

August 2018

Trust in water

# Variation of Icosa Water Services Limited's appointment to include Broadland Gate

## 1. About this document

### Variation of IWS's appointment to include Broadland Gate

On 6 June 2018, Ofwat [began a consultation](#) on a proposal to vary Icosa Water Services Limited's ("**IWS**") appointment to become the water and sewerage services provider for a development in Anglian Water Services Limited's ("**ANH**") water supply area and sewerage services area called Broadland Gate in Postwick ("**the Site**").

The consultation ended on 2 July. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 23 August, we granted IWS a variation to its existing appointment to enable it to supply water and 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 mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of water and 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, IWS applied to replace ANH to become the appointed water and 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**

IWS applied to be the water and sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). IWS will serve the Site by way of a bulk water supply agreement and a sewerage discharge agreement with ANH.

#### **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.

IWS provided an independent report prepared by Creoda Consulting which confirmed that the Site is unserved. The report states that the land is owned and being developed by the Developer who supports IWS' variation application. The independent report includes a letter from ANH to Creoda Consulting dated 1 September 2017. Within the letter, ANH confirms that it has offered IWS water and sewerage connections for the Site. Having reviewed the facts, we are satisfied that the Site is unserved for water supply and sewerage services.

### **4. 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 IWS has satisfied us that it can finance its functions and that it is able to properly carry them out.

### **5. Assessment of ‘no worse off’**

IWS will offer the equivalent retail charges charged by ANH or, alternatively, the default business tariffs of the acquiring licensee, Anglian Water Business (National) Ltd, if ANH retail tariffs are no longer available. IWS will also match the wholesale tariffs which ANH charge retailers. It should be noted that all customers are non-household customers and will be able to change retail provider.

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

## **6. Effect of variation on ANH's customers**

In considering whether customers will be no worse off, we normally look at the potential effects of this variation on the price that ANH's existing household customer base may face.

However, because all of the customers on the Site will be non-household and have the ability to change provider, we do not believe it is appropriate to assess the impact.

## **7. Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the Site developer, Broadland Gate Land Limited said that it wanted IWS to be the water and sewerage company for the Site.

## **8. Responses received to the consultation**

We received one response to our consultation; from CCWater. We considered this response before making the decision to vary IWS's appointment. The points raised in the response are set out below.

### **CCWater**

In its response to our consultation, CCWater stated that it supports the application of IWS and agrees with Ofwat's conclusion that customers will be no worse off under IWS than they would have been if they had been served by ANH.

CCWater highlights that IWS's service standards exceed those offered by ANH and that IWS proposed to charge the same retail charges as ANH or Wave Ltd, the acquiring licensee, if ANH's retail tariffs are no longer available. CCWater indicated that it is disappointed that there are no direct financial benefits, as a result of having IWS as provider, for customers.

### **Our response**

- 8.1 One of Ofwat's key NAV policies is that customers should be 'no worse off' if a NAV is granted. In other words, 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 IWS in its proposal to improve the levels of service and match the pricing set by ANH. We do not require applicants to provide a direct financial benefit.
- 8.2 In the case of this Site, all customers will be able to switch provider because they are all non-household customers.

## **9. Conclusion**

Having assessed IWS's application, and having taken account of the response we received to our consultation, we decided to grant a variation to IWS' area of appointment to allow it to serve the Site for water and sewerage services. This variation became effective on 24 August 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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