatically paid to customers.

The Water Corporation provides some redress to customers as described in its customer charter; for example, if a drinking water supply customer is disconnected more than three times during the course of a year they will be discounted for 100,000 litres of water in their current bill. Also, if laundry is soiled, the corporation will help in recovering the garment(s), replacing the affected items or compensating the customer. This redress is not automated; that is, customers have to apply to the service provider to receive it.

Other drinking water suppliers as well as sewerage providers also compensate customers, primarily as directed through the existing water legislation (e.g. compensation for damage caused to property).

Sydney and Hunter Water have regulations that guarantee service standards (service level scheme) and make use of service-standard payments. In Victoria, guaranteed service level rebates are used extensively and are automated so that customers receive them without having to apply to the utility. Service standards are set by the water businesses, taking into account their particular circumstances, and approved by the regulator (the Essential Services Commission). A similar approach is used in Queensland, where service standards are incorporated with strategic planning.

In addition to guaranteed service-standard payments, the United Kingdom has an incentive scheme for WSPs in which they either increase or decrease prices depending on their performance.

While the code could specify standards and what types of compensation apply for breaches, there are issues with what standards should apply, how the payment levels are set and how customer preferences should be considered. The code could also require compensation payments or rebates to be made automatically (without the customer having to apply for them).

### Issues

| 26 Should service-standard payments or rebates apply? |
| 27 How should service-standard payments be determined? How high should they be? Should amounts be specified in the code? |
| 28 Should service-standard payments be automated? |

### Charges/fees

This section of a code is usually kept general. It refers to the power of service providers to charge and vary fees and requires providers to notify customers of any variations. The details of applicable charges could be set out in regulations made under the Bill.
Concessions

Currently, concessions on the fixed service charge for drinking water supply are available to pensioners and seniors, as provided for under the Rates and Charges (Rebates and Deferment) Act 1992, but only if they are an owner or life tenant (as defined in section 29 of the Act) of the supplied property. The government reimburses the service provider (water board or local government authority) for the rebate on application. Under the Act, eligible seniors and pensioners can also defer payment of the rates or service charge which then accumulates as a debt to the property. Rebates do not apply if payment of charges is deferred. Under the legislation, concessions are not available to holders of other concession cards, such as the Commonwealth healthcare card. For further information on the relevant sections of the Rates Act, see Appendix E.

The Water Corporation makes water usage concessions available (on application) to seniors card and pensioner concession card holders, as well as tenants if they are responsible for 100 per cent of the usage bill. The customer charters of both the water boards (Aqwest and Busselton) mention senior and pensioner concessions\(^9\). Other WSPs also give senior and pensioner concessions (e.g. the Rural Water Service of Harvey Water). The code may require service providers to make information on concessions available to customers.

In other Australian states, concessions on water charges are also available to Commonwealth healthcare card holders.

Making water services affordable to those in need is a complex issue and may require other initiatives besides making concessions available. Ultimately this issue can only be resolved in collaboration with other government agencies. The code can only ensure that those eligible for concessions receive appropriate and adequate information and that service providers make the concessions available.

Regulations under the Water Services Bill could deal with concessions in more detail.

Issues

29 How can the code best support the provision of information about the availability of concessions?

30 How can the code ensure that processes to make concessions available are user friendly?

\(^9\) Under current legislation the water boards are not eligible for community service obligation (CSO) payments so giving concessions is by their own good grace. This will change once new legislation is in place under which water boards are made into water corporations, with all the rights and obligations that entails.
Metering issues

Metering

The usual way to measure water supplied through pipes is with a meter; water for irrigation can be measured with meters or other devices approved by the department. The Bill empowers the licensee to install or require the installation of a meter.

The code may not be the best instrument to deal with metering issues because they are very complex. The electricity industry has its own metering code (GWA 2005) which deals with a number of technical issues as well as fees and charges.

Issues

31 Should water metering/measuring issues be included in the code? If so, how could this be done? What issues would arise?

32 Would a separate metering code or regulations be a better vehicle to deal with metering?

Accuracy of meter readings and meter testing

If a customer questions the accuracy of a meter, the Water Corporation can offer a free meter check. If the customer insists on a meter test, for which the meter is removed and tested in a special facility, the customer has to pay upfront.

Tolerances for meter accuracy are set by the service provider, as are the fees for meter testing. The Bill will allow for Regulations to deal with the accuracy and testing of meters, which includes the right of persons to have a meter tested, who will pay and how much.

