

**New appointment and variation applications – the terms of reference for independent professional advisers providing site status reports**

## About this document

New appointments and variations allow companies to offer water, sewerage or water and sewerage services to a specific geographic area instead of the existing appointee<sup>1</sup>. As a result, developers and large non-household customers can choose their supplier for these services. This allows them to negotiate for different service offerings or price levels, enabling them to enjoy the benefits that a more competitive market brings about.

This document sets out the terms of reference that independent professional advisers should follow when compiling site status reports. Applicants for new appointments and variations under the unserved criterion may be required to submit such reports.

Although the applicant commissions the adviser to carry out the work, they will be expected to follow the requirements set out in this document.

We have also issued statements of [policy](#) and [process](#) on new appointments and variations. This document should be read alongside those documents.

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<sup>1</sup> An 'existing appointee' is the statutory water and/or sewerage company for a geographical area.

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## 1. Introduction

Most customers in England and Wales receive their water and sewerage services from the 21 appointed monopoly water and sewerage and water only suppliers. These suppliers are referred to below as the statutory appointees.

A new appointment or variation involves one company replacing another as the appointee for a specific geographic area. Under certain criteria, it allows some customers to choose a different supplier.

- A **new appointment** occurs when we appoint a company for the first time to provide water and sewerage services, water only or sewerage only services for a specific geographic area.
- A **variation** occurs when an existing appointed company asks us to vary its existing appointment so that it can extend the areas to which it provides services.

We may grant a new appointment or variation in cases where:

- an area does not contain any premises that receive services from an appointed water or sewerage company (it is 'unserved');
- a customer uses (or is likely to use) at least 50 million litres of water a year (in England) or 250 million litres of water a year (in Wales) at each of its premises and wants to change their supplier (a 'large user'); or
- the existing appointed company agrees to transfer part of its area to a different company (by 'consent').

Our statements of [policy](#) and [process](#) explain each of these criteria in more detail.

## 2. The unserved criterion

Anyone submitting an application for a new appointment or variation under the unserved criterion should, where appropriate, include a report from an independent professional adviser that verifies the status of the site. If the unserved status of a site is not in dispute, it may be sufficient for an applicant to provide us with factual details of the site, accompanied by a signed letter from the existing appointee confirming its view that the site is unserved.

It is important that applicants and advisers read and understand the relevant legislation – in particular, section 7 and section 36 of the Water Industry Act 1991 (WIA91). They should also apply the policy set out in our new appointments and variations policy statement.

Under section 7 read with section 36(3) of the WIA91, a site is unserved if none of the premises in the proposed appointment area are:

- supplied with water by means of a connection with a distribution main of the existing water company (in the case of an application to supply water); or
- drained by means of a public sewer or lateral drain of the existing sewerage company (in the case of an application to discharge sewage)<sup>2</sup>.

Therefore, all reports should set out clearly the existence or otherwise of:

- premises that receive a supply of water from the existing appointee;
- premises that are connected to foul or combined sewers that the existing appointed company owns; and
- surface water sewers that the existing appointed company owns and which drain the premises within the site boundary.

It is important to note that ‘premises’ is not defined in the WIA91. Depending on the context, ‘premises’ may mean buildings, land, or both. Even on a site where there are no buildings, we still need to make sure that the site has no connections and is not served.

The report should set out the manner in which any premises receive a supply of water or are connected to sewers. It should state whether any connection is considered to be permanent or temporary, and live or dormant with evidence

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<sup>2</sup> The terms ‘drain’, ‘lateral drain’, ‘sewer’, and ‘public sewer’ are defined in section 219 of the WIA91.

provided to support that view.

Crucially, to qualify under the unserved criterion, a site must be unserved **at the time the appointment is granted.**

This may have implications for the timing of a report. As a report is drafted before a new appointment or variation is granted, it is important a report clarify:

- whether the site is unserved at the time of the report;
- if not, is it envisaged that it will become unserved in the future; and
- if so, what steps are planned in order to ensure the site will be unserved at the time the appointment is made.

### **3. The role of the adviser**

Advisers who create site status reports on behalf of applicants must be independent of the existing appointee and the applicant, and must be seen to be independent.

They have a duty of care to Ofwat and not to applicants, even though it is applicants who pay for their services.

## 4. The requirements of a report

From experience, we have seen two types of application made under the unserved criterion:

- greenfield site applications, which are typically for new development sites; and
- brownfield site applications, which are for sites that are in the process of being redeveloped and may have premises on the site that are served or may have been served.

Independent advisers must draft site status reports that are specific to the nature of the site. So, if an application is for a greenfield site, we would expect the adviser to draft a report relevant to greenfield sites, whereas if an application is for a brownfield site, we would expect the adviser to draft a report relevant to brownfield sites. The material the two types of reports contain may therefore differ. These reports are discussed further in the following sections.

