

June 2021

Variation of Independent Water Networks Limited's appointment to include Heathlands West, Wakefield

About this document

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On 22 February 2021, Ofwat began a [consultation on the proposal](#) to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water service provider for a development in Yorkshire Water Services Limited's ("**Yorkshire Water**") water supply area called Heathlands West, Wakefield ("**the Site**").

The consultation ended on 22 March 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 15 April 2021, 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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1. Introduction

The new appointment and variation (“**NAV**”) 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 Yorkshire 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.

2. The application

Independent Water Networks applied to be the water provided 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 Yorkshire Water.

2.1 Unserved status of the site

Independent Water Networks applied for a variation based on the unserved criterion. To qualify under the unserved criterion, an applicant must show that at the time the appointment or variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

Independent Water Networks has provided a letter from Yorkshire Water, dated 23 December 2020, which confirms that, to its knowledge, the Site is unserved. Aerial maps also showed that there were no existing buildings within the perimeter of the Site.

Given the information provided by the applicant and Yorkshire Water, we are satisfied that the Site is unserved.

2.2 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 the proper carrying out of its functions.

2.3 Assessment of ‘no worse off’

Customers on the Site will be no worse off being served by Independent Water Networks rather than Yorkshire Water as Independent Water Networks proposes to match its customer charges on the Site to Yorkshire Water's charges.

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 Yorkshire 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 Yorkshire Water.

2.4 Effect of variation on Yorkshire 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 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 on customers of Yorkshire 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 Yorkshire 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.

We estimate a potential increase of £0.001 on the water bills of existing Yorkshire Water customers, once the Site is fully built out, if we grant this variation to Independent Water Networks.

We also consider that there are potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

2.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case Independent Water Networks has the consent of the Site's developer, Development Delivery Consultancy, to become the water service provider for the Site.¹

¹ The public consultation notice linked above incorrectly refers to the site developer as GTC Infrastructure Limited, which is the self-lay provider delivering infrastructure on the Site for the developer, Development Delivery Consultancy.

3. Responses received to the consultation

We received responses to our consultation from three organisations: the Consumer Council for Water (“**CCW**”), Drinking Water Inspectorate (“**DWI**”) and the Environment Agency. We considered these responses before making the decision to vary Independent Water Networks' appointment. The DWI and the Environment Agency confirmed that they had no comments about the application. The points raised in CCW's response are set out below.

3.1 CCW

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent's prices, service levels and service guarantees.

Overall, CCW supports this application, recognising that Independent Water Networks will charge customers on the same basis as Yorkshire Water and generally matches or exceeds Yorkshire Water's standards. So CCW's agrees with our assessment that customers will no worse off in terms of amount they pay and the service they receive from Independent Water Networks, if Yorkshire Water has served them. For example, Independent Water Networks offers higher compensation if it fails to respond to written complaints or billing queries within its committed timescales and it also offers a free leak repair service on customers external supply pipes. However, CCW noted that is it disappointed that there are no direct financial benefits to customers being served by Independent Water Networks, instead of Yorkshire Water. Also, CCW recognises that Independent Water Networks offer discounts to customers who opt for e-billing or direct debit payments.

CCW notes that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Yorkshire Water can. However, CCW recognised that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers, who find themselves in financial difficulty. CCW considered 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. Until it can provide a formal social tariff, however, CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty, especially those who would otherwise benefit from a social tariff. It noted that this should not be at the expense of its other customers. CCW expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

