

June 2018

Trust in water

**Proposal to grant a variation of appointment
to Icosa Water Services Limited to enable
it to provide water and sewerage services
to a site called Broadland Gate, Postwick**

Contents

1.	About this document	3
2.	The Site	4
3.	The applicant	5
4.	The proposal	6
5.	Our approach to the assessment of this application	7
6.	The application	8
7.	Conclusion and next steps	11
8.	Site maps	12

1. About this document

We propose granting a variation of appointment to Icosa Water Services Limited (“**IWS**”) as a water and sewerage company and varying the appointment of Anglian Water Services Limited (“**ANH**”) as a water and sewerage company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

IWS has applied for a variation to its appointment to be able to provide water and sewerage services to a site called Broadland Gate (“**the Site**”). The Site, which is in Postwick, will be solely for non-household customers. The Site will contain 39 commercial units.

The Site is within ANH’s water and sewerage services area. This variation, if granted, will provide water supply and sewerage services by means of bulk supply and discharge agreements with the incumbent, ANH.

At present, IWS believe the Site will be fully developed in 5 years’ time.

One area of interest is that IWS only intends to supply business customers on the Site. In 2017, the [non-household retail market](#) opened and since then, eligible businesses, charities and public sector customers (“**Business Customers**”¹) have been able to change their retail provider.

¹ The majority of Business Customers where the area of the relevant appointed company is wholly or mainly in England have been able to switch suppliers of water and/or sewerage from 1 April 2017. Business Customers where the area of the relevant appointed company is wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 Ml per year) can switch water suppliers but not suppliers of sewerage services.

3. The applicant

On 20 October 2016, Icosa Water Limited was appointed as a water and sewerage undertaker for a site called West Raynham in Norfolk. On 20 December 2016, IWS (the applicant), who is a subsidiary of Icosa Water Limited, applied to take over the appointment for the West Raynham site under the consent criterion. Since then, Ofwat has agreed to vary IWS' areas of appointment so that it serves a further 6 sites for water and/or sewerage services. The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to IWS as a water and sewerage company by including the Site in its water supply area and its sewerage services area; and
- vary the appointment of ANH as a water and sewerage company by excluding the Site from its water supply area and its sewerage services area.

By means of the above, IWS will become the water and sewerage services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation², 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 – [policy](#) and [process](#) documents. In November 2012, we published our '[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 – i.e. customers of the existing provider and customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

² The legal framework for new appointments is set out in the 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.

6. The application

IWS has applied to be the water and sewerage company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

6.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment or variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

IWS has provided us with a report from an independent company which identifies the site as unserved.

Given the information provided by the applicant and the incumbent company, we are satisfied that the Site may be considered unserved.

6.2 Protecting customers

Ofwat acts to protect consumers. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. This Site comprises of solely Business Customers who, in England and Wales, are able to choose their supplier³.

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 in whose geographical area the relevant site sits. We will continue to protect customers on a site by regulating the new appointee's prices and service levels. As the customers on the Site are all Business Customers, they will be eligible to switch the supplier of their retail services⁴.

³ The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 MI where the relevant area is wholly or mainly in Wales) can effectively switch suppliers of water and/or sewerage from 1 April 2017.

⁴ For more information on the business retail market, please go to Open Water's [website](#).

6.3 Price

IWS will charge the equivalent retail charges charged by ANH or, alternatively, the default business tariffs of the acquiring licensee, Wave Ltd, if ANH retail tariffs are no longer available.

IWS will also match the wholesale tariffs which ANH charges retailers.

However, all customers on the Site will be Business Customers and will be able to switch retail providers, if they so choose.

6.4 Levels of service

Every appointee is required under its conditions of appointment to publish a Code of Practice on debt and a Customer Code for its household customers. Water companies must also publish a Code of Practice on leakage. We have assessed IWS's proposed Codes of Practice and Customer Code, and our view is that these are of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the points covered by the above Codes of Practice and the Customer Code than they would be if ANH were to be the customers' water and sewerage services supplier.

6.5 Site owner choice

The developer of the Site, Broadland Gate Land Limited, has given its consent for IWS to provide water and sewerage services to the Site.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application⁵.

⁵ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

6.7 Incumbent's existing customers

All customers on the Site are to be non-household customers. They all have the chance to change their retail service provider regardless of whether they are served by IWS or ANH.

Therefore we consider that granting this variation to IWS, there would be no financial impact on ANH's customers' bills.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. 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.

