

25 June 2019

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 Forstal Lane, Coxheath**

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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 South East Water (“**SEW**”) and Southern Water (“**SRN**”) as a water and sewerage companies. 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

Icosa Water Services Limited (“**IWS**”) has applied for a variation to its appointment to be able to provide water and sewerage services to a site called Forstal Lane, Coxheath (“**the Site**”). The Site will consist of 210 households and is around 7.8 hectares of Greenfield land south of Forstal Lane, 0.5 km to the north east of Coxheath, Kent.

Site boundary maps can be viewed in section 8 of this document.

The Site is within the water and sewerage services area of SEW and SRN. IWS proposes to provide water and sewerage services to the Site by way of a bulk supply agreement with SEW and a bulk discharge agreement with SRN. IWS has advised that the Site is likely to be fully built out by 2023.

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 Icosa's areas of appointment so that it serves a further 20 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; and
- vary the appointment of SEW and SRN 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 legislation¹, 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.

¹ 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 of the WIA91 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 is made, none of the premises in the proposed area of appointment is served by the existing appointee.

IWS has provided an independent report which confirms the Site is unserved.

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

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. 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. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“Business Customers”) in England and Wales are able to choose their supplier².

Recognising this, 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.

² 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.

6.3 Price

IWS proposes to match the charges to customers on the Site of SEW and SRN. It does not propose to offer customers a discount beyond those charges.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. 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 SEW and SRN were to be the customers' water and sewerage services supplier.

6.5 Site owner choice

IWS has the consent of the developer (Chartway Group Limited) to become the water and sewerage services provider for 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 application³. The EA requested confirmation that SRN had provided assurances that it had sufficient capacity for the Site. IWS has confirmed that there is sufficient capacity for 25% of the Site, which will cover the first two years of occupancy. SRN will make improvements during that period to accommodate the Site when later phases require it.

³ 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

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that SEW and SRN'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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much SEW and SRN 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 IWS.

We estimate a potential £0.004 annual increase on the water bills of existing SEW customers and a potential increase of £0.001 on the sewerage bills of existing SRN customers if we grant this variation to IWS. This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to IWS would have a very small financial impact on customers' bills and could have potential benefits for customers.

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 appointment/variation be granted. IWS has submitted the Site as a package alongside another (Ulcombe Road). As a package, the combined, cumulative financial position demonstrates sufficient viability under our standard assessment.

We are satisfied that the financial security IWS will have in place meets our minimum requirements.

We are satisfied that in all scenarios we have considered, the Site is able to demonstrate that its expected revenues will cover its expected operating costs and as a result we are satisfied that IWS demonstrates a low risk of being unable to finance the proper carrying out of its functions.

7. Conclusion and next steps

In assessing IWS's application, we have considered the general benefits of new appointments. 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 on the existing customers of SEW and SRN.

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 (which includes by email) to Laura Easterbrook at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA, by email at Laura.Easterbrook@ofwat.gov.uk, or by completing the webform.

Representations must be received by Ofwat no later than 17.00 hours on 23 July 2019. 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](#).



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