

March 2022

# **Variation of Leep Networks (Water) Limited's appointment to include Element – The Quarter**

## About this document

# Variation of Leep Networks (Water) Limited's appointment to include United Utilities Water Limited

On 2 December 2021, Ofwat began a [consultation](#) on a proposal to vary Leep Networks (Water) Limited's ("**Leep Water**") appointment to become the water and sewerage services provider for a development in United Utilities Water Limited's ("**United Utilities**") water supply area and sewerage services area called Element – The Quarter in Liverpool ("