

July 2021

**Recommendation paper to consult on
a proposal to vary the appointment of
Leep Networks (Water) Limited –
Wirral Waters, Birkenhead**

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1. About this document

We propose granting a variation of appointment to Leep Networks (Water) Limited (“**Leep Water**”) as a water and sewerage company and varying the appointment of United Utilities Water Limited’s (“**United Utilities**”) as a water company and sewerage 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

Leep Water has applied for a variation of appointment to be able to provide water and sewerage services to a site called Wirral Waters, Birkenhead (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site is within the water and sewerage services area of United Utilities.

The Site will comprise 347 residential properties, and is expected to be fully built out in 2026.

3. The applicant

Founded in 1971, the Peel Group's diversified business includes holdings in energy and infrastructure, hospitality and leisure including retail and media, £2.3bn worth of land and property (real estate), £300m in airports and associated infrastructure including ports (transport) and 6.1 million square feet of logistics assets. Further detail on the Peel Group's investments is available on its website.

Leep Water Networks (previously called Peel Water Networks Limited) was incorporated in August 2008. In February 2009 it was granted a water supply and sewerage services licence.

In October 2007, SSE Water obtained its first appointment as a water and sewerage undertaker for a housing development at the Old Sarum site in Wessex Water's area. Since then Ofwat has agreed to vary SSE Water's area of appointment so that it serves a further 33 sites for water and/or sewerage services. The register of new appointments and variations can be viewed [here](#).

In June 2019, Leep Water (via Leep NAV Networks Limited, a newly incorporated subsidiary of group company Leep Utilities (Water) Limited) informed Ofwat that it proposed to directly acquire 100% of the shares in SSE Water from SSE plc. The outcome of the acquisition is that Leep Utilities (Water) Limited would own two NAV companies: Leep Water Networks Limited and SSE Water. Leep Utilities (Water) Limited consolidated all of its existing appointments and variations into SSE, which has been renamed Leep Networks (Water) Limited.

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Leep Water as a water and sewerage company to include the Site in its water supply and sewerage services areas; and
- vary the appointment of United Utilities as a water and sewerage company by excluding the Site from its water supply and sewerage supply areas.

By means of the above, Leep Water will become the water and sewerage 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

Leep Water has applied to be the water and sewerage 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.

Unities Utilities has provided a letter, dated 18 February 2021, confirming that, in its view, the Site is unserved. It noted that there were buildings previously within the boundary of the site. However, Leep has confirmed that the buildings have now been demolished and the pipework disconnected and removed. As such, United Utilities is satisfied that the Site may be considered unserved for water and wastewater. The Site is brownfield land, previously used for commercial use. Leep Water has confirmed that the building structure has now been demolished and the pipework disconnected and removed.

Given the information provided by United Utilities and the attached map we are satisfied that the site may be considered 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

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.

service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

Customers on the Site will be no worse off as Leep Water proposes to match the charges to customers on the site of United Utilities.

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 Leep Water'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 Leep Water's proposed Customer Code of Practice than they would be if United Utilities were to be the customers' water and sewerage services supplier.

6.5 Site owner choice

Leep Water has the consent of the Site developer, Urban Splash, to become the water and sewerage services 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.

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.

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 United Utilities' 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 United Utilities 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 Leep Water.

We estimate that there will be no annual increase on the water and sewerage bills of existing United Utilities customers if we grant this variation to Leep Water. 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 Leep Water 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.

Leep Networks applied for a company based assessment in October 2020. We consider that the current level of financial security that Leep Networks has in place meets our requirements. Leep Networks has provided copies of two letters of credit.

Following a risk assessment, we made a decision to move to a company based assessment of financial viability for Leep Networks rather than the site-by-site assessment of each individual application, provided:

- Leep Networks remains within its existing group company structure, with continuing access to intercompany loans and financial security provision;
- any NAV applications involving an associated company of Leep Networks, the appointed business, will require site-by-site financial viability assessments; and
- applications for large sites with low expected profitability will be subject to a full, site-by-site financial assessment.

This Site meets the above conditions and we have applied a company based approach to our assessment of Leep Networks' financial viability in respect of this application. We have considered the financial position of Leep Networks in relation to providing services to the Site, and we are satisfied the company demonstrates sufficient financial viability.

