

30 April 2018

Trust in water

# Variation of Independent Water Network Limited's appointment to include Chilmington Green

[www.ofwat.gov.uk](http://www.ofwat.gov.uk)

ofwat

## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Chilmington Green

On 23 November 2017, Ofwat began a [consultation on a proposal to vary Independent Water Networks Limited's appointment](#) to become the water services provider for a development in South East Water's water supply area called Chilmington Green in Ashford, Kent ("**the Site**").

The consultation ended on 21 December 2017. During the consultation period, we received a response from one organisation, which we considered in making our decision. On 27 March 2017, we granted Independent Water Networks Limited a variation to its existing appointment to enable it to supply water to the Site.

This notice gives our reasons for making this variation.

## Contents

1. About this document	2
2. Introduction	4
3. The application	6
4. Responses received to the consultation	8
5. Conclusion	9

## 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, Independent Water Networks Limited applied to replace South East Water to become the appointed water 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 NAV mechanism can offset any potential disbenefits for existing customers that might arise. We consider these potential disbenefits in more detail below.

### **3. The application**

Independent Water Networks Limited applied to be the water appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Independent Water Networks Limited will serve the Site by using an agreement for the bulk supply of water with South East 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.

Independent Water Networks Limited submitted an independent reporter's site status report to us to verify the unserved nature of the Site. South East Water confirmed that the Site is unserved for water.

It is recognised that South East Water provides water services to customers located in a corridor on the perimeter of the Site, and that properties lying outside the Site are served for water by infrastructure running through the Site. Both Independent Water Networks Limited and South East Water are engaged in positive discussions to ensure that customers are not negatively affected by the close proximity of infrastructure as a result of the development of the Site.

On this basis, we are satisfied that the Site is unserved.

#### **3.2 Financial viability of the proposal**

We will only make an appointment or variation 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 the Site demonstrates sufficient financial viability, and Independent Water Networks 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’**

Independent Water Networks Limited will match its customer charges with the charges of customers at South East Water. It will not be offering a discount.

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

### **3.4 Effect of appointment on South East 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 South East 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 South East 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 Independent Water Networks Limited, there may be a potential impact on the bills of South East Water's existing customers of £0.10 per annum.

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 Independent Water Networks Limited to be the water company for the Site.

## 4. Responses received to the consultation

We received one response to our consultation from the Consumer Council for Water (**CCWater**). We considered this response before making the decision to vary Independent Water Networks Limited's appointment. The points raised in the response are set out below.

### 4.1 CCWater

CCWater responded to our consultation setting out that, overall, it supports the application from Independent Water Networks Limited. CCWater welcomed Independent Water Networks Limited's approach of offering guaranteed standards and voluntary service standards which generally match or improve on the standards offered by South East Water.

CCWater was disappointed that there is no direct financial benefit to customers from having Independent Water Networks Limited as their provider of water instead of South East Water. However, CCWater notes that Independent Water Networks Limited improves on many of the service standards provided by South East Water.

We have noted CCWater's concern that there is no direct financial benefit to customers. 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 Independent Water Networks Limited in its proposal to improve the levels of service and match the pricing set by South East Water. We do not require applicants to better the service and price of the previous incumbents.



## **5. Conclusion**

Having assessed Independent Water Networks Limited's application, and having taken account of the response we received to our consultation, we decided to grant a variation to Independent Water Networks Limited's area of appointment to allow it to serve the Site for water. This appointment became effective on 28 March 2018.