

30 May 2019

Trust in water

Variation of Icosa Water Services Limited's appointment to include Barnhorn Green

1. About this document

Variation of Icosa Water Services Limited's appointment to include Barnhorn Green

On 31 May 2017, Ofwat began a [consultation on a proposal to vary Icosa Water Services Limited's appointment](#) to become the water and sewerage services provider for a development in Southern Water's water supply area called Barnhorn Green in Bexhill-on-Sea (**the Site**).

The consultation ended on 28 June 2017. During the consultation period, we received representations from two organisations, which we considered in making our decision.

Since the consultation ended, at the request of Icosa Water Services Limited, we progressed the application as water only. As such, on 2 February 2018, we granted Icosa Water Services Limited a variation to its existing appointment to enable it to supply water services to the Site.

On 17 May 2019, we granted Icosa Water Services Limited a variation to its existing appointment to enable it to supply sewerage services to the Site.

This notice gives our reasons for making this variation.

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2. Introduction

The new appointment and variation (**NAV**) mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of water services for a specific area. This mechanism can be used by new companies to enter the market and by existing companies to expand into areas where they are not the appointed company. In this case, Icosa Water Services Limited applied to replace Southern Water to become the appointed sewerage company for the Site.

A company may apply for a new appointment (or a variation of its existing appointment to serve an additional site) if any of the following three criteria are met:

- None of the premises in the proposed area of appointment is served by the existing appointed company at the time the appointment is made (the **unserved criterion**);
- Each premises is likely to be supplied with at least 50 mega litres per year (in England) or at least 250 mega litres per year (in Wales) and the customer in relation to each premises consents (**the large user criterion**);
- The existing water and sewerage supplier in the area consents to the appointment (**the consent criterion**).

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

1. Customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
2. We 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.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers (such as household and non-household customers and developers of new housing sites). Benefits can include price discounts, better

services, environmental improvements and innovation in the way services are delivered.

Benefits can also accrue to customers who remain with the existing appointee, because when the existing appointee faces a challenge to its business, that challenge can act as a spur for it to improve its services. We believe the wider benefits of competition through the new appointments and variations mechanism can offset any potential disbenefits for existing customers that might arise. We consider these potential disbenefits in more detail below.

3. The application

Icosa Water Services Limited applied to be the sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (**WIA91**). Icosa Water Services Limited will serve the Site by using bulk discharge services from Southern Water.

3.1 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.

Icosa Water Services Limited submitted an independent reporter's site status report to us to verify the unserved status of the Site. Southern Water also agreed that the Site is unserved. In light of this, we are satisfied that the Site is unserved.

3.2 Financial viability of the proposal

We will only make an appointment if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability on a site-by-site basis and also consider the financial position of the company as a whole.

Based on the information available to us, we concluded that the Site demonstrates sufficient financial viability, and that Icosa Water Services Limited has satisfied us that it can finance its functions and that it is able to properly carry them out.

3.3 Assessment of 'no worse off'

Icosa Water Services Limited will match its customer charges with the charges of customers at Southern Water.

With regard to service levels, we have reviewed Icosa Water Services Limited's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of Southern Water. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Icosa Water Services Limited and that overall customers will be 'no worse off' being served by Icosa Water Services Limited instead of by Southern Water.

3.4 Effect of appointment on Southern Water's customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that Southern 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 on customers of Southern Water. 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.

In this case, we have calculated that if we grant the site to Icosa Water Services Limited, there may be a potential impact on the bills of Southern Water's existing customers of £0.02.

This impact does not take into account the potential spill over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

3.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer said that it wanted Icosa Water Services Limited to be the sewerage company for the Site.

4. Responses received to the consultation

We received two responses to our consultation; from the Consumer Council for Water (**CCWater**) and the Environment Agency (**EA**). We considered these responses before making the decision to vary Icosa Water Services Limited's appointment. The points raised in the responses are set out below.

4.1 CCWater

CCWater responded to our consultation setting out that, overall, it supported the application from Icosa Water Services Limited. It is disappointed, however, that there is no financial benefit to customers from having Icosa Water Services Limited as their provider instead of Southern Water.

It also noted that there will be a cost to the incumbent's existing customers. While this is very low, CCWater noted that Ofwat has provided no material evidence of significant benefits to those customers. We note CCWater's concerns regarding the impact on existing customers.

We also note that one of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. This requirement has been met by Icosa Water Services Limited in its proposal to improve the levels of service and match the pricing set by Southern Water. We do not require applicants to better the service and price of the previous incumbents.

4.2 Environment Agency

The EA responded to the consultation with comments. However, those comments related to the supply of water services, not sewerage, the subject of this decision. As such, we have not considered those comments when granting this application.

5. Conclusion

Having assessed Icosa Water Services Limited's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa Water Services Limited's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 20 May 2019.

Appendix – Sewerage map



Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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