
Proposal by the Water Services Regulation Authority (Ofwat) to vary the appointments of Anglian Water Limited (“Anglian Water”) and Northumbrian Water Limited (“Northumbrian Water”) as water and sewerage companies

Water Industry Act 1991 Section 8(3)

This notice is a consultation on this proposal. The consultation period will last for 28 days. Having considered any representations submitted in response to the consultation, Ofwat will decide whether or not to make the variations to these companies' appointments.

The site

Anglian Water has applied to be the water and sewerage services company for a development consisting of 634 household properties and 8 non-household properties at a site called Wynyard, 7 miles south west of Hartlepool, in the county of Durham (the Site). The Site is at present within the Water Supply and Sewerage Services Areas of Northumbrian Water. Anglian Water expects the site to be fully developed by 2020.

The proposal

Ofwat proposes to:

- vary the appointment of Anglian Water as a water and sewerage company by adding the Site to its Water Supply and Sewerage Services Areas; and
- vary the appointment of Northumbrian Water as a water company by excluding the Site from its Water Supply and Sewerage Services Area;.

By means of these variations, Anglian Water will become the water and sewerage supplier for the Site.

Policy for new appointments and variations

The new appointment and variation mechanism, set out in primary legislation¹, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee as the provider of water and / or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a site – who do not have a choice of supplier – are adequately protected. When assessing applications for new appointments and variations, the two key policy principles we apply are that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat must be satisfied that an applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company.

We clarified these two policy principles in February 2011 when we published our 'New appointments and variations – a statement on our [policy](#) and [process](#) for new appointments and variations'. In November 2012, we published '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers. These include not only the customers of the existing provider but also

¹ The legal framework for new appointments is set out in the Water Industry Act 1991 (WIA91). Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

The application

Anglian Water has applied to be the water and sewerage company for the Site under the unserved criterion set out in section 7(4)(b) Water Industry Act 1991.

Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, none of the premises in the proposed area of appointment is served by the existing appointee. In general, we require an independent report that verifies the site as being unserved. However, in this case Northumbrian Water has confirmed that it considers that the site is unserved, and having considered the facts of the site we are satisfied that an independent report is not required. This is consistent with our policy and process statements on new appointments and variations, published in February 2011.

Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of end-customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments – very few customers in England and Wales are able to choose their supplier².

² Up until April 2017, the only customers that can normally choose their supplier are non-household customers that consume at least 5MI per year and are supplied by a company that is wholly or mainly in England (and at least 50MI for companies wholly or mainly in Wales) and satisfy the Water Supply Licensing (WSL) eligibility criteria. Those non-household customers that consume at least 50 MI in England (and at least 250 MI in Wales) can switch suppliers under either the WSL regime or under the new appointments regime.

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee. We will continue to protect customers on the Site by regulating the new appointee's prices and service levels.

Customers on the site

The site is adjacent to the boundary of the statutory water area of Anglian Water (Hartlepool). Anglian Water will serve the Site using Hartlepool’s existing water resources and network. There is no requirement for a new abstraction licence, and no need to take a bulk supply of water from Northumbrian Water to supply the Site.

Anglian Water proposes to provide sewerage services to the Site by discharging into Northumbrian Water’s sewers under a bulk discharge agreement.

Anglian Water proposes to charge domestic customers based on the existing Northumbrian Water metered water and sewerage services household tariffs. Anglian Water will adopt the full range of Northumbrian Water’s water and sewerage tariffs, including Northumbrian Water’s WaterSure³ tariff to qualifying customers, and any other social tariffs that Northumbrian Water may introduce. By matching charges in every respect, Anglian Water proposes to ensure that customers will be no worse off by being supplied by Anglian Water rather than Northumbrian Water.

Having considered Anglian Water’s pricing proposals, we are satisfied that customers will be at least no worse off in terms of their annual bills than if they had been served by Northumbrian Water.

Levels of service

Anglian Water is subject to the same customer service level requirements as other water and sewerage appointees. Every appointee is required under conditions G, H

³The WaterSure scheme allows households on meters who receive certain means tested benefits or tax credits, and are either responsible for three or more children under the age of 19, or have a medical condition which requires significant additional use of water, to pay no more than the average household bill for its region.

and I of its conditions of appointment to publish Codes of Practice on debt, leakage and a Customer Code for its household customers.

Anglian Water currently has a set of codes for its current appointment, which satisfy the relevant licence conditions. Anglian Water’s Customer Code of Practice sets out the standards of service its customers can expect to receive in a range of areas, and sets out the payments the company will make to customers if it fails to meet these standards. These satisfactorily cover the minimum requirements of the GSS Regulations⁴.

As an appointed undertaker, Anglian Water is required to publish a set of Key Performance Indicators (“KPIs”). Anglian Water’s 2014-15 KPIs raised no concerns, with the company meeting leakage and security of supply targets and delivering a low level of supply interruptions. Additionally, Anglian Water’s overall Service Incentive Mechanism (SIM) score of 85 was one of the highest in England and Wales, reflecting a high level of customer service.

Having considered Anglian Water's overall service levels, and compared them with those of Northumbrian Water, we are satisfied that customers on the Site will receive a level of service that is comparable with the level of service they would have received had they been served by Northumbrian Water.