Issues

33 Should information about meter checks be made more widely available?

34 Under what circumstances should a meter be tested?

35 Who tests the meter? Is independent testing desirable, possible or feasible?

36 How are the costs for testing calculated? Who will pay?

37 Should the code deal with meter testing or should regulations or a future metering code provide for this?

Billing

The billing section of a code usually refers to the contents of a customer bill, what the bill is based on (reading of meters, other types of measurement etc.) and the frequency of billing (billing cycles). It also explains adjustment of bills and what happens in cases of under- or over-charging.
Contents of a bill

The electricity code prescribes in detail the minimum contents of a bill. A similar provision could be made for WSPs to ensure that customers receive relevant and timely information about their service and payments.

Issues

38 Should the code prescribe the minimum contents of a bill? If so, what should be included and why?

Billing cycle

At present the Water Corporation reads meters twice a year in the metropolitan area and three times a year in regional areas. This is cost efficient and seems to have been acceptable to most customers while water prices have been low. With rising water prices likely to lead to higher bills, however, potential issues may include increased payment difficulties and considerable liabilities for customers with severe leaks.

Other drinking water providers in Western Australia have 4-monthly billing cycles, not only for the usage charges but also the fixed charges (Aqwest, Busselton Water). The Water Corporation is planning to move to similar billing arrangements, which could be in place by July 2012. The new arrangements will also allow customers to check their billing history and water usage online.

The electricity code makes provisions for a billing cycle of no more than once a month and no less than every three months. Other jurisdictions in Australia also have shorter billing cycles for their water services; for example, a maximum of 120 days in the ACT unless agreed otherwise.

Issues

39 Should the length of billing cycles be prescribed in the code?

40 Could the frequency of meter readings be increased? What other positive and negative outcomes – besides increased costs – would result from more frequent reading of meters?

Shortened billing cycle

The electricity code allows for a shortened billing cycle for customers who receive three consecutive reminder notices, but only with the customer’s consent if they have been identified as being in financial hardship. Currently, a shortened billing cycle can be arranged for the Water Corporation’s customers, although the customer charter makes no reference to this option.

A 2007 Western Australian Council of Social Services (WACOSS) credit management workshop recommended ‘there be greater consumer awareness of the availability of shortened billing cycles and that this information be contained on all
Issues paper

Water Corporation correspondence’ (Workshop recommendation 5, WACOSS, May 2007). This could be a provision in the ‘information’ section of the code.

Issues

41 Should shortened billing cycle options be made available? To all customers or only to those who have difficulties paying their bills?

Leaks and leak allowance

The Water Corporation’s current pricing system seeks to encourage customers to use water more efficiently through a tapered pricing structure for water usage charges; that is, consumers pay more for water the more they use. The annual service charge is a fixed charge. Both the sewerage and drainage charges (if applicable) are based on the rateable value of the property10. For business customers, charges apply for discharge to sewer where the assessed discharge exceeds 200 kL a year.

An issue of concern is that a customer who experiences a serious leak – which may not be discovered for months due to the limited frequency of meter readings – may be paying penalty rates for the lost water if they slip into a higher price bracket because of the water loss.

This issue could be dealt with by having more frequent meter readings (which would identify high usage more quickly) and/or by a ‘fair leak allowance policy’. Such a policy would come into effect when a leak is confirmed and give an allowance to the customer of an amount of water related to the (estimated) loss.

For example, the Water Corporation deals with leaks on a case-by-case basis, with customers given the benefit of reasonable doubt. Generally, leaks may be considered for an allowance if they are hidden, and confirmed and repaired by a certified plumber. The plumber has to complete a Leak Allowance Application Form and submit it to the Water Corporation, which – if the allowance is accepted – grants the customer an amount of water related to the (estimated) loss (and sewer charges may be adjusted, where appropriate).

Issues

42 How could a fair leak allowance be included in the code?

Other billing issues

Since water supply and sewerage services are associated with a property, the owner of the premises is responsible for paying any charges. This is straightforward if the owner occupies the premises, but less so if the premises is rented.

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10 The rateable value is the gross rental value of the property (or estimated gross annual rent) which is determined by the Valuer General.
Under section 48(c) of the *Residential Tenancies Act 1987* the owner of a property is responsible for the water ‘rates’ that apply to that property, but is not responsible for the usage portion of the water bill. Section 17 of Schedule 2 of the Residential Tenancies Regulations 1989 provides that tenants can be fully or partially responsible for paying water usage charges. For excerpts of the relevant sections of the Act and Regulations, see Appendix F. It should be noted that under current legislation as well as under the Bill, property owners are ultimately responsible for paying all water charges.

