

July 2021

Variation of Independent Water Networks Limited's appointment to include Kings Langley in Hertfordshire

About this document

Variation of Independent Water Networks' appointment to include Kings Langley in Hertfordshire

On 10 June 2021 Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water provider for a development in Affinity Water Limited's ("**Affinity Water**") water supply area called Kings Langley in Hertfordshire ("**the Site**").

The consultation ended on 8 July 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 19 July 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water 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/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 Affinity 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 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 supply agreement with Affinity Water.

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.

Affinity Water has provided a letter, dated 30 March 2021, confirming that, in its view, the Site is unserved.

Having reviewed the facts of the Site, and taking into account the letter from Affinity Water, we consider the Site to be 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’

Independent Water Networks will match the charges of Affinity Water when charging customers on 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 Affinity Water. Based on this review, we are satisfied that customers on the Site 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 Affinity Water.

2.4 Effect of appointment on Affinity 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 Independent Water Networks' 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 Affinity 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 Affinity 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 will be no impact on the bills of Affinity Water's 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 developer, Miller Homes Limited, said that it wanted Independent Water Networks to be the water company for the Site.

3. Responses received to the consultation

We received three responses to our consultation: from the Environment Agency, the Drinking Water Inspectorate ("**DWI**") and the Consumer Council for Water ("**CCW**"). We considered these responses before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

The Environment Agency and DWI had no comments to make with regard to this consultation and did not have any objections. Details of CCW's response are set out below.

3.1 CCW's response

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

CCW noted that Independent Water Networks proposes to charge customers on the same basis as Affinity Water. It is disappointed that there is no direct financial benefits for customers from having Independent Water Networks as their water provider instead of Affinity Water. However, CCW notes that Independent Water Networks offers discounts to those customers who are able to and opt out to take up e-billing or pay by direct debit.

CCW considers that Independent Water Networks generally matches or exceeds Affinity Water's level of service and so overall supports the application. By way of example, it noted that Independent Water Networks offers greater compensation for low water pressure or for failing to read a meter once a year; offers a relocation allowance in the event of sewer flooding in some circumstances; and offers a free leak repair service on customer's 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 Affinity Water does, although it will offer the standard Water Sure tariff. CCW notes that given the relatively small customer base, it may be appropriate for Independent Water Networks to tailor some of its services. CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty, who would otherwise benefit from a social tariff which should not be at the expense of other customers. CCW would expect Independent Water Networks to research the views of its customers. CCW would expect Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW notes our estimate that there will be no impact on the bills of Affinity Water's existing customers if we grant this variation. CCW appreciates this but states that it is unclear whether there will be any significant benefits from the arrangement for Affinity Water's customers. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

Our response to CCW's comments

One of our key policies in relation to new appointments and variations, is that customers should be no worse off if a new appointment and 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 the previous incumbent.

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 appointment became effective on 20 July 2021.

Appendix 1: Site Map



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

ADDRESS: KINGS LANGLEY, KINGS MEADOW, WD4 8BS
OS GRID REFERENCE: 507318, 203209
SCALE: 1:3000
DATE: 31/03/2021

19/07/2021
J. Kelly

0 50 100 m



KINGS LANGLEY INSET WATER

MAP 1

**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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