

April 2019

Trust in water

# **Variation of Icosa Water Services Limited's appointment to include Land East of Billingshurst, West Sussex**

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include Land East of Billingshurst

On 18<sup>th</sup> February, 2019, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services' ("**Icosa**") appointment to become the sewerage services provider for a development in Southern Water Services Limited's ("**Southern Water**") water and sewerage services area called Land East of Billingshurst in West Sussex ("**the Site**").

The consultation ended on 18 March 2018. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 5 April 2019, we granted Icosa a variation to its existing appointment to enable it to supply 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 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, Icosa applied to replace Southern 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**

Icosa 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**”). Icosa will serve the Site by way of a bulk discharge agreement.

#### **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.

Icosa provided an independent report which confirms the Site is unserved. The Site is greenfield, with one existing property, a farm, served by its own private sewerage system. On 28 November 2018, Southern Water confirmed to us that it agrees with the findings of the independent report.

#### **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 Icosa 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’**

Icosa will charge customers equivalent charges to Southern Water, i.e. it will not offer a discount.

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

### **3.4 Effect of appointment on Southern 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 Southern 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 Southern 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 Southern 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 Icosa.

In this case, we have calculated that if we grant the Site to Icosa, there may be a potential impact on the bills of Southern Water's existing customers of an increase of £0.003.

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 developers - Persimmon Homes Thames Valley, Devine Homes PLC, and Bellway Homes Limited - said that it wanted Icosa to be the sewerage 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 these responses before making the decision to vary Icosa's appointment. The points raised in the response are set out below.

### **4.1 CCWater response**

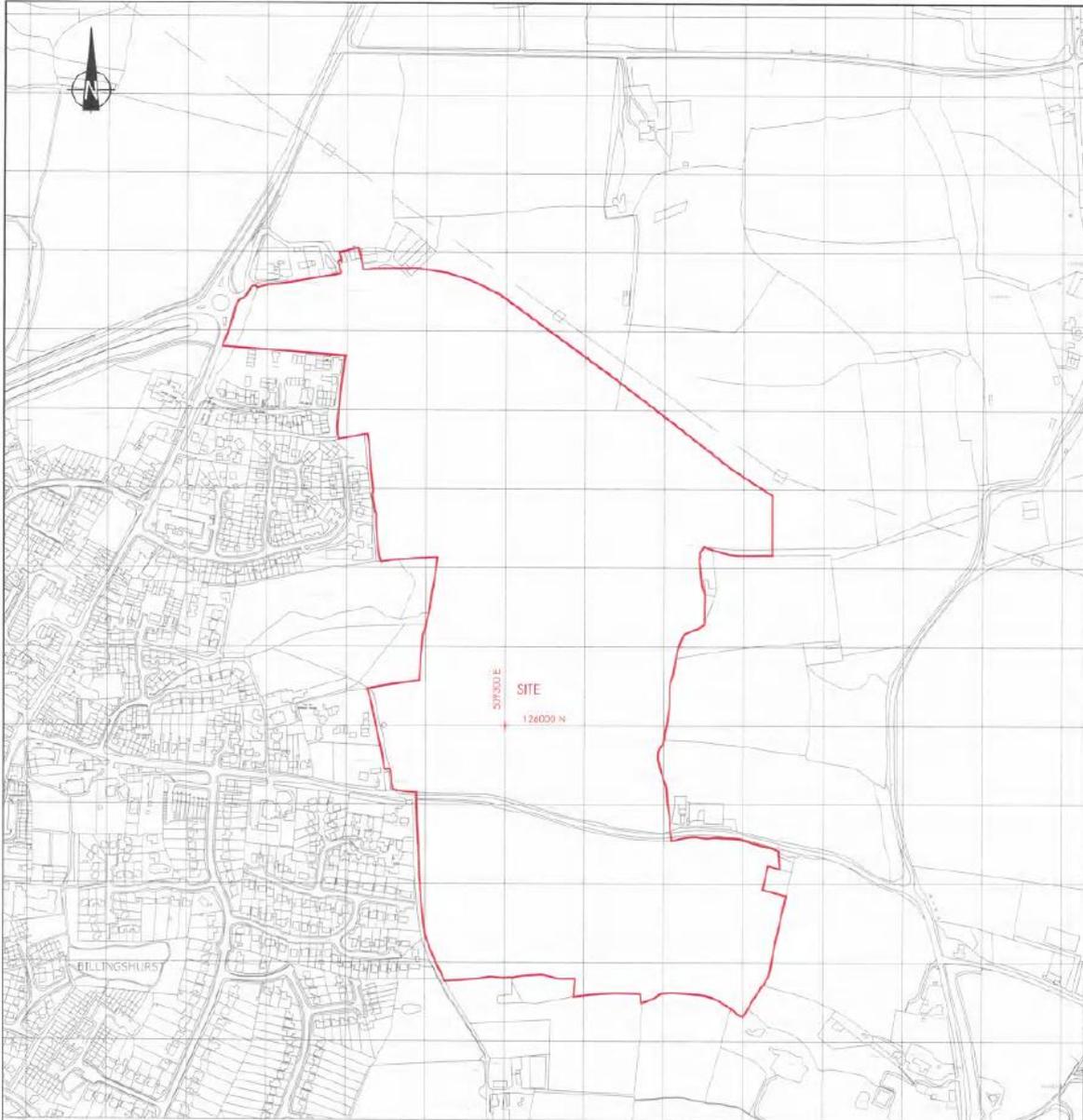
CCWater pointed out that while the application meets the requirement that consumers are no worse off with their new supplier and therefore do not object to the variation, it cannot see any substantive improvement for consumers.

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 Icosa Water in its proposal to improve the levels of service and match the pricing set by Southern Water. We do not require applicants to better the service and price of the previous incumbents.

## **5. Conclusion**

Having assessed Icosa's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 6 April 2019.

## Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF ICOSA WATER SERVICES LIMITED AND SOUTHERN WATER SERVICES LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON *[Signature]*



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|  <p>Technical &amp; Development Services, Icosahurst Ltd<br/>Millard House, 62 Green Street<br/>Horsham, West Sussex, BN12 3AE<br/>01323 821400</p> | <p>18-007 EAST BILLINGSBURST<br/>SEWERAGE SERVICE AREA PLAN<br/>SCALE 1:5000</p> <p>Drawing Number: 18-007/SSA/01</p> <p>Rev: A</p> |
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18-007 East of Billingshurst, ICS Drawings, Design 18-007/SSA/01.dwg David Harrington 01/05/2018 16:20:44

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