The Water Corporation will send the water usage account to the tenant, if the landlord directs it to do so, but the owner is still responsible for paying the bill. Other WSPs have similar arrangements.

Since no direct, legal relationship exists between WSPs and tenants, the Water Corporation, Aqwest and Busselton Water, as a matter of policy, do not restrict water supply to rented premises even if the bill is not paid (penalty interest will accrue).

**Issues**

43 *Should the relationship between tenants and WSPs be formalised so that water usage accounts become the responsibility of tenants? Would such an arrangement be desirable? What other issues would arise?*

44 *What would it take for tenants to receive bills directly?*

45 *How can repayment options and financial assistance be made available to tenants?*

**Payments**

This section relates to minimum payment periods, payment methods (including bill smoothing) and how late payments and overdue accounts are dealt with.

Customers need to be given a reasonable time to pay their bills and usually have a variety of options to do so. If bills are not paid on time, reminder notices, warning notices, interest and dishonour payments will come into effect. The Bill proposes that water supply can be restricted if bills are not paid within 30 days of being issued.

**Bill smoothing**

As part of the payment options, utilities can offer bill smoothing arrangements to their customers. The electricity code provides for such arrangements where a customer can pay pre-calculated charges at shorter intervals than the billing cycle. These are based on 12-month estimates that take into account historical billing data. The arrangement is reviewed after six months and adjusted for differences.

Currently, WSPs in Western Australia do not offer bill smoothing arrangements as a standard way of paying bills. The Water Corporation can arrange a type of bill smoothing, on request, through a direct debit arrangement. Bill smoothing will be
available for Water Corporation customers once its new online facilities for e-billing are in place (as early as the end of 2011).

The code could make bill smoothing available as an optional way to pay bills and could specify conditions and allowable fees.

**Issues**

46 Should the code prescribe bill smoothing, conditions and allowable fees?

47 How should this option be arranged? Would extra charges apply?

**Overdue accounts, penalty interest and late payment fees**

In cases where customers do not pay bills on time, options to cover any losses that service providers can employ include late payment fees and/or penalty interest.

Currently, the drinking water providers charge penalty interest on overdue accounts. The rate for the Water Corporation is set annually through the Water Agencies (Charges) By-laws 1987. In certain circumstances a reduced interest rate or exemption may be available at the discretion of the utility. Both Aqwest and Busselton Water can charge overdue interest through bylaws made under the *Water Boards Act 1904*.

In the 2007 WACOSS credit management workshop participants recommended:

… interest should only be applied to high-income-earning groups and to business customers as these groups have higher levels of consumption and are more likely, further to the Water Corporation’s reasoning, to use water debt as another ‘line of credit’ (Workshop recommendation 9, WACOSS, May 2007).

In addition, WACOSS recommended:

… that the Water Corporation discontinue the practice of applying high rates of interest to outstanding debt for residential customers (WACOSS recommendation 1, WACOSS, May 2007).

This code could provide a way to exempt customers experiencing hardship from paying overdue fees and penalty interests, as is done in the electricity code. An electricity provider cannot charge late payment fees more than twice for the same bill and more than 12 times a year. Customers who receive concessions or are in financial hardship are not required to pay late payment fees. If such a policy is not in place, customers could end up paying numerous late payment fees, especially if a shortened billing cycle is in place.

With regard to local government authorities that provide services, the *Local Government Act 1995* makes provisions for recovering fees from landowners that do not apply to other service providers (see Appendix G for details). They include taking possession of the land if bills are not paid for three consecutive years. These provisions would have to be acknowledged in the code.
The Bill will allow for service providers to charge penalties and interest on overdue accounts. Regulations will deal with the details, which could include exempting those customers who experience financial hardship from penalties and overdue interest.

The Bill will give WSPs the right to charge these fees and regulations or the code could prescribe how it may be done. Instead of the regulations, the code could exempt those experiencing hardship from paying penalty fees and/or limit the amount and number of such payments in a given timeframe.

**Issues**

48 Should customers in financial hardship be exempt from paying penalty rates on overdue accounts and late payment fees?

49 Should the regulations or the code deal with this?

**Payment difficulties and financial hardship**

Customers sometimes have difficulties paying their bills. When the situation is short-term it is referred to as ‘payment difficulty’, which the electricity code defines as:

- a state of immediate financial disadvantage that results in a *residential customer* being unable to pay an outstanding amount as required by a *retailer* by reason of a change in personal circumstances.

If the inability to pay is long-term, it is called ‘financial hardship’. The electricity code defines financial hardship as:

- a state of more than immediate financial disadvantage which results in a *residential customer* being unable to pay an outstanding amount as required by a *retailer* without affecting the ability to meet the basic living needs\(^{11}\) of the *residential customer* or a dependant of the *residential customer*.