### 4.1 Greenfield reports

In general, greenfield reports should contain the following information:

1. The applicant's name.
2. Name and address of the site.
3. Date of report and date of any site survey conducted previously and by whom.
4. The existence of any private or other supplies of water and sewerage connections.
5. A colour map which clearly shows the boundary of the site and the existence of any of the following within the boundary:
  - i) existing water infrastructure;
  - ii) existing foul sewerage infrastructure; and
  - iii) existing surface water drainage infrastructure.
6. Ownership details of any of the above existing infrastructure. (The adviser must contact the existing appointee to ask about ownership.)
7. Sources of evidence referred to in the report.

8. Contact details for any party referred to in the report.
9. Summary – the adviser’s view as to whether the site is unserved at the time of the report, or may become unserved in the future.

## 4.2 Brownfield reports

In general, brownfield reports should contain the following information:

1. The applicant’s name.
2. Name and address of the site.
3. Date of report and date of any site survey conducted previously and by whom.
4. The current status of planning permission for the site. This should include details of any conditions attached to the planning permission.
5. The existence of any private or other supplies of water and sewerage connections.
6. A colour map which clearly shows the boundary of the site and the existence of any of the following within the boundary:
  - i) existing water infrastructure;
  - ii) existing foul sewerage infrastructure; and
  - iii) existing surface water drainage infrastructure.
7. Ownership details of any of the above existing infrastructure. (The adviser must contact the existing appointee to ask about ownership.)
8. A colour map that shows clearly the point(s) of connection and the infrastructure that the applicant requires from the existing appointee at the time of appointment. This should show the method of drainage, that is, separate or combined sewers.
9. A topographical survey (relating to the Ordnance Datum) of the site (to include colour photographs) which identifies on-site above ground drainage or water supply infrastructure such as inspection chambers, manhole covers, road gulleys and building rain water pipes (RWPs).

10. Sources of evidence referred to in the report.
11. Contact details for any party referred to in the report.
12. Summary – the adviser's view as to whether the site is unserved at the time of the report, or may become unserved in the future.

### **4.3 Evidence required**

We expect that advisers will want to visit the site during their investigations and preparation of their draft report. The people with whom they will need to meet will vary depending on the site. But in general, we would expect them to meet with, and gather information from, the following parties to enable them to prepare their report fully.

- The applicant for the new appointment.
- The site's existing appointed water and/or sewerage company.
- The site's developer and/or contractors designing new infrastructure (including highway and drainage infrastructure) on behalf of the developer (if applicable).
- Any other parties who may understand any existing and proposed infrastructure systems.

#### **Examples of types of evidence advisers may need to collect:**

- Evidence of past investigations into existing water and sewerage infrastructure on the site.
- Historical site layout, including the location of all buildings.
- Details of any asset database of water and sewerage networks that have historically served the site.
- Results of any recent site investigations that confirm or otherwise the location of water and sewerage networks on the site.
- Results of any dye tracing, connectivity surveys or CCTV surveys to the sewerage network.
- Details of manhole record cards, which should also be stored on the existing appointee's asset GIS.
- The existing appointee's asset data, comprising a paper copy (1:1250 or 1:2500) of the statutory water and sewer plans, and to include the network surrounding the site as well as the assets on the site itself.
- Planning applications, consents and any conditions attached to that planning for the site, which might include explanations about infrastructure designs and plans to utilise any existing infrastructure.
- The report of any land survey carried out on behalf of the land owner/developer/applicant before construction on the site has begun.

## **5. How can a site become unserved (if it is not unserved at the time of the report)?**

If there are served premises on a site, an applicant may:

- demolish them;
- permanently disconnect them; or
- redraw the boundary to exclude them from the application.

The adviser must tell us if, how and when such premises will be disconnected, demolished or excluded. The onus is on the applicant to inform the adviser of its disconnection, demolition or exclusion plans.

Advisers should read and apply our new appointments policy statement with regard to the implications disconnection and demolition have on unserved status.

## 6. The reporting process

Advisers should prepare a draft report after concluding the investigations set out in section 2. They should send this draft report to all parties that have provided information during the investigation and ask for their comments. Parties should respond within a reasonable timeframe – in general we do not expect parties to require longer than one week in which to provide comments.

Advisers should then prepare a final report, taking into account any comments received. Advisers should include details of any disagreement individual parties have with their findings. They should also explain why comments received did or did not cause them to change their initial view.

Advisers should send the final report to the applicant that commissioned it. The applicant should then include it with any application to us under the unserved criterion.

If we progress an application under the unserved criterion we would expect to send the report to the existing appointee for comment.



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