

September 2020

# **Variation of Icosa Water Services Limited's appointment to include Pembers Hill, Eastleigh**

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include Pembers Hill, Eastleigh

On 16 October 2019, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the sewerage services provider for a development in Southern Water Services Limited's ("**Southern Water**") sewerage services area called Pembers Hill in Eastleigh ("**the Site**").

The consultation ended on 13 November 2019. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 20 August 2020 granted Icosa Water 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 water and/or 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 Water 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 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**”). Icosa Water will serve the Site by way of a bulk supply agreement with Southern Water.

#### **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 Water is applying for a variation based on the unserved criterion. The Site is greenfield. Icosa Water has provided an email from Southern Water, dated 31 July 2019, confirming that, in Southern Water's view the Site is unserved for wastewater. Online satellite maps show the two existing properties on the Site which Icosa Water states are to be redeveloped. These dwellings, Pembers Cottage and Pembers Hill Stud Farm, are currently served by septic tanks and will be connected to Icosa Water's network once the works are completed. These dwellings are unoccupied, and there are no existing customers on the Site. These properties receive water services from Southern Water.

Given the information provided by the applicant and Southern Water, we consider that the Site is unserved.

#### **3.2 Financial viability of the proposal**

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 assess this by taking a risk-based approach to assessing the viability of the individual site, to ensure that each new appointment and subsequent variation to that appointment carries a low risk of being financially unviable. As a new appointee's business is made up of these collective variations, in this way we ensure as far as possible that the new appointee will be able to finance the proper carrying out of its functions.

Following our review, which considered our standard analysis and the specific risks associated with the Site, we are satisfied that the financial security Icosa Water has in place meets our minimum requirements.

### **3.3 Assessment of 'no worse off'**

Icosa Water proposes to match the charges of customers on the Site of Southern Water, that is it will not offer a discount.

With regard to service levels, we have reviewed Icosa Water'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 Water and that overall customers will be 'no worse off' being served by Icosa Water instead of by Southern Water.

### **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 it to serve the Site, with the revenues it might expect from the proposed arrangement with Icosa Water.

In this case, we have estimated that if we grant the Site to Icosa Water, there may be a potential increase in the bills of Southern Water's existing customers of £0.001.

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, Drew Smith Group, said that it wanted Icosa Water to be the sewerage company for the Site.

## **4. Response received to the consultation**

We received one response to our consultation, namely from the Environment Agency (“EA”). We considered this response before making the decision to vary Icosa Water's appointment. The points raised in the response are set out below.

### **4.1 EA**

The EA sought to clarify if Southern Water had enough capacity for the remaining properties, which should be confirmed before construction continues, or Icosa Water should provide an alternative for the waste water treatment if the answer is negative.

The EA also sought to like to clarify if such capacity available is just related to sewerage network, or if there is also capacity in the waste water treatment plant for the flow coming from this development.

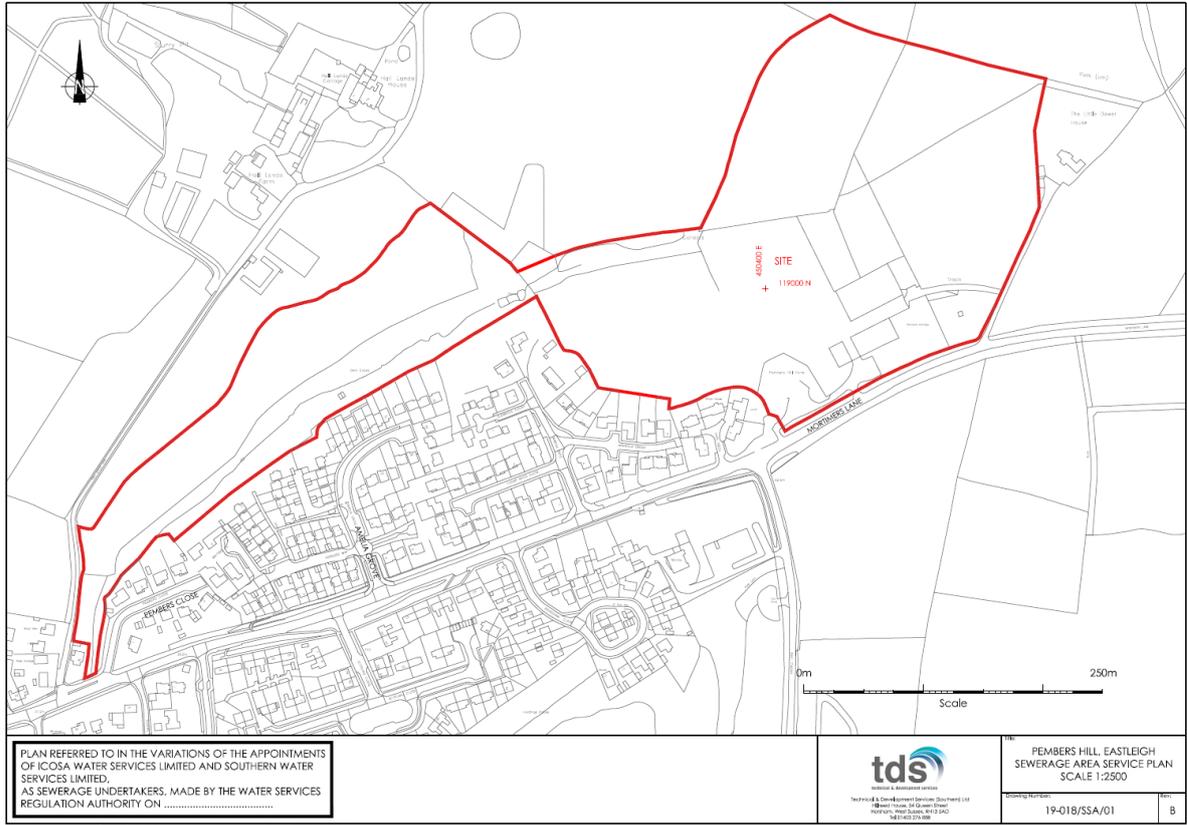
The EA stated that it would like to see some assurance that not only capacity but environmental risks have been taken into account and that Southern Water have capacity on their local system to accept the bulk waste water without risking a permit breach of risk to the environment.

Subsequently, discussions between the EA and Icosa took place. Following these discussions the EA were happy for the application to be approved.

## **5. Conclusion**

Having assessed Icosa Water's application, and having taken account of the response we received to our consultation, we decided to grant a variation to Icosa Water's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 22 August 2020.

## Appendix 1: Site Map



Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
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