

---

## **Cholderton & District Water Company Limited and Wessex Water Services Limited – Reasons for making an area variation and terminating Cholderton’s licence**

With effect from 1 May 2018, the Water Services Regulation Authority (Ofwat) has changed the area of Wessex Water Services Limited (Wessex Water) as a statutory water undertaker (licensed water company) to include the area formerly served by Cholderton and District Water Company Limited (Cholderton). As a consequence of that area variation, Ofwat has also terminated Cholderton’s appointment (licence) as a licensed water company. This notice explains the background to, and the reasons for, these decisions.

### **Background**

Cholderton became a licensed water company in 1989, prior to which it operated its network as a statutory water company. It asked to become a private water supplier because, as a very small company with very limited resources, it might not have been able to meet the demands, costs and obligations of the regulatory framework in the future. The water supply network of the Cholderton Farm Estate and the water company are wholly integrated. Both were, until recently, owned by Henry Edmunds but ownership has now been transferred into a charitable trust.

All areas of England & Wales need to be covered by a statutory licensed water company. Ofwat has the power, under Section 7 of the Water Industry Act 1991 (‘the WIA91’), in accordance with a general authorisation given by the Secretary of State, to vary a company’s area as a licensed water company relates with the consent of the company being replaced. Wessex Water therefore made an application in March 2017 to vary its licence to cover the area served by Cholderton. Cholderton agreed to the proposed variation and the consequential termination of its licence. The change was therefore made with the support of the boards of both Wessex Water and Cholderton.

Wessex Water has not taken over Cholderton’s water supply network but it will be the ‘supplier of last resort’. Cholderton will, therefore, continue to supply its current customers through its current network as a private water supplier. The company has

assured us that it will remain able to continue to lay pipes, connect new properties etc. through two local Acts of Parliament which are still in force. Southern Water Services Limited continue to provide sewerage services to some of Cholderton's customers.

Cholderton has indicated that it will ensure that customers are no worse off by becoming a private water supplier. As noted above, it has adopted the current protections for customers and has preserved these rights within the trust deed (via a Statement of Commitments) of the Cholderton Estate Trust, thus placing obligations to customers on the Trustees.

It has also committed to maintaining its Customer Challenge and Action Group (CCAG) in order to represent and protect customers' interests. The CCAG members include its independent chair, customers and representatives of local authorities (including the parish council). The chair of the CCAG wrote to us to say that he considers taking the company private is the best option.

Ofwat published [a formal consultation on the proposal](#) on 30 March 2017 in accordance with section 8 of the WIA91. About 40% of the customer base replied. In addition we had responses from the Consumer Council for Water (CCWater), the Environment Agency, Test Valley Borough Council, Cholderton's CCAG and an MEP. Of the customer responses, 72% were in favour of the change and 10% were against. All the other respondents were broadly in favour.

One suggestion from the consultation was that the change was not made until the trust structure is set up and the water company could become part of the trust (the trust was being set up for the Cholderton Farm estate). This would provide greater certainty on customer protections. This was supported by both CCWater and the Department for Environment, Food and Rural Affairs (Defra) as well as ourselves.

The set-up of the trust and the transfer of the water company has now been completed. However, given that some time has elapsed since the consultation,, we have reconfirmed the positions of the major stakeholders (DWI, CCWater, Defra, the CCAG and Wessex Water) and there are no changes.

## **Reasons for issue of the Variation and Revocation Notice**

Our decisions on area variations are subject to the duties in section 2 of the WIA91. This means that we must act in the manner which we consider is best calculated to (amongst other things):

- further the consumer objective (to protect the interests of consumers, wherever appropriate by promoting effective competition) ; and

- secure that the functions of a licensed water company are properly carried out as respects every area of England and Wales

We therefore needed to satisfy ourselves that the change to a private supply had been explained to Cholderton's customers, its consequences were clear to them (essentially the end of their statutory protections and rights) and that they considered it was the best way forward for the company. We also needed to confirm that Cholderton could be supplied by a licensed water company (in this case Wessex Water), albeit on a 'last resort' basis.

After considering Cholderton's proposal and the options presented to us, together with the views from other interested parties including the CCAG and the results of the consultation, we decided that it was appropriate to make the area variation to Wessex Water's licence, and to terminate the licence of Cholderton.

We have done so because we consider that:

- there are reasonable arguments that it is a more proportionate solution for customers in these exceptional circumstances to enable Cholderton to continue to operate as a small and locally accountable water supplier without being subject to disproportionate regulatory burdens;
- if Wessex Water is asked to provide a supply of water to the area in the future, it (a large and established business) will be able to properly carry out, and finance, the functions of a licensed water company and to provide sufficient supplies of water. It will, therefore, be the 'supplier of last resort';
- the change to a private supply has been adequately explained to Cholderton's customers and its consequences (particularly that they will essentially be giving up their existing statutory protections) have been clearly set out to them. Customer responses to our consultation were overwhelmingly in favour of the change;
- Cholderton has given sufficient commitments (through its Statement of Commitments) to maintain the existing protections provided in the statutory framework for water customers and to increase the role of the independent CCAG. These have been given some legal underpinning through the transfer of the company to the charitable trust; and
- Without the change, the most likely alternative that we could envisage over time would be enforcement action and ultimately Special Administration, which would have come at a cost to Cholderton's customers and would likely give rise to considerable uncertainty and disruption for them.