On the basis of the above, we are currently satisfied that Leep Networks would be able to finance its functions if the variation is granted.

7. Conclusion and next steps

In assessing Leep Water'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 Leep Water 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 United Utilities.

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

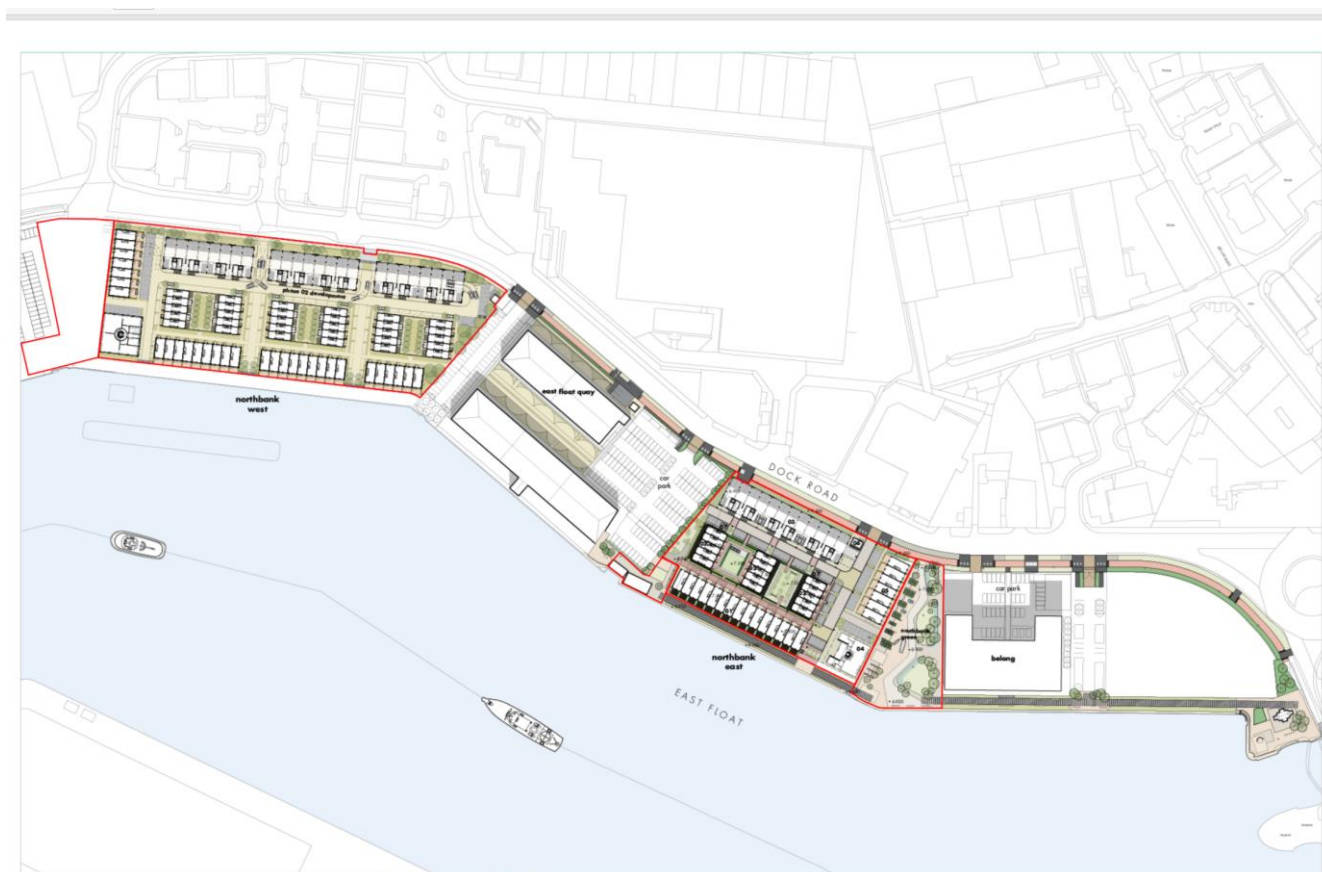
Any person who wishes to make representations or objections with respect to the application should do so in writing to Chris Daly at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at Licensing@ofwat.gov.uk.

Representations must be received by Ofwat no later than 17.00 hours on 23 June 2021. 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](#).

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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