

August 2021

State of the market 2019–20: review of the third year of the business retail water market [Document title that spans 4 lines in Krub Semibold 22 pt]

About this document

Variation of Icosa Water Services Limited's appointment to include West Durrington Northern Sector

On 6 July 2021, Ofwat began a consultation on a proposal to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the water and sewerage services provider for a development in Southern Water Services Limited's ("**Southern Water**") water supply area and sewerage services area called West Durrington Northern Sector in Worthing ("**the Site**").

The consultation ended on 3 August 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 6 October 2021, we granted Icosa Water a variation to its existing appointment to enable it to supply water and sewerage 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, Icosa Water applied to replace Southern Water to become the appointed water and 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

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Worthing

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

Icosa Water applied to be the water and sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“[WIA91](#)”). Icosa Water will serve the Site by way of bulk supply and discharge agreements with Southern Water.

2.1 Unserved status of the site

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.

Southern Water has provided a letter dated 9 March 2021 confirming that, in its view, the Site is unserved.

The Site is a greenfield site, with no previous development in place. Icosa Water has revised its map during the application process to ensure that it accurately reflects the development. We have also checked aerial maps of the Site, which confirm that the Site is unserved.

As a result, we are satisfied that the Site remains unserved.

2.2 Financial viability of the proposal

We will only make an appointment or variation 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 Icosa Water 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’

Icosa Water will match Southern Water's charges at the Site.

With regard to service levels, we have reviewed Icosa Water's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance

commitments of Southern Water. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Icosa Water and that overall customers will be 'no worse off' being served by Icosa Water instead of by Southern Water.

2.4 Effect of variation on Southern 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 Southern 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 Southern 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 Southern 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 Icosa Water.

In this case, we have calculated that if we grant the site to Icosa Water, there may be a potential impact on the bills of Southern Water's existing customers of £0.02 for both water and sewerage respectively.

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 developers, Taylor Wimpey and Persimmon Homes, said that it wanted Icosa Water to be the water and sewerage company for the Site.

3. Responses received to the consultation

We received three responses to our consultation: from the Drinking Water Inspectorate ("DWI"), Environment Agency and Consumer Council for Water ("CCW"). We considered these responses before making the decision to vary Icosa Water's appointment.

DWI had no comments to make with regard to this consultation and did not have any objections. The points raised in the responses from CCW and the Environment Agency are set out below.

3.1 Environment Agency

The Environment Agency's consultation responses stated that Icosa Water's application had not provided detail on its proposed per capita consumption and level of service for the Site to enable the Environment Agency to check if they are no worse than those of Southern Water. The Environment Agency was subsequently provided this information by Icosa Water. On 9 August 2021 the Environment Agency confirmed it was happy for the variation to proceed.

3.2 CCW

In its consultation response CCW stated that in general it expects new appointees to provide customers with prices, levels of service and service guarantees that match, or ideally better, those of the incumbent company.

CCW noted its disappointment that there will be no direct financial benefit to customers on the Site from having Icosa Water as their provider of water and sewerage services given it plans to match the charges of Southern Water. CCW also noted that there will be a potential increase to the bills of Southern Water customers as a result of this variation, and questioned if these customers would see any benefit from this.

CCW noted that Icosa Water is offering guaranteed and voluntary standards of service that generally match or exceed the standards offered by Southern Water. For this reason, CCW supports the application. For example Icosa Water will offer greater compensation if it fails to respond to written complaints within 10 working days and provides an automatic disturbance allowance, of up to £100, to customers suffering sewer flooding.

However, CCW noted that Icosa Water will not be able to offer its financially vulnerable customers a social tariff in the way that Southern Water can, although it will offer the standard WaterSure tariff for qualifying customers who find themselves in financial difficulty.

CCW stated that, given its relatively small size and customer base, it may be appropriate for Icosa Water to tailor some of the services that it provides. Until it can provide a formal social tariff, however, it would expect Icosa Water to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. This should not be at the expense of its other customers. CCW would expect Icosa Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW notes Ofwat's overall assessment is that customers will be no worse off in terms of the levels of service they receive if served by Icosa Water rather than Southern Water, and it agrees with this assessment.

