

December 2019

Trust in water

Variation of Independent Water Networks Limited's appointment to include Breary Lane, Leeds

1. About this document

Variation of Independent Water Networks Limited's appointment to include Breary Lane

On 28 October 2019, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water services provider for a development in Yorkshire Water Services Limited's ("**Yorkshire Water**") water supply area called Breary Lane in Leeds ("**the Site**").

The consultation ended on 25 November 2019. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 9 December 2019, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water 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, Independent Water Networks applied to replace Yorkshire Water to become the appointed water 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, where 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

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

There is a building on the Site which Independent Water Networks has confirmed to be a shed which has never had a water supply. It has advised that the shed will be demolished during the development of the Site.

Yorkshire Water has provided a letter which confirms that in its view the Site is unserved as there is no public water or sewerage infrastructure on the Site. Independent Water Networks has confirmed that the Site is a greenfield development.

Having reviewed the facts of this Site, and taking into account the letter from Yorkshire Water, we consider the Site to be unserved.

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 that Independent Water Networks can finance its functions and that it is able to properly carry them out.

3.3 Assessment of ‘no worse off’

Independent Water Networks has confirmed that customers on the Site will be no worse off if served by Independent Water Networks rather than Yorkshire Water (that is, charges will be no more than those of Yorkshire Water). Independent Water Networks advised us that it will assess whether a discount will be offered to

customers on the Site after Yorkshire Water has published its charging scheme for the next financial year.

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

3.4 Effect of appointment on Yorkshire 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 Yorkshire 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 Yorkshire 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 Yorkshire 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 Independent Water Networks.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there may be a potential impact on the water bills of Yorkshire Water's existing customers 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 developer (Miller Homes) said that it wanted Independent Water Networks to be the water company for the Site.

4. Responses received to the consultation

We received one response to our consultation, namely from the Consumer Council for Water (“**CCWater**”). We considered this response before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

4.1 CCWater

In its response, CCWater stated it was disappointed that there are no direct financial benefits to customers from being served by Independent Water Networks rather than Yorkshire Water for water services, as Independent Water Networks proposes to match the charges of Yorkshire Water. It noted that Independent Water Networks, unlike Yorkshire Water, does not offer a social tariff other than WaterSure. CCWater stated that it may be appropriate for Independent Water Networks to tailor some of the services it provides, and Independent Water Networks should offer appropriate, flexible support to any individual customers in financial difficulty that would otherwise benefit from a social tariff. However, it noted that Independent Water Networks proposes to match or exceed the majority of the service standards currently provided by Yorkshire Water. For this reason, CCWater supports our proposal and agrees with our assessment that customers will be no worse off.

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 Independent Water Networks in its proposal to improve the levels of service and match the charges of Yorkshire Water. We do not require applicants to better the service and price of the previous incumbent.

5. Conclusion

Having assessed Independent Water Networks' application, and having taken account of the response we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water services. This appointment became effective on 10 December 2019.

Appendix 1: Site Map



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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