

June 2021

# **Variation of Independent Water Network's Limited's appointment to include Naisberry Farm, Hartlepool (sewerage)**

## About this document

# Variation of Independent Water Network's Limited's appointment to include Naisberry Farm, Hartlepool (sewerage)

On 14 December 2020, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the sewerage services provider for a development in Northumbrian Water Limited's ("**Northumbrian Water**") sewerage services area called Naisberry Farm in Hartlepool ("**the Site**").

The consultation ended on 18 January 2021. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 2 March 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply sewerage services to the Site.

This notice gives our reasons for making this variation.

## Contents

About this document	1
1. Introduction	3
2. The application	5
3. Responses received to the consultation	7
4. Conclusion	9
Appendix 1: Site Map	10

## 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 Northumbrian Water to become the appointed 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.

## 2. The application

Independent Water Networks applied to be the sewerage 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 discharge agreement.

### 2.1 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.

The Site is a greenfield development and Northumbrian Water has provided a letter, dated 2 June 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 are satisfied that the Site is unserved.

We received confirmation that the Site remains unserved on 1 March 2021.

### 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 its functions and that it is able to properly carry them out.

### 2.3 Assessment of ‘no worse off’

Independent Water Networks will match the charges of Northumbrian Water at the Site.

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 Northumbrian 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 Northumbrian Water.

## **2.4 Effect of appointment on Northumbrian 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 Northumbrian 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 Northumbrian 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 Northumbrian 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 if we grant the site to Independent Water Networks, there may be a potential impact on the sewerage bills of Northumbrian Water's existing customers of £0.01.

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.

## **2.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Barratt/David Wilson Homes, said that it wanted Independent Water Networks to be the sewerage company for the Site.

### 3. Responses received to the consultation

We received two responses to our consultation; from the Environment Agency and the Consumer Council for Water (“**CCW**”). We considered these responses before making the decision to vary Independent Water Networks' appointment. The Environment Agency said it had no comments on make on the consultation. The points raised by CCW are set out below.

#### 3.1 CCW

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

Whilst in its application Independent Water Networks proposes to charge on the same basis as Northumbrian Water, CCW has reviewed its Charges Scheme for 2020- 21 and notes that Independent Water Networks intends to continue its voluntary policy of charging 2.5% less than Northumbrian Water's volumetric charges for the 2020-21 charging year. It states that 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 also notes that Independent Water Networks offers discounts to those customers who are able to and opt to take up e-billing or pay by direct debit.

CCW stated that it is aware that Independent Water Networks has revised its proposed service levels during the application process. Taking account of the revised service levels CCW considers Independent Water Networks generally matches or exceeds Northumbrian Water's service levels so overall CCW supports the application. For example Independent Water Networks offer a disturbance allowance if customers are required to move ot temporary accommodation in the event of internal sewer flooding.

CCW noted that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way Northumbrian Water does, but will offer the standard WaterSure tariff for qualifying customers. 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. CCW expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted our conclusion that Northumbrian Water's existing customers would at most see a minor increase of £0.01 in their sewerage bills as a result of the variation but questions the value of the NAV regime for incumbents' existing customers 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. 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 sewerage services. This appointment became effective on 3 March 2021.



**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA  
Phone: 0121 644 7500

© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information, you will need to obtain permission from the copyright holders concerned.

This document is also available from our website at [www.ofwat.gov.uk](https://www.ofwat.gov.uk).

Any enquiries regarding this publication should be sent to [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk).

**OGL**