The two forms of inability to pay bills require different solutions.

**Payment difficulties**

At present, WSPs send out late payment notices if accounts are in arrears. Such notices may contain information on different and alternative payment options to encourage customers with payment difficulties to make use of them.

The electricity code provides that if a second late payment notice is sent, or the customer gets another late payment notice on a subsequent bill, the electricity provider has to contact the customer in person to offer advice or assistance with paying the bills. A similar provision could be made in the Water Services Customer Code.

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11 As defined by the electricity code, ‘basic living needs’ include rent or mortgage, other utilities (e.g. gas, phone and water), food and groceries, transport (including petrol and car expenses), childcare and school fees, clothing, and medical and dental expenses.
Issues

50 Should the code prescribe different methods of payment that may be offered to customers with payment difficulties?

51 Should the code include an obligation for WSPs to contact a customer who has not paid a bill and offer assistance, before a Warning of Restriction notice is sent?

Financial hardship

A hardship policy is a statement of rights for customers who experience more than temporary payment difficulties.

Currently, WSPs are not legally required to have a hardship policy. It is also up to the service provider to inform customers about the existence of a hardship policy program, if they have one. The Water Services Customer Code could require WSPs to put in place a hardship policy and associated program.

The Water Corporation has a financial hardship policy. It applies to residential customers only and often excludes tenants (because the property owner is liable for all charges) and those experiencing payment difficulties without financial hardship. The corporation has established flexible payment options as well as a ‘Water Assist’ program for customers in financial difficulty, and provides training to staff dealing with such customers. In some cases, customers are referred to a financial counsellor. Other service providers, such as Aqwest and Busselton Water, have similar arrangements in place.

A financial counsellor can refer a customer in genuine hardship to the government’s Hardship Utilities Grants Scheme (HUGS)\(^\text{12}\). Tenants are currently not eligible for HUGS payments, but the Water Corporation is seeking to change the criteria under which tenants can be considered under the HUGS.

The ERA has introduced requirements for a hardship policy in the energy industry (both electricity and gas). Part 6 of the energy code requires energy retailers to develop a hardship policy and specifies the minimum contents of such a policy. The ERA published its Financial hardship policy guidelines to help retailers write their policies (ERA 2010). The electricity code stipulates that the guidelines have to be considered. Electricity retailers have to consult with relevant consumer representative organisations on an ongoing basis and when reviewing their hardship policies.

The ERA’s policy guidelines provide detailed information in five areas – staff training, identifying and engaging with customers in financial hardship, flexible payment arrangements, engaging with consumer representative organisations, and financial counsellors, transparency and accessibility. Similar guidelines could be prepared for the water industry and made mandatory through the Water Services Customer Code.

\(^\text{12}\) At present, few water customers are referred to the HUGS. For more information on HUGS see <http://www.dcp.wa.gov.au/servicescommunity/Pages/HardshipUtilitiesGrantScheme(HUGS).aspx>
In the United Kingdom, hardship issues are handled differently. Pensioners get a cheque in the mail for spending towards their energy requirements. This may help cover costs and prevent unnecessary saving or even going without. It also avoids pensioners having to consider seeking assistance from financial counsellors, which they may be reluctant to do as it can be humiliating.

The code could require service providers to have a hardship policy that includes training staff on how to assess a customer’s financial situation and when to refer them to a counsellor to be considered for HUGS payments. The code could also include a requirement to offer flexible payment arrangements.

**Issues**

52 Should the code require WSPs to have a hardship policy?

53 Should staff training and flexible payment arrangements be part of such a policy?

54 How can the issue be resolved of tenants not having access to alternative payment methods and HUGS grants?

**Review of hardship policy**

Electricity and gas providers have to review their hardship policy annually and consult with consumer organisations in the process. The ERA assesses the policy and has suggested that a review every second year would be adequate.

**Issues**

55 Who would review the hardship policies of WSPs?

56 How often should a hardship policy be reviewed? Would every second year be sufficient and acceptable?

**Actions for non-payment**

**Restrictions and disconnection**

The Metropolitan Water Supply, Sewerage and Drainage Act 1909 (section 41) and the Country Areas Water Supply Act 1947 (section 33) allow for the restriction or disconnection of water supply if charges are not paid. Similarly, under the Water Services Bill, a WSP can restrict or cut off the flow of water to a property if a customer has not paid a bill (30 days after the due date).

In contrast to the existing legislation, the Bill will stipulate that water supply can only be cut if the occupant of the premises agrees. The Bill will empower the minister to include this matter in a code.

