

October 2021

Variation of Independent Water Network's appointment to include Fontwell Avenue, Eastergate, Chichester

About this document

Variation of Independent Water Networks Limited's appointment to include Fontwell Avenue, Eastergate, Chichester

On 26 August 2021, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water services provider for a development in Portsmouth Water Limited's ("**Portsmouth Water**") water supply area, called Fontwell Avenue, Eastergate, Chichester ("**the Site**").

The consultation ended on 25 September 2021. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 30 September 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water supply 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/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 Portsmouth 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 provider 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 Portsmouth 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.

Portsmouth Water has provided a letter, dated 31 March 2021, confirming that, in its view, the Site is unserved. The site map showed that there are currently no properties on the Site. Having considered the information from the applicant and Portsmouth 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 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 Portsmouth Water.

Regarding 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 Portsmouth 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 Portsmouth Water.

2.4 Effect of appointment on Portsmouth 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 Portsmouth 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 Portsmouth 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 Portsmouth 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 arrangements with Independent Water Networks.

In this case, we have calculated that if we grant the Site to Independent Water Networks there will be no increase on the annual water bills of Portsmouth 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, Hampshire 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 responses to our consultation from four organisations: the Consumer Council for Water (“**CCW**”) and Drinking Water Inspectorate (“**DWI**”), Portsmouth Water and the Environment Agency. We considered these responses before making the decision to vary Independent Water Networks' appointment.

The DWI, Portsmouth Water and the Environment Agency confirmed that they had no comments to make on the consultation. 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.

CCW is disappointed that there is no direct financial benefit to customers from having Independent Water Networks as their provider of water services, as Independent Water Networks intention is to match Portsmouth Water's charges. However, CCW noted 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 noted that Independent Water Networks generally matches or exceeds the service standards of Portsmouth Water so, overall, it is supportive of the application. For example, Independent Water Networks offers greater compensation for lower water pressure or failing to read a meter once a year and offers a free leak repair services on customers' external supply pipes.

CCW noted that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way Portsmouth Water does, but it will offer the standard WaterSure tariff for qualifying customers. CCW stated 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 estimate that there will be no impact on the water bills of Portsmouth Water's existing customers as a result of the variation, but said it was unclear as to whether there will

be any significant benefits arising from the arrangement for the incumbent's customers. CCW questions the value of the NAV regime if it cannot deliver for customers.

Our response

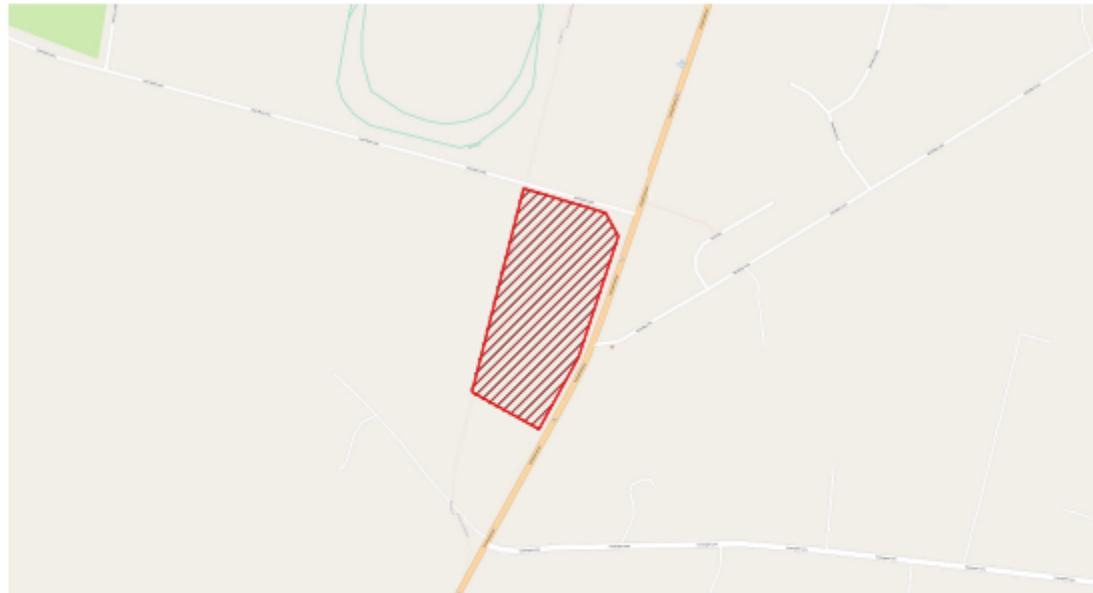
One of our key policies when considering NAV applications is that customers should be no worse off if a new appointment and variation is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee.

This requirement has been met by Independent Water Networks in its proposal to improve the levels of service and match the pricing set by the incumbent. Our assessment does not require applicants to better the service and price of the existing appointee.

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 and sewerage services. This appointment became effective 1 October 2021.

Appendix 1: Site Map - Water



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

ADDRESS: FONTWELL AVENUE, EASTERGATE, PO20
3RZ
OS GRID REFERENCE: 494717, 106273

SCALE: 1:5000
DRAWN BY: MM
DATE: 08/04/2021

0 75 150 m

FONTWELL AVENUE
WATER SERVICES
INSET MAP 2

PROJECT: ...



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

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