

October 2020

Variation of Independent Water Networks Limited's appointment to include Shopwhykes Lakes, West Sussex

1. About this document

Variation of Independent Water Networks Limited's appointment to include Shopwhykes Lakes, West Sussex

On 25 August 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 Portsmouth Water Limited's ("**Portsmouth Water**") water supply area called Shopwhykes Lakes in West Sussex ("**the Site**").

The consultation ended on 21 September 2020. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 25 September 2020, 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 Portsmouth 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, 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 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 bulk supply agreement with Portsmouth 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.

Independent Water Networks has informed Ofwat that the Site is greenfield.

Portsmouth Water has confirmed in a letter dated 29 April 2020 that the Site is unserved.

Having considered the facts of the Site, and the letter from Portsmouth Water, we are satisfied that this Site may be considered as unserved for water services.

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 will not materially impact the financial viability of Independent Water Networks, 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 Portsmouth 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 Portsmouth 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 Portsmouth Water.

3.4 Effect of appointment on Portsmouth Water's customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the charges that Portsmouth 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 Portsmouth 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 Portsmouth 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 there will be no cost to Portsmouth Water's existing customers once the Site is fully built out

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, Taylor Wimpey Limited (please note here that the previous developer mentioned on the application was 'Cala Homes Limited', however IWNL have recently stated that this was an error on their application and that the Site developer is indeed 'Taylor Wimpey Limited') has confirmed that it wants Independent Water Networks to be the water company for the Site. Connect It Utility Services has been appointed by the developer to lay the onsite utility networks.

4. Responses received to the consultation

We received four responses to our consultation, from the Drinking Water Inspectorate (“**DWI**”), the Environment Agency (“**EA**”), Portsmouth Water, and the Consumer Council for Water (“**CCW**”).

The points raised in the responses are set out below. We considered these responses before making the decision to vary Independent Water Networks' appointment.

4.1 **DWI**

The DWI confirmed that it had no comments to make in regards to this consultation.

4.2 **EA**

The EA noted that Portsmouth Water will have already planned for supplying new properties in their demand forecast of their water resources management plan so supplying this water via Independent Water Networks should not result in any significant changes to their ability to meet this demand.

The EA queried if Independent Water Networks were involved with water cycle studies and if they intend to engage with local plans. Independent Water Networks have provided the responses to the queries raised by the EA. The EA have since emailed us with their content for this new appointments and variation (“**NAV**”) on the 24 July 2020.

4.3 **Portsmouth Water**

Portsmouth Water raised an objection to the proposal, noting that the Site map included a larger area than agreed with Independent Water Networks. We queried this with Independent Water Networks and have since received a revised map of the site outlining the appropriate area for the water supply services for this application. We have added the corrected map on the consultation notice. We have an email from Portsmouth Water confirming that the updated map (please see Appendix 1) is the correct map.

4.4 **CCW**

CCW stated that in general it expects NAV appointees to exceed or at least match the incumbent's prices, service levels and service guarantees. It states that

Independent Water Networks generally matches or exceeds service levels and so overall it supports the application.

CCW noted that Independent Water Networks intends to continue its voluntary policy of charging 2.5% less than the incumbents' volumetric charges for the 2020-21 charging year. Any customers who move into the Site before April 2021 will therefore benefit from this reduction, but it is unclear if it will continue beyond this charging year. CCW stated that under these arrangements, customers may be temporarily better off than they would have been if Portsmouth Water had served them but the long-term price benefits are unclear.

CCW stated that it is aware that Independent Water Networks has revised its proposed service levels during the application process. It expects Independent Water Networks to at least match the service standards of Portsmouth Water. Taking account of the revised service levels CCW consider Independent Water Networks generally matches or exceeds Portsmouth Water's service levels.

CCW states that given its relatively small size and customer base it may be appropriate for Independent Water Networks to tailor some of the services that it provides. CCW set out its expectation that Independent Water Networks would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff and that this should not be at the expense of its other 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 charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

CCW noted our conclusion that Portsmouth Water's existing customers would see no potential increase in their water bills as a result of the variation. It notes that there is no evidence of significant benefits to the existing customers of Portsmouth Water and it questions the value of the NAV regime if it cannot deliver benefits to customers.

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 25 September 2020.

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.

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