

March 2020

# **Variation of Independent Water Networks Limited's appointments to include Palfrey Bungalow, Brantham, Essex**

## 1. About this document

### **Variation of Independent Water Networks Limited's appointments to include Palfrey Bungalow, Brantham, Essex**

On 03 February 2020, 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 Anglian Water Services Limited's ("**Anglian Water**") water supply area called Palfrey Bungalow in Brantham, Essex ("**the Site**").

The consultation ended on 4 March 2020. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 5 March 2020, we granted a variation to Independent Water Networks' licence to include the Site 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 Anglian 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 (**“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**

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 Anglian Water.

#### **3.1 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 to vary its area of appointment.

We have a letter from Anglian Water dated 8 November 2019 confirming that it consents for Independent Water Networks to take over the Site from it for water services.

In addition, we have received a consent letter dated 1 November 2019 from the owner of Palfrey Bungalow, stating that they are happy with Independent Water Networks being their water services supplier.

We are therefore satisfied that the application meets the consent criterion.

#### **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 Independent Water Networks 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 proposes to charge customers on the Site charges that are equivalent to the charges of Anglian Water, that is, it will not offer a discount.

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 Anglian Water. Based on this

review, we are satisfied that the customer will be offered an appropriate level of service by Independent Water Networks and that overall will be 'no worse off' being served by Independent Water Networks instead of by Anglian Water.

### **3.4 Effect of appointment on Anglian Water's customers**

In considering whether the customer will be no worse off, we also looked at the potential effects of this variation on the price that Anglian 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 Anglian 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 Anglian 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 Independent Water Networks.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there will be no impact on the bills of Anglian Water's existing customers.

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 St Francis Group said that it wanted Independent Water Networks to be the water company for the Site.

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

We received three responses to our consultation; from the Consumer Council for Water (“**CCW**”), the Environment Agency, and Anglian Water. We considered these responses before making the decision to vary Independent Water Networks’ appointment. The points raised in the response are set out below.

### **4.1 Anglian Water**

Anglian Water confirmed it has no objections to the application.

### **4.2 CCW**

In response to our consultation, on the 7 January 2020 CCW replied that the application relates to the area of land containing Palfrey Bungalow excluded from Independent Water Networks’ previous application for Factory Lane, and given the letter of consent from the bungalow’s owners, they had no comments or concerns relating to the application.

### **4.3 Environmental Agency**

The Environmental Agency confirmed that it has no objection to the application.



## **5. Conclusion**

Having assessed Independent Water Networks' application, and having taken account of the responses 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 6 March 2020.

## Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND ANGLIAN WATER SERVICES LTD, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON.....05/03/2020

*CS*

ADDRESS: PALFREY BUNGALOW - LAND NORTH OF FACTORY LANE  
OS GRID REFERENCE: 610941, 233058

SCALE: 1:4000  
DRAWN BY: CS  
DATE:12/12/2019

0 100 200 m



FACTORY LANE INSET WATER SUPPLY MAP 2



PROJECT: N0020440

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is a non-ministerial government department.  
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