

December 2019

Trust in water

# **Variation of Independent Water Networks Limited's appointment to include Lambton Park (Phase 1) in County Durham**

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## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Lambton Park (Phase 1)

On 29 October 2019, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water provider for a development in Northumbrian Water Limited's ("**Northumbrian Water**") water supply area called Lambton Park (Phase 1) in County Durham ("**the Site**").

The consultation ended on 26 November 2019. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 28 November 2019, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water 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 Northumbrian 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 consent criterion set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA91**”). Independent Water Networks will serve the Site by way of bulk supply agreement with Northumbrian Water.

#### **3.1 The consent criterion**

Independent Water Networks applied under the consent criterion. To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application.

Independent Water Networks provided a letter from Northumbrian Water consenting to the variation of appointment. At the time of application, Independent Water Networks advised that approximately 25 properties may become served prior to Ofwat making a decision on Independent Water Network's application to vary its appointment.

Northumbrian Water advised that should customers on the Site become served in advance of the variation being granted, it consents to the transfer of those customers to Independent Water Networks subject to the following conditions:

1. The number of connected premises must not exceed 110 in number.
2. That none of the connected customers objects to the transfer.
3. That evidence of compliance with Water Regulations for the infrastructure concerned is provided in advance of any live connections.

Independent Water Networks confirmed on 27 November 2019 that, as of that date, no properties on the Site were connected to Northumbrian Water's network.

#### **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.

Based on the information available to us, we concluded that Independent Water Networks demonstrates sufficient financial viability. It 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'**

Independent Water Networks will offer a discount of 2.5% to customers on the Site for the 2019-2020 charging year and this will be reviewed again for the 2020-2021 charging year in line with the Northumbrian Water's charging scheme. Customers on the Site will be no worse off after the 2019-2020 charging year as Independent Water Networks' charges will not exceed those of Northumbrian Water.

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 Northumbrian 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 Northumbrian Water.

### **3.4 Effect of appointment on Northumbrian 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 Northumbrian 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 Northumbrian 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 Northumbrian 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 Northumbrian 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 (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; 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 Northumbrian Water for water services, as Independent Water Networks proposes to match the charges of Northumbrian Water.

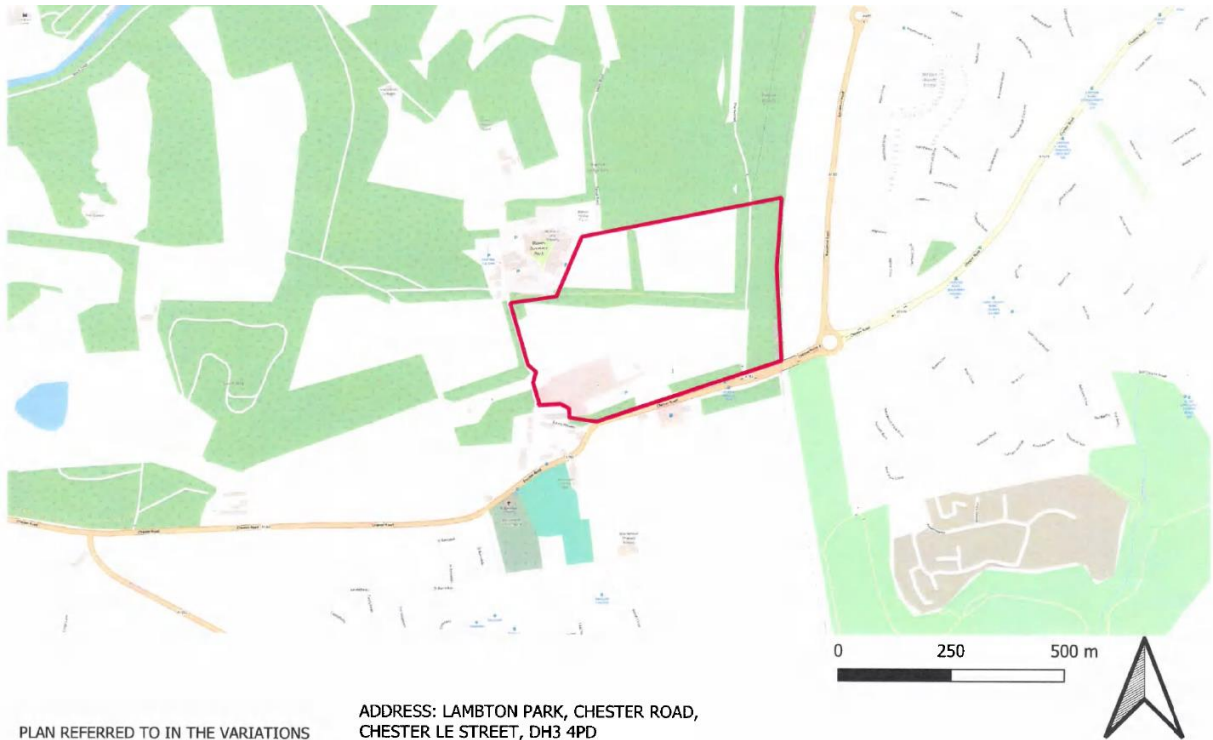
It noted that Independent Water Networks, unlike Northumbrian Water, does not offer a social tariff other than WaterSure. CCWater stated that it may be appropriate for Independent Water Networks to tailor some of the services it provides, and that it should offer appropriate, flexible support to any 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 Northumbrian Water. For this reason, CCWater 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 (beyond an initial discount period during the remainder of 2019-20 charging year). 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 Northumbrian Water. We do not require applicants to better the service and price of the previous incumbent(s).

## **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 29 November 2019.

## Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS  
OF THE APPOINTMENTS OF INDEPENDENT  
WATER NETWORKS LIMITED AND  
NORTHUMBRIAN WATER LTD, AS WATER  
UNDERTAKERS, MADE BY THE WATER  
SERVICES REGULATION AUTHORITY ON  
.....25/11/19 *Judge*

ADDRESS: LAMBTON PARK, CHESTER ROAD,  
CHESTER LE STREET, DH3 4PD  
OS GRID REFERENCE: 430350, 551673

SCALE: 1:9000  
DRAWN BY: EA  
DATE: 24/10/2019

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