

May 2018

Trust in water

New appointment as a sewerage undertaker for County Water Limited to serve Heyford Park

1. About this document

New Appointment as a sewerage undertaker for County Water Limited to serve Heyford Park

On 11 January 2017, Ofwat began a consultation on a proposal to appoint County Water Limited (“**County Water**”) as a sewerage services provider for a development in Thames Water’s sewerage services area called Heyford Park in Bicester (“**the site**”).

The consultation ended on 8 February 2017. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 13 April 2018 we granted County Water an appointment as a sewerage undertaker to enable it to supply sewerage services to the site.

This notice gives our reasons for making this new appointment.

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2. Introduction

The new appointment and variation mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of sewerage 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, County Water applied to replace Thames 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 new appointments and variations, 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 new appointments and variations, 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 business 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

County Water 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**”). County Water will serve the site through its own sewage treatment facility.

3.1 Unserved status of the site

Unserved: 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.

County Water provided with its application a letter from Thames Water which confirms Thames Water’s view that the site is unserved by Thames Water.

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 the site demonstrates sufficient financial viability, and County Water 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’

County Water will offer the equivalent charge currently applied by TMS to ensure customers are no worse off.

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

3.4 Effect of appointment on Thames 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 Thames 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 Thames 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. Broadly, we have assessed the potential magnitude of this impact by comparing how much Thames Water might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with County Water.

In this case, we have calculated that if we grant the site to County Water, there may be a potential impact on the bills of Thames Water's existing customers of £0.01.

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.

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 County Water 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. We considered these responses before making the decision to vary County Water’s appointment. The points raised in the response are set out below.

4.1 CCWater

CCWater had no objections to make. However, CCWater raised a concern that while customers may not be any worse off, there was no significant evidence of any particular improvement in service or price.

One of Ofwat’s key NAV policies is that customers must be ‘no worse off’ i.e. 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 County Water in its proposal to match the levels of service and pricing set by Thames Water, set alongside the benefits that greater competition can bring.

4.2 Environment Agency

The Environment Agency were concerned that they did not have sufficient information to directly comment on the company’s technical proficiency.

They felt that County Water had not provided them with sufficient information in relation to;

- any permit variations required to allow future growth;
- County Water’s ongoing drainage strategy; and
- whether County Water will require a combined sewer overflow to cope with surface or groundwater infiltration.

We asked County Water to work with the Environment Agency to resolve the above concerns.

On February 15 2017 County Water confirmed that they would liaise directly with the Environment Agency and resolve any remaining concerns. On 12 April 2017 the Environment Agency confirmed that they have no further concerns with County Water’s application.

5. Conclusion

Having assessed County Water's application, and having taken account of the responses we received to our consultation, we decided to grant a new appointment to County Water to allow it to serve the Site for sewerage services. This appointment became effective on 13 April 2018.

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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