Our response

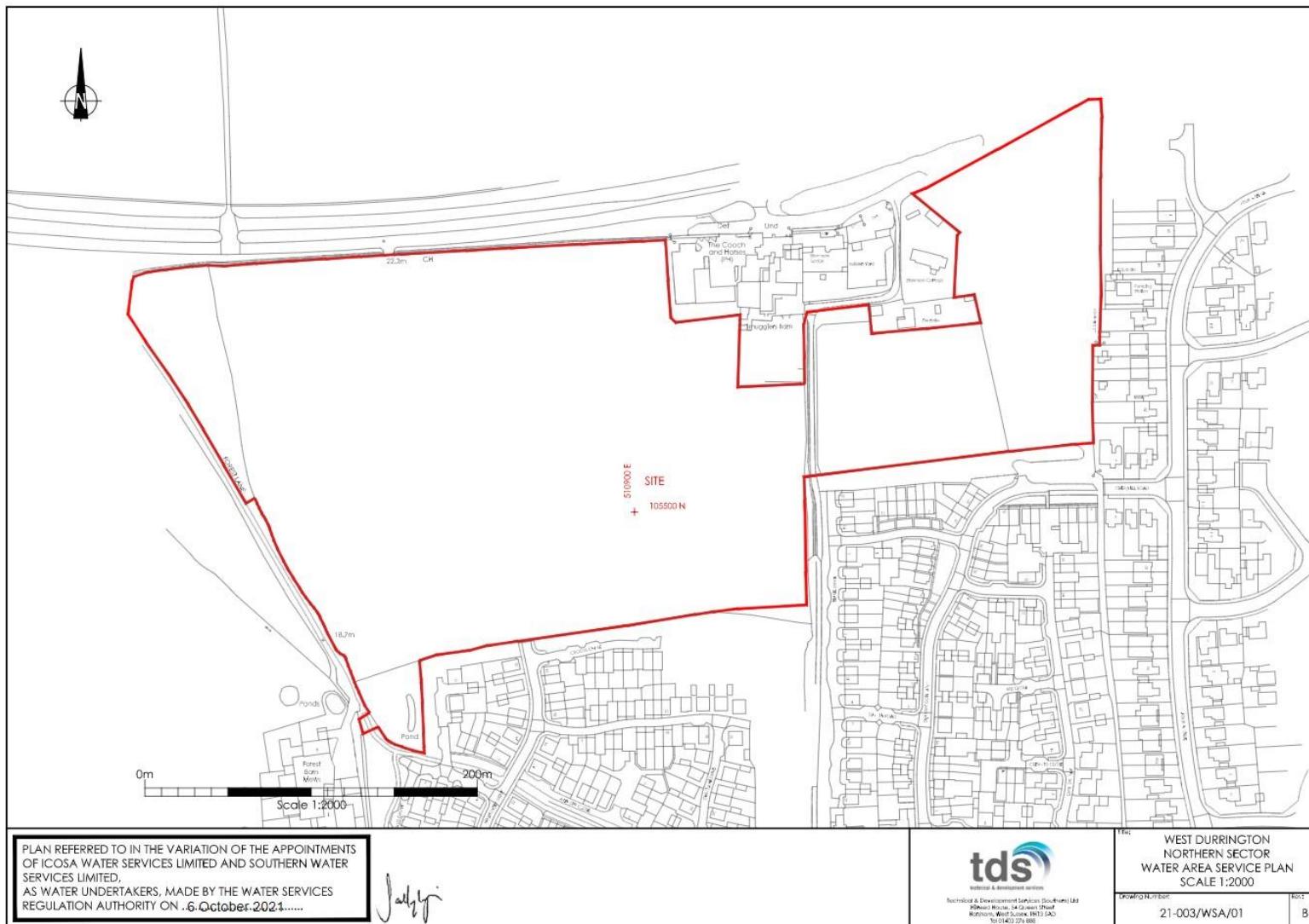
One of our key policies with considering NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