Utilities are reluctant to use such drastic measures and, currently, the Water Corporation does not restrict water supply for pensioners, seniors card holders, (senior) healthcare card holders and tenants whose accounts have not been paid. The corporation will also not restrict water to customers who are known to have life-
support equipment on the premises, such as dialysis machines. In its financial hardship policy, the corporation states that restrictions and disconnections are measures of last resort.

Aqwest and Busselton Water also restrict customers as a measure of last resort, but they do restrict tenants.

Information about restrictions and cutting of supply are being reported to the ERA who passes it on to the National Water Commission (NWC) as part of its annual National performance report.

The Electricity Act makes provisions for not disconnecting customers in financial hardship and, generally, disconnection is a measure of last resort. The ACT requires all types of utilities to contact the customer in person before restricting supply.

Victoria is proposing a similar policy for water services.

Given the new Bill will require the agreement of the occupant before water supply is disconnected, the code could also require service providers to make personal contact with customers before they restrict water supply.

The Victorian Customer Service Code for Metropolitan Retail and Regional Water Businesses specifies that a service provider can take action (restricting a service or starting legal action) against a debtor only if the debt has reached a minimum of $200 or the customer has not paid any bills for at least 12 consecutive months.

The code could set a minimum amount of debt that has to be reached before any drastic recovery action can be taken.

Issues

57 Should personal contact with the occupant of the premises to which water supply is planned to be restricted be made part of the code?

58 Should there be the minimum amount of money owed at which a WSP can take action?

Reconnection

Describes the circumstances under which a service is recommenced.

Issues

59 Should the code specify a reasonable time period for reconnection? Should this period be specified?

Works and maintenance

This section outlines the service provider’s rights and obligations with regard to their assets, including construction, maintenance and access. It also refers to customer rights and obligations regarding these matters.

Many of the details will be set out in the Bill or may be addressed in regulations.
**Issues**

60 Which rights and obligations should be specified in the code?

**Information and communication, customer inquiries**

This section is concerned with transparency and access to information that WSPs have to provide to their customers. It also outlines how they should deal with customer inquiries.

The electricity code has an information-provision section that tells providers what information to supply to their customers, but not how to communicate it.

At present, it is difficult for customers to get access to water supply billing data if they do not own the premises to which the water is supplied. A tenant needs permission from their landlord to be able to access water billing information and negotiate repayment arrangements with the Water Corporation. It seems that tenants may often not be aware of this option.

WACOSS has suggested that WSPs advise tenants about what information is available to them, with and without the consent of the landowner; how they can make a complaint; what types of concessions are available; and how they can find out the average water use in different types of households. Appropriate information should also be made available to tenants from Aboriginal and culturally and linguistically diverse (CALD) backgrounds.

**Issues**

61 What type of information should be made available to customers and how?

62 Is there a need to have different types of information for different types of customers; for example, culturally and linguistically diverse (CALD) people?

**Customer consultation**

As part of their licence conditions, all WSPs (except drainage) currently have to establish ongoing customer consultation processes. These include establishing a customer council or holding regular customer meetings, publishing newsletters or organising forums that enable community involvement. Under the *Local Government Act 1995*, local government sewerage providers need to hold public meetings or seek public submissions and provide for public question time when making changes to infrastructure. Irrigation providers have to hold public meetings before the irrigation season opens.

A customer code could have provisions for customer consultation to ensure that customer concerns and satisfaction are monitored and addressed on an ongoing basis. The code could make specific prescriptions or, as is currently the case, it could make the ERA responsible for approving the extent and type of customer consultation.
The licence conditions also require licensees to conduct independent customer surveys (no more frequently than every two months). This applies to all water services.

Customer councils form part of the water industry in England and Wales. Members of these boards are funded by the Office of Water (OFWAT, the UK regulator) and present a fully independent customer voice.

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<td>67</td>
<td>Who would evaluate the results of customer consultations and ensure the outcomes are acted on? Who checks on implementation?</td>
</tr>
</tbody>
</table>

**Customer charters**

In its latest review of the Code of Conduct for the Supply of Electricity to Small Use Customers, the ECCC has recommended the requirement for a customer charter for electricity providers be removed. The electricity customer code has been amended accordingly. Electricity retailers can still produce customer charters if desired, but the ERA no longer formally assesses these documents.

An advantage of having a customer charter is that a service provider can present itself to its customers in a more individualised, 'personal' way. However, doing this well requires considerable effort, which can be difficult for smaller service providers (e.g. local government authorities providing sewerage to a small number of customers).

