

October 2020

Proposal to grant a variation of appointment to Independent Water Networks Limited to enable it to provide water services to a site called Harland Way, in Cottingham, North Humberside

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1. About this document

We propose granting a Variation of appointment to Independent Water Networks Limited (“**IWNL**”) as a water company and varying the appointment of Yorkshire Water Services Limited (“**Yorkshire Water**”) as a water company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

IWNL has applied for a Variation of appointment to be able to provide water services to a site called Harland Way, in Cottingham, North Humberside (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site is within the water services area of Yorkshire Water.

The Site will comprise 87 residential properties, and is expected to be fully built out in 2024.

3. The applicant

In October 2007, IWNL obtained its first appointment as a water and sewerage undertaker for a housing development at the Long Croft Road site in Anglian Water's area. Since then Ofwat has agreed to vary IWNL's area of appointment so it can serve a further 67 sites for water and/or sewerage. The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to IWNL as a water company; and
- vary the appointment of Yorkshire Water as a water company by excluding the Site from its water supply area.

By means of the above, IWNL will become the water services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation,¹ provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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 that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat 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.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our new appointments and variations – [policy \(2015 and 2019\)](#) and [process \(2018\)](#) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

6. The application

IWNL has applied to be the water company for the Site under the *unserved* criterion, set out in section 7(4)(b) of the WIA91.

6.1 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.

Yorkshire Water has provided a letter, dated 13 March 2020, confirming that, in its view, the Site is unserved. Having reviewed the facts of this Site, and taking into account the letter from the incumbent we consider the Site to be unserved.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“**Business Customers**”) in England and Wales are able to choose their supplier.²

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

IWNL proposes to match the charges to customers on the Site of Yorkshire Water.

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 Ml where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed IWNL's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of IWNL's proposed Customer Code of Practice than they would be if Yorkshire Water were to be the customers' water supplier.

6.5 Site owner choice

IWNL has the consent of the Site developer, Persimmon Homes to become the water provider.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application³.

6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices 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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

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 IWNL.

³ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

We estimate no annual increase on the water bills of existing Yorkshire Water customers if we grant this variation to IWNL. This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to IWNL would have no financial impact on customers' bills and could have potential benefits for customers.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

We have considered the financial position of IWNL in relation to providing water services to the Site, and we are satisfied the company demonstrates sufficient financial viability.

IWNL has an unlimited Keepwell agreement from its owner Brookfield Utilities UL Limited (BUUK) in July 2013. IWNL have confirmed that this agreement is still in place and will cover this proposed new site. BUUK continue to hold an investment grade credit rating with Moody's.

7. Conclusion and next steps

In assessing IWNL's application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and IWNL would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of Yorkshire Water.

We are currently minded to grant the variation under the unserved criterion. We are consulting on our proposal to do so.

Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Ben Groom at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at licensing@ofwat.gov.uk

Representations must be received by Ofwat no later than 17.00 hours on 29 October 2020. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site maps



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND YORKSHIRE WATER SERVICES LTD, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...

ADDRESS: HARLAND WAY, COTTINGHAM, NORTH HUMBERSIDE, HU16 5TA
OS GRID REFERENCE: 459912, 452969

SCALE: 1:4000
DRAWN BY: MM
DATE: 11/03/2020

0 50 100 m

**HARLAND WAY
INSET WATER MAP 1**

PROJECT: N0021284



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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