

November 2021

# **Variation of Icosa Water Services Limited's appointment to include Broad Oak, Sturry, Kent**

## About this document

# Variation of Icosa Water Services Limited's appointment to include Broad Oak, Sturry, Kent

On 11 October 2021, Ofwat began a [consultation](#) on a proposal to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the sewerage services provider for a development in Southern Water Services Limited's ("**Southern Water**") sewerage services area called Broad Oak, in Sturry, near Canterbury, Kent ("**the Site**").

The consultation ended on 8 November 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision.

On 12 November 2021 we granted Icosa Water a variation as a sewerage undertaker to enable it so 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 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 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

Icosa Water 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**”). Icosa Water will serve the Site by way of a bulk discharge agreement 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 provided a letter, dated 13 July 2021, confirming that, in its view, the Site is unserved.

The Site is largely greenfield, though there are were around five sheds and 30 static caravans at the Site. None of these are connected to Southern Water's sewers as per its letter, and Icosa Water has confirmed on 5 November 2021 that these have been demolished or removed.

Having reviewed the facts of this Site, we consider the Site to be 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 offer charges that are the same as those offered by Southern Water.

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 annual sewerage bills of Southern Water's existing customers of £0.02.

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, BDW Trading Limited, said that it wanted Icosa Water to be the sewerage company for the Site.

### 3. Responses received to the consultation

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

The Environment Agency and Drinking Water Inspectorate 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

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 sewerage services given it plans to match the charges of Southern Water.

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, by offering greater payments for service failure, and a disturbance allowance in some cases of 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 noted our calculation that there will be a £0.02 increase on the annual sewerage bills of existing Southern Water customers as a result of the variation. CCW stated that whilst it appreciates that this is a small impact on bills, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing Southern Water

customers. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

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 sewerage services. This variation became effective on 15 November 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.**

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**