It may be possible to make customer charters voluntary so that WSPs wanting to offer a more individualised customer document can continue to do so.

**Issues**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>68</td>
<td>What are the advantages and disadvantages of having customer charters?</td>
</tr>
<tr>
<td>69</td>
<td>Should the Water Services Customer Code follow the electricity code and dispense with the requirement for service providers to have a customer charter?</td>
</tr>
</tbody>
</table>

**Complaints and disputes**

Currently, details for the complaints handling process are outlined in the operating licence. In addition, WSPs have to produce a complaints handling policy to be
approved by the ERA. The ERA has published customer complaint guidelines that apply to electricity, gas and water services to help with this process (ERA 2008).

It is envisaged the code will require WSPs to have a complaints and dispute handling process. This process would be based on the ERA’s existing guidelines and conform to Australian Standard AS ISO 10002-2006: Customer satisfaction - Guidelines for complaints handling in organisations.

The Bill will also provide for a Water Ombudsman to manage unresolved disputes between customers and service providers.

The first principle of complaints handling is to enable customers to make complaints, which includes providing sufficient information (Ombudsman Western Australia 2010).

**Issues**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>70</td>
<td>Are existing licence conditions for complaints handling appropriate and adequate? Should they be adopted in the code ‘as is’ or are changes needed?</td>
</tr>
</tbody>
</table>

**Record keeping**

WSPs are required to keep certain records; for example, under the Bill they will have to keep those relating to water service charges. Other records to be kept would relate to information enabling monitoring of performance and required for reporting to state and national bodies.

Service providers are also required to report on the number of complaints (water quality and billing or account issues), duration and frequency of service disruptions, disconnections, restrictions, reconnections and other customer-related information, such as time taken to answer phone calls. Obviously such information needs to be recorded.

Electricity providers in Western Australia are required to report annually on their performance with regard to affordability and access, customer complaints, compensation payments, call centre performance and customer accounts.

**Issues**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>71</td>
<td>Is there a need to prescribe which records have to be kept by WSPs in the code? If so, what kind of records should be kept and for how long?</td>
</tr>
</tbody>
</table>

### 3.3 What the customer code will not cover

The code will not cover the following issues:

- **Metering – technical aspects**
  
  Metering is a complex issue and the technical aspects are expected to be dealt with by a separate code of practice. Some aspects of metering that relate to
billing, such as frequency of meter readings and meter testing, could be dealt with in the customer code (see previously).

- **Pricing or determination of charges for WSPs**
  The Bill will make provisions for the setting of charges through regulations. The code will only refer to the charges where appropriate.
Appendices

Appendix A: Members of the WSCC Working Group

Members of the working group:

- **Water service provider representatives:**
  - Water Corporation
  - Busselton Water (Board)
  - Aqwest – Bunbury Water Board
  - Western Australian Local Government Association (WALGA).

- **Customer representatives:**
  - Western Australian Council of Social Service (WACOSS)
  - Consumers’ Association of Western Australia
  - Tenants Advice Service (TAS).

- **Government agency representatives:**
  - Department of Housing.

- **Observer:**
  - Economic Regulation Authority (ERA).
Appendix B: Terms of reference for the WSCC Working Group

Background
The new Water Services Bill enables the Minister for Water to prepare a code of conduct for the water services industry in Western Australia that will govern the relationship with their customers – the Water Services Customer Code.

The Department of Water is preparing this code in a consultative process to achieve a balanced and fair outcome for both water service providers and their customers. The Water Services Customer Code Working Group (WSCCWG) is part of this consultative process.

Purpose of the working group
The working group will:
1. Advise the Department of Water on the issues identified in the publication Developing a Water Services Customer Code – Issues paper
2. Contribute to the recommendations for the draft position paper
3. Review the evaluation of submissions received for the draft position paper.

Membership
The group will have the following members:
- A chairperson and a project team from the Department of Water
- Representatives of:
  - Water service providers
  - Customer representative groups
  - State government agencies.

Process
The working group will meet on a four-weekly basis or as required and will conclude its work when the recommended code is finalised.