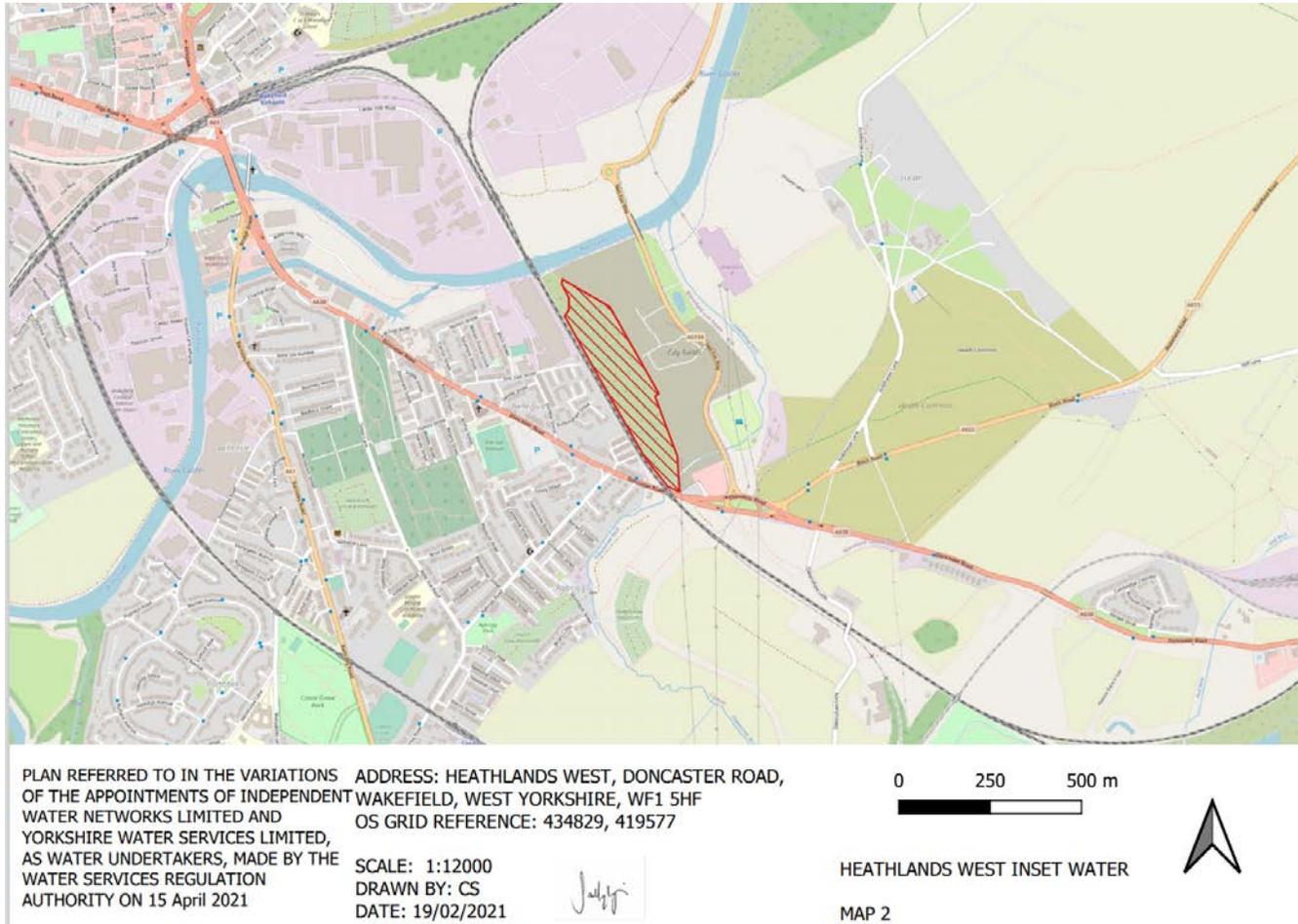
CCW also recognised that there is a potential increase of £0.001 on the water bills of existing Yorkshire Water customers, once the site is fully build out. However, CCW stated that whilst it appreciates that this will have a negligible impact on bills, it is unclear if there will be any significant benefits arising from this arrangement for existing Yorkshire Water customers. CCW considers that, ideally, the incumbent's existing customers should receive some benefit from the new arrangement. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

One of our key policies is that customers should be no worse off if a NAV is granted, this includes existing customers of the incumbent company. 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.

4. 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. This variation became effective on 16 April 2021.

Appendix 1: Site Maps



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is a non-ministerial government department.
We regulate the water sector in England and Wales.**

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