We have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant a variation be granted. IWS has provided us with financial models to prove their financial resilience. They have also informed us of their available capital and have committed to keeping Ofwat informed on an ongoing basis.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that IWS would be able to finance its functions if the variation is granted.

6.9 Expected mix of customers

The Site will only hold non-household customers. As such, the customers will be able to change retail service provider. IWS has assumed that other retailers will operate on the Site. The financial projections assume that IWS are providing a wholesale service only. It is important to note that as IWS hasn't exited the retail market, if we granted this NAV once these new non-household premises are connected, IWS would become the retailer for them by default. The customers would immediately be able to switch to another retailer though they may not choose to.

7. Conclusion and next steps

In assessing IWS' application, we have considered the general benefits of new appointments and variations. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and IWS would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation and consequential variation of ANH's appointment on the existing customers of ANH.

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

Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Richard Collard at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by using the [form on our website](#).

Representations must be received by Ofwat no later than 17.00 hours on 3 July 2018. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

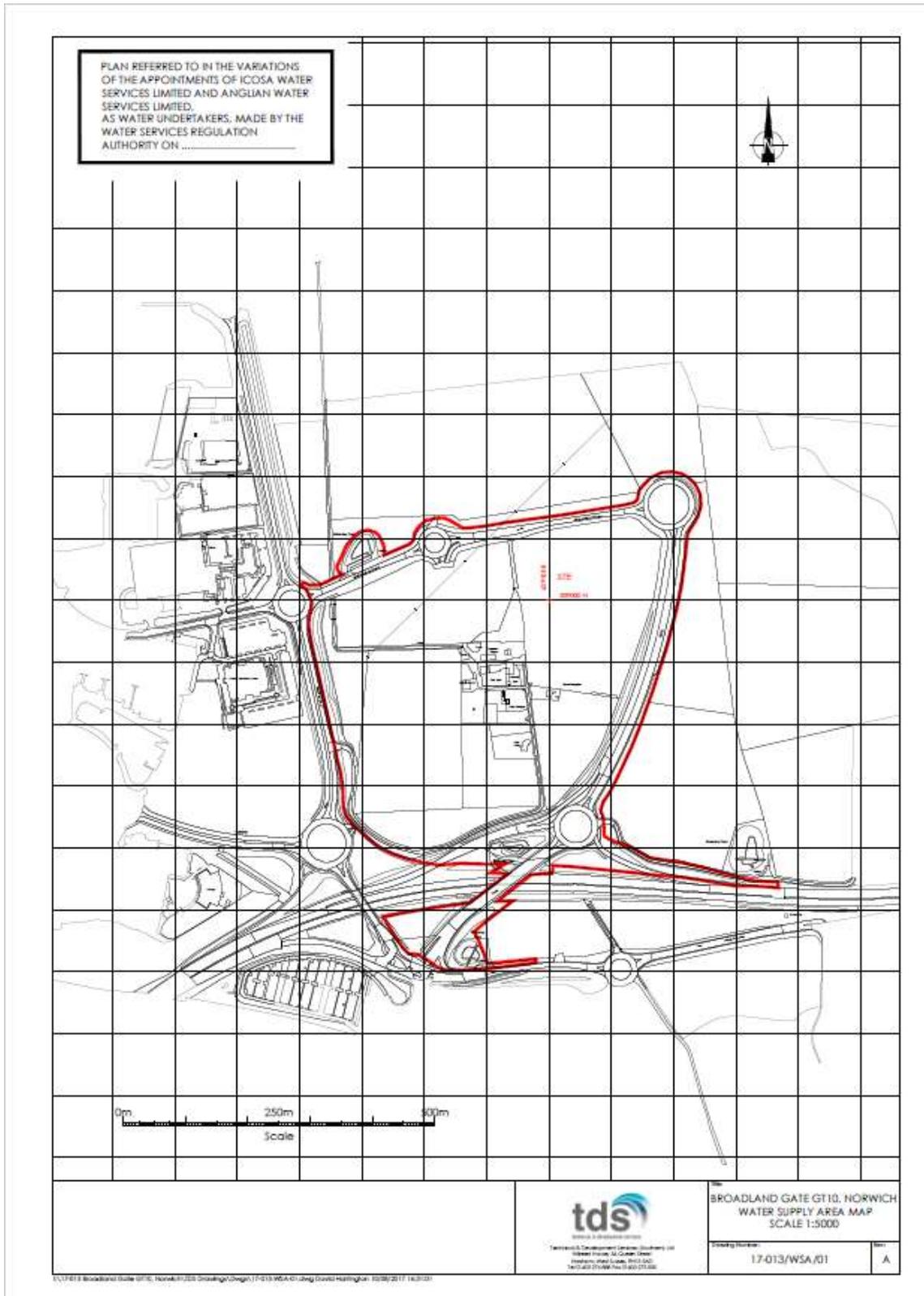
Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site maps