The project team will provide general administrative and secretarial support to the group, including:
- Organising group meetings
- Compiling briefing papers and preparing reports including an issues paper and position papers
- Drafting and distributing meeting minutes.
Appendix C: List of licensed water service providers

*Water supply (drinking)*

- Water Corporation
- Hamersley Iron Pty Ltd
- Busselton Water Board
- Rottnest Island Authority
- Aqwest – Bunbury Water Board

*Water supply (non-potable)*

- City of Kalgoorlie-Boulder
- Gascoyne Water Cooperative
- Moama Lifestyle Villages Pty Ltd
- Ord Irrigation Cooperative
- Shire of Brookton
- Shire of Coolgardie
- Shire of Dalwallinu
- Shire of Denmark
- Shire of Dowerin
- Shire of Dumbleyung
- Shire of Pilbara
- Shire of Gnowangerup
- Shire of Goomalling
- Shire of Jerramungup
- Shire of Kent
- Shire of Koorda
- Shire of Lake Grace
- Shire of Moora
- Shire of Morawa
- Shire of Ravensthorpe
- Shire of Victoria Plains
- Shire of Wickepin
- Shire of Yilgarn

*Sewerage*

- City of Kalgoorlie-Boulder
- Hamersley Iron Pty Ltd
- Moama Lifestyle Villages Pty Ltd
- Rottnest Island Authority
- Shire of Brookton
- Shire of Coolgardie
- Shire of Dalwallinu
- Shire of Dowerin
- Shire of Dumbleyung
- Shire of Pilbara
- Shire of Gnowangerup
- Shire of Goomalling
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- Shire of Koorda
- Shire of Lake Grace
- Shire of Moora
- Shire of Morawa
- Shire of Ravensthorpe
- Shire of Victoria Plains
- Shire of Wickepin
- Shire of Yilgarn

*Drainage*

- Water Corporation
Appendix D: Codes of conduct in the water services industry in other Australian jurisdictions

In Victoria, the Customer Service Code for Metropolitan Retail and Regional Water Businesses (ESC 2010) applies to providers of water and sewerage services to the metropolitan area and regional towns. The Rural Water Customer Service Code (ESC 2008) applies to regulated services not covered under the metropolitan code; that is, businesses that provide water and sewerage services to rural areas, including irrigation and drainage services.

In the Australian Capital Territory, the Utilities Act 2000 applies to all utilities – water, electricity and gas. The Independent Competition and Regulatory Commission (ICRC) is responsible for administering water industry and technical codes. The Act also establishes the Essential Services Consumer Council (ESCC) that reviews service standards, makes determinations on unresolved complaints and ensures provision of services to customers in hardship. The revised Utilities (Consumer Protection Code) Determination 2010 (No 2) came into effect in July 2010. The code outlines the basic rights of customers, consumers and utilities regarding access and provision of gas, water and electricity services. The code also deals with standards of delivery of utility services.

Queensland’s South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 established three council-owned water businesses and sets out a number of customer protection provisions and standards of service with which all these distributor-retailers have to comply. The provisions apply to water and wastewater services provided to all customers, large or small.

On 1 January 2011, a new Customer Water and Wastewater Code made by the Minister with the assistance of the Queensland Water Commission came into effect. It provides additional safeguards for ‘small customers’ around the distributor-retailer’s standards of service. Under the code, a ‘small customer’ is a residential customer or a non-residential customer who uses no more than 100 kL of drinking water and/or reticulated recycled water a year. The code covers services such as reticulated potable water (e.g. drinking water), dual reticulation water and certain sewerage services. Customers can complain to the Energy and Water Ombudsman Queensland (EWOQ) if a dispute relates to non-compliance with the code.

In Tasmania, the Water and Sewerage Industry Act 2008 makes provisions for a customer service standards framework for water and sewerage services. The Water and Sewerage Economic Regulator is responsible for producing a Customer Service Code that specifies minimum service standards and conditions with which service providers have to comply. The Water and Sewerage Industry (Customer Service Standards) Regulations 2009 specify the details of the code. The first code was published on 1 July 2010.

South Australia currently has its new water services legislation before parliament. Consumer protection will be strengthened through an independent Water Industry
Ombudsman and a Consumer Advisory Committee. These provisions apply to the water industry, defined as ‘any operations associated with the provision of water and sewerage services’. The Essential Services Commission of South Australia (ESCOSA) will establish codes for consumer protection and service standards with which service providers have to comply as part of their licence conditions.

New South Wales does not have a code of conduct for the water industry, but the Water Industry Competition (General) Regulation 2008 that supports the Water Industry Competition Act 2006 makes provision for such a code. Under the Regulation, as part of their licence conditions, water businesses have to establish and comply with a code of practice for customer complaints and a code of practice for debt recovery.

