

June 2020

**Variation of Leep Networks (Water)  
Limited's appointment to include Chatham  
Waters, in Gillingham, Kent**

## 1. About this document

### Variation of Leep Networks (Water) Limited's appointments to include Chatham Waters

On 4 March 2020, Ofwat began a consultation on a proposal to vary the appointment of Leep Networks (Water) Limited ("**Leep Networks (Water)**") to become the water and sewerage services provider for a development in Southern Water Services Limited ("**Southern Water**")'s water supply area and sewerage services area. The development is called Chatham Waters in Gillingham, Kent ("**the Site**").

The consultation ended on 1 April 2020. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 1 June 2020, we granted Leep Networks (Water) a variation to its existing appointment to enable it to supply water and sewerage services to the site. The appointment became effective from 2 June 2020.

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 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, Leep Networks (Water) applied to replace Southern Water to become the appointed water and 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**

Leep Networks (Water) applied to be the water and sewerage services provider for the Site under the large user criterion set out in section 7(4)(bb) of the Water Industry Act 1991 (“**WIA91**”). Leep Networks (Water) will serve the Site by way of bulk supply and discharge agreements with Southern Water.

#### **3.1 The large user criterion**

To qualify under the large user criterion, in England each of the premises on the Site must be supplied with (or be likely to be supplied with) at least 50 megalitres (MI) of water in any 12-month period (250 MI of water in Wales) and the customer in respect of those premises must consent to the appointment. The same threshold levels apply to new appointments for sewerage services (that is new appointments may be made to serve premises that are supplied or expect to be supplied with at least 50 MI of water in England (250 MI of water in Wales). The threshold applies to the amount of water supplied, not effluent discharged.

Leep Networks (Water) has provided information to confirm that the Site is under development and the associated infrastructure comprises a single premises, comprising an existing private network plus an additional area of brownfield land which is under development. A new network will be provided for the brownfield land and on completion of the works, both private and new infrastructure will be adopted by Leep Networks (Water). Leep Networks (Water) has provided information confirming that the owner of the land consents to it being served by Leep Networks (Water).

Leep Networks (Water) has provided information which sets out the current and expected volumes of water and sewerage for the Site. The projection is that this threshold will be reached between years two and three, peaking at around 110 MI per year

Based on the above information we are satisfied that the Site meets the large user 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 that the Site demonstrates sufficient financial viability, and Leep Networks (Water) 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'**

Leep Networks (Water) will match the charges of Southern Water at the Site.

With regard to service levels, we have reviewed Leep Networks (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 Leep Networks (Water) and that overall customers will be 'no worse off' being served by Leep Networks (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 customers 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 Leep Networks (Water).

In this case, we have calculated that if we grant the variation to Leep Networks (Water), there may be a potential impact on the bills of Southern Water's existing customers. We estimate a potential £0.006 annual increase on the water bills of existing Southern Water customers and a potential increase of £0.003 on the sewerage bills of existing Southern Water 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, Peel Land and Property, said that it wanted Leep Networks (Water) to be the water and sewerage 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 Drinking Water Inspectorate (“**DWI**”) and the Environment Agency (“**EA**”). The DWI and the EA provided short responses, indicating that they had no objection to the application. The points raised in CCW’s response are set out below. We considered these responses before making the decision to vary Leep Networks (Water)’s appointment.

### 4.1 CCW

CCW stated that it expects new appointees to provide customers with prices, levels of service and service guarantees that match, or ideally, better those of the existing service provider. It expressed its disappointment that there is no direct financial benefit to customers from having Leep Networks (Water) as their sewerage service provider, rather than Southern Water.

CCW recognised that as well as applying the ‘customers should be no worse off’ principle when considering NAV applications, that ideally, the incumbent’s existing customers should receive some benefit from the new arrangements.

Further, CCW recognised that the cost to existing Southern Water customers is likely to be around £0.01 per annual bill for Southern Water customers once the Site is fully built, and that this is a negligible effect. However, CCW is unclear whether there will be any significant benefits arising from this arrangement for the Southern Water’s customers.

CCW recognised that the level of service that Leep offers typically matches or exceeds that set by Southern Water. Leep offers more generous compensation in the event of service failings. However, Leep will not be able to offer its financially vulnerable customers a social tariff in the way that the incumbent company does. Until it can provide a formal social tariff, however, CCW expects Leep to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. This should not be at the expense of its other customers.

We note CCW’s concerns regarding the impact on existing 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. We do not require applicants to better the service and price of previous incumbents.

## **5. Conclusion**

Having assessed Leep Networks (Water)'s application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Networks (Water)'s area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 2 June 2020.

## Appendix 1: Site Map



The Site boundary has been amended since the public consultation to exclude an area currently occupied by a supermarket which is no longer owned by the Site's developer.

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