

July 2021

Variation of Independent Water Networks Limited's appointment to include Former Foxwood School, Warrington

About this document

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On 26 May 2021, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water service provider for a development in United Utilities Water Limited's ("**United Utilities**") water supply area called Former Foxwood School in Warrington ("**the Site**").

The consultation ended on 23 June 2021. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 5 July 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 mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of water and 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 United Utilities 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 and 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 a bulk supply agreement with United Utilities.

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.

United Utilities has provided a letter, dated 18 February 2021, confirming that in its view, the Site is unserved. Independent Water Networks has confirmed that all existing buildings that had been on the Site have been disconnected demolished.

Given the information provided by Independent Water Networks and United Utilities, 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 its functions and that it is able to properly carry them out.

2.3 Assessment of ‘no worse off’

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

2.4 Effect of appointment on United Utilities customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that United Utilities' existing customers may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on customers of United Utilities. 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 United Utilities 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 will no impact on the water bills of United Utilities' existing customers.

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 Wates Construction Limited, said that it wanted Independent Water Networks to be the water company for the Site.

3. Responses received to the consultation

We received four responses to our consultation; from the Consumer Council for Water (“**CCW**”), the Drinking Water Inspectorate (“**DWI**”), the Environment Agency and United Utilities. 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 on the application. The points raised in CCW's and United Utilities' responses 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.

CCW noted that it is disappointed that there are no direct financial benefits to customers from being served by Independent Water Networks, instead of United Utilities since Independent Water Networks will charge customers on the same basis as United Utilities. However, CCW also recognises that Independent Water Networks offers discounts to customers who are able to and opt to take up e-billing or direct debit payments. CCW noted that Independent Water Networks generally matches or exceeds United Utilities' service standards, and so overall CCW supports this application. For example, Independent Water Networks offers greater compensation for low water pressure, or failing to read a meter once a year and offers a free leak repair service on customers' external supply pipes.

However, CCW noted that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that United Utilities 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 noted our calculation that there would be an increase on the water bills of existing United Utilities customers as a result of the variation. CCW stated that whilst it appreciates that, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing United Utilities customers. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

Our response

One of our key policies with respect to new appointments and variations is that customers should be no worse off if a variation 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.

3.2 United Utilities

United Utilities is happy for this variation to be granted to Independent Water Networks but it commented on the Site map, which was published in the public consultation document for this Site. United Utilities noted the maps provided with NAV applications should clearly show the exact area that the Site relates to. United Utilities stated that the map, on page 11 of the public consultation notice for the Site, was at a scale so that the boundary of the Site was not sufficiently clear. It stated that a failure to provide such clarity may lead to subsequent issues relating to responsibilities. United Utilities noted that this was also evident on a number of other NAV applications.

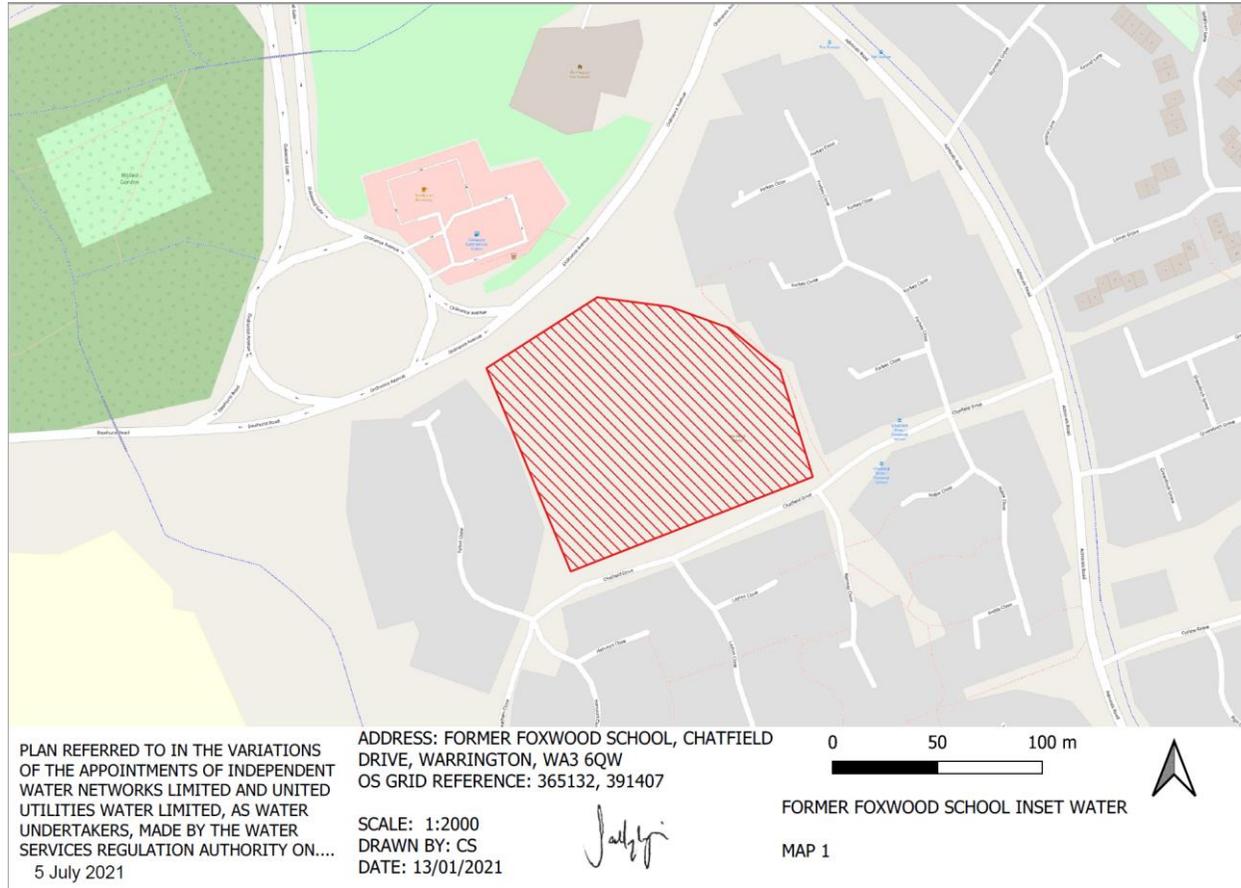
United Utilities suggested that there should be consistency between the map that the incumbent company provides in its letter, confirming the status of the Site and those Ofwat publishes in its consultation document. It noted that in this case the map that accompanied Independent Water Network's letter to United Utilities to confirm the Site's unserved status was at a better resolution and provided more clarity.

We have noted the above point from United Utilities and work with applicants to ensure that the maps provided are of high quality and clearly show the boundary of the relevant site. We expect the applicant to communicate with the incumbent company to ensure both are fully aware of the responsibility and ownership of the boundaries, pipework or assets around the Site, where needed we will ask the applicant to evidence this.

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 services. This appointment became effective on 6 July 2021.

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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