4. Conclusion

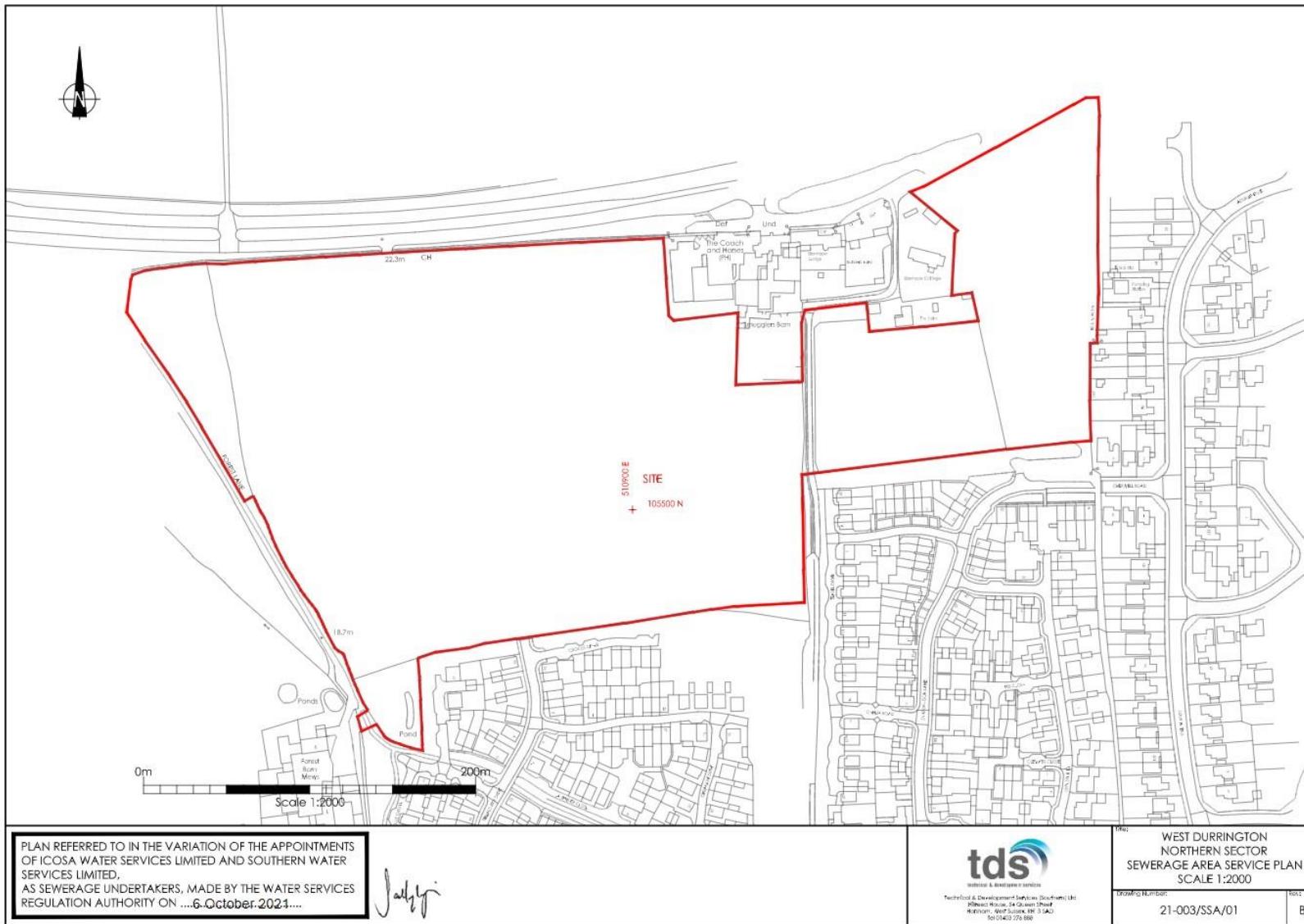
Having assessed Icosa Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa Water's area of appointment to allow it to serve the Site for water and sewerage services. This variation became effective on 7 October 2021.

Appendix 1: Site Maps

Water



Sewerage



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We regulate the water sector in England and Wales.**

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