Anglian Water’s voluntary standards

We have also made a detailed check of Anglian Water’s voluntary service standards, including where it enhances the statutory GSS provisions. We require that Anglian Water matches or exceeds Northumbrian Water’s own standards (except where there is reasonable justification for not doing so).

Examples of where Anglian Water will offer improved customer service compared with Northumbrian Water include:

- Anglian Water provides unlimited help with meter reading, whilst Northumbrian Water provides two extra meter readings a year.
- Anglian Water offers a faster response to incidents of sewer flooding than Northumbrian Water. Anglian Water says it will respond to reports of internal

⁴ The Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008

sewer flooding within 4 hours of being notified and will visit the property to investigate. If asked, Anglian Water will provide a letter explaining the cause within 10 days. Northumbrian Water indicate that an adviser will contact the customer within 5 days to resolve the problem, and will keep the customer informed of progress.

- Anglian Water will respond to notifications of low water pressure by making an appointment to visit within 3 working days, and will pay the customer £20 if this standard is not met. Northumbrian Water does not offer this service. Both Anglian Water and Northumbrian Water will pay a maximum of £25 if the water pressure is below standard.

However, Anglian Water does not propose to match Northumbrian Water in some ways, for example:

- Northumbrian Water offers longer call centre hours (lines are open from 8.00am to 8.00pm on weekdays and 8.00am to 1.00pm on Saturdays) than Anglian Water (lines are open from 8.30am to 5.00pm on weekdays).
- Northumbrian Water provides improved compensation for customers whose supply has been interrupted. If Northumbrian Water fails to restore the supply following an interruption involving a major water main within 24 hours, it will pay £20 to the customer. Anglian Water will make a £20 payment to an affected customer if the supply has not been restored after 48 hours.
- Northumbrian Water will pay £150 if it incorrectly obtains a county court judgment, whereas Anglian Water will make a payment of £100.

Having considered Anglian Water’s overall proposed service levels, and compared them with those of Northumbrian Water, we are satisfied that, when taken in the round, customers on the Site will receive a level of service that is comparable with the level of service that they would have received had they been served by Northumbrian Water.

Developer choice

Ofwat takes into consideration the choices of the site developer. In this case, the Site developer has said that it wants Anglian Water to be the water and sewerage company for the Site.

Environment Agency and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to consultation on an application for a new appointment. The Environment Agency has

informed us that it is content for us to consult on this application. The DWI has been consulted and has raised no concerns.

Northumbrian Water's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Northumbrian Water's existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way.

Broadly, we have assessed the potential magnitude of this impact by comparing how much Northumbrian Water might have expected to receive in revenue from serving the Site directly, with the revenues they might expect from serving the Site indirectly via bulk discharge agreements with Anglian Water. The lower bound of the range takes into account the benefit to Northumbrian Water as a result of Anglian Water serving the Site, by estimating the costs that Northumbrian Water are likely to avoid, such as retail costs and capital and operating costs associated with the local network used to serve the Site. The upper bound of the range does not take these avoided costs into account. We look at these differences in revenue and costs over a hundred year timeframe to reflect the long life of the assets that will be used to supply customers at the Site.

In this case, we have calculated that if we grant the Site to Anglian Water, there may be a potential impact on the bills of Northumbrian Water's existing customers of between £0.04 and £0.10.

We are comfortable that these ranges account for the uncertainty in the costs that may be avoided by Northumbrian Water.

Further, this impact does not take into account the potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites. We set out the wider benefits we believe stem from the new appointments and variations regime below.

Wider benefits

The new appointment and variation mechanism provides a means for companies from outside the water and sewerage sectors to enter the market and for existing water and sewerage appointees to expand their businesses.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers in different ways (such as developers of new housing sites and household and non-household customers). Examples of benefits delivered via the new appointment and variation mechanism include price discounts, better services, environmental improvements and innovation in the way services are delivered. Benefits can also accrue to the existing appointee's customers, because when that appointee faces a challenge to its business that challenge can act as a spur for it to raise its game.

These wider benefits that we believe stem from the new appointments and variations regime are set out more fully in our [policy statement](#).

Overall assessment of effect on customers

Overall, we consider that customers on the Site will be at least no worse off with this Site being served by Anglian Water than they would have been had the Site been served by Northumbrian Water. We consider that the potential effect on Northumbrian Water's existing customers is very likely to be offset by the wider benefits of the new appointment and variation mechanism. We are therefore satisfied that customers would be no worse off as a result of our granting this variation.

Ability to finance and properly carry out its functions

We have statutory duties to ensure that efficient appointees can finance the proper carrying out of their functions and to ensure that those functions are properly carried out. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

In this case, Anglian Water has satisfied us that it can finance its functions and that it is able to properly carry them out.

Conclusion and next steps

In assessing Anglian Water’s application for this variation, we have considered the general benefits of new appointments. We are satisfied that our two key policy principles have been met in this case, as customers will be no worse off, and Anglian Water will be able to finance and carry out its functions. We have also considered the effects of granting this variation on the existing customers of Northumbrian Water.

We are therefore minded to grant the appointment under the unserved criterion. We are consulting on our proposal to do so.

Where to send submissions

Any representations about, or objections to, this proposal should be sent in a single written submission to the Case Management Office, Ofwat, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA so as to be received no later than 15 April 2016.

Submissions can also be emailed to: casemanagementoffice@ofwat.gsi.gov.uk