In the Northern Territory, the Utilities Commission regulates electricity and water suppliers. It issues licences for water services in gazetted geographical areas. The minister may give the commission some powers to monitor pricing and service standards. Under the Water Supply and Sewerage Services Act 2009, water and sewerage providers have to fulfil and comply with certain licence conditions (S.42), including:

- meeting minimum customer service standards set by the minister (S. 45)
- preparing a customer service contract that sets out rights and responsibilities of customers and the supplier (S. 47)
- prepare codes that confirm the rights and responsibilities of customers and the supplier with regard to land development asset protection, new connections and trade waste approvals.
Appendix E: Excerpts from *Rates and Charges (Rebates and Deferment) Act 1992*

**Claims by administrative authorities**

**Section 16**

(2) When a local government allows a rebate to a registered person, the local government may make a claim for reimbursement by the Minister of the amount allowed.

(4) When a Water Board allows any rebate to an eligible senior who as such is a registered person, the Water Board may make a claim for reimbursement by the Minister of the amount allowed.

**Concessions**

**Section 40**

(9) The portion of the prescribed charge to be used in determining the rebate of a person to whom this section applies shall be –

a. for an eligible senior, on any prescribed charge by way of the emergency services levy or rates or for the provision of water supply, sewerage or drainage – 25 per cent of the prescribed charge concerned, up to such limit as is prescribed;

b. for an eligible pensioner, on any prescribed charge by way of the emergency services levy or rates or for the provision of water supply, sewerage or drainage – 50 per cent of the prescribed charge concerned; and

c. on any other prescribed charge – the prescribed percentage.
Appendix F: Excerpts from the *Residential Tenancies Act 1987* and Schedule 2 of the Residential Tenancies Regulations 1989

**Residential Tenancies Act 1987 – section 48**

48. Owner to bear outgoings in respect of premises

It is a term of every agreement that the owner shall bear all rates, taxes or charges imposed in respect of the premises under any of the following written laws —

- d the *Local Government Act 1995*;
- e the *Land Tax Act 2002*;
- f any written law under which a rate, tax or charge is imposed for ‘water services’, as defined in the *Water Agencies (Powers) Act 1984*, other than a charge for water consumed.

**Section 17 of Schedule 2 of the Residential Tenancies Regulations 1989**

17. RATES, TAXES AND CHARGES

THE OWNER must pay any rates, taxes and charges for the premises, other than charges for water consumption.

A tenancy agreement may require that the tenant pay in full, or in part, the charges for water consumption.
Appendix G: Excerpt from *Local Government Act 1995*

**Subdivision 6 – Actions against land where rates or service charges unpaid**

6.63. **Term used: service charge**

In this Subdivision –

*service charge* does not include a service charge imposed under section 6.38(1)(b) on the occupier of land who is not the owner of that land.

6.64. **Actions to be taken**

1. If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and –

   a. from time to time lease the land;
   b. sell the land;
   c. cause the land to be transferred to the Crown; or
   d. cause the land to be transferred to itself.
# List of shortened forms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill</td>
<td>Water Services Bill 2011</td>
</tr>
<tr>
<td>CALD</td>
<td>culturally and linguistically diverse</td>
</tr>
<tr>
<td>CCI</td>
<td>Chamber of Commerce and Industry</td>
</tr>
<tr>
<td>COAG MCE</td>
<td>Council of Australian Governments’ Ministerial Council on Energy</td>
</tr>
<tr>
<td>code</td>
<td>Water Services Customer Code</td>
</tr>
<tr>
<td>DoW</td>
<td>Department of Water</td>
</tr>
<tr>
<td>ECCC</td>
<td>Electricity Code Consultative Committee</td>
</tr>
<tr>
<td>Electricity code</td>
<td>Code of Conduct for the Supply of Electricity to Small Use Customers</td>
</tr>
<tr>
<td>ERA</td>
<td>Economic Regulation Authority</td>
</tr>
<tr>
<td>ESC</td>
<td>Essential Services Commission (Victoria)</td>
</tr>
<tr>
<td>GWA</td>
<td>Government of Western Australia</td>
</tr>
<tr>
<td>HUGS</td>
<td>Hardship Utilities Grants Scheme</td>
</tr>
<tr>
<td>NWC</td>
<td>National Water Commission</td>
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<tr>
<td>MoU</td>
<td>memorandum of understanding</td>
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<tr>
<td>TAS</td>
<td>Tenants Advice Service</td>
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<tr>
<td>WACOSS</td>
<td>Western Australian Council of Social Services</td>
</tr>
<tr>
<td>WALGA</td>
<td>Western Australian Local Government Association</td>
</tr>
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<td>WSCC</td>
<td>Water Services Customer Code</td>
</tr>
<tr>
<td>WSP</td>
<td>Water service provider</td>
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</tbody>
</table>
References


Government of Western Australia 1904, *Water Boards Act*, Author, Perth, Australia