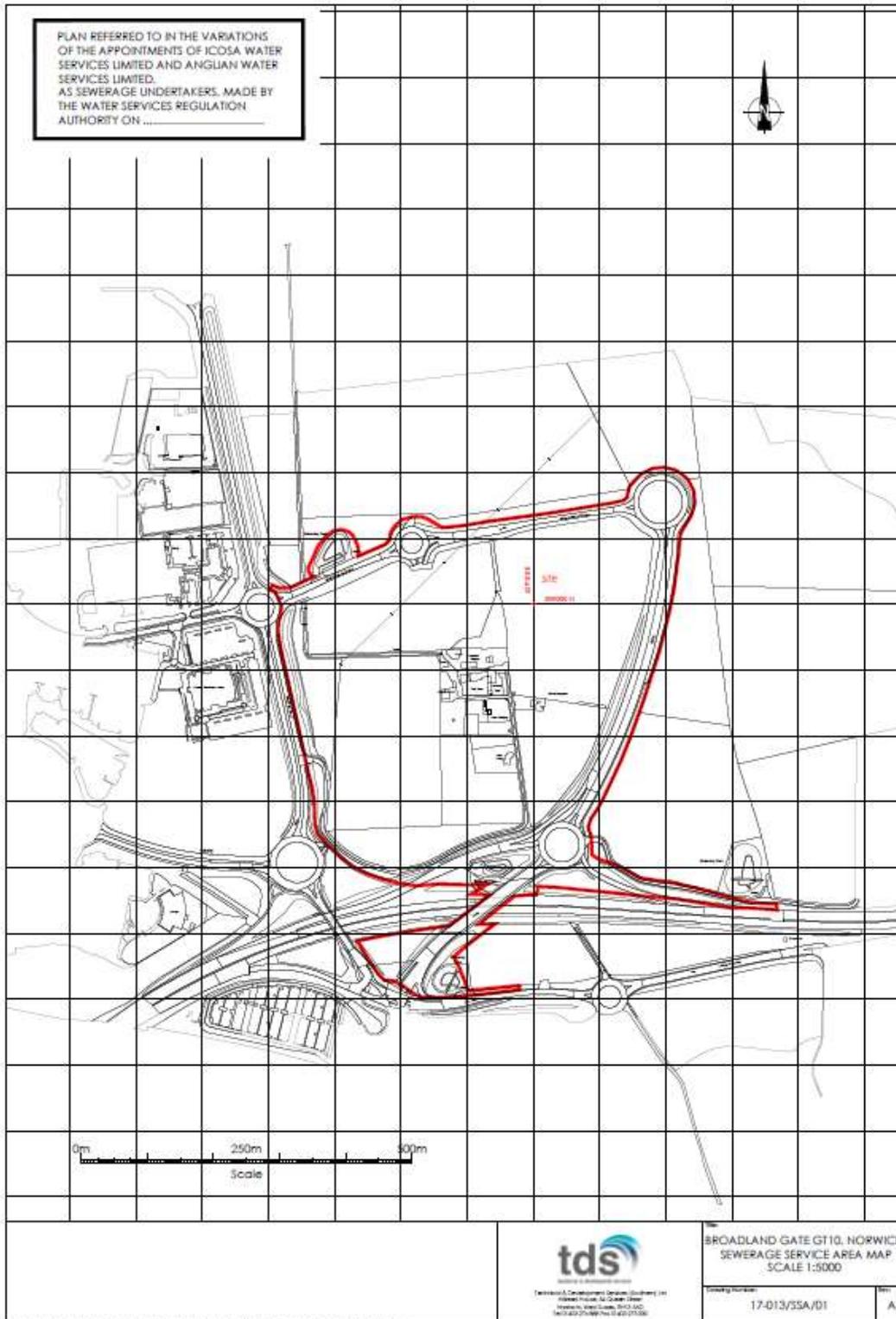
Location



Inset Map (Water)



Inset Map (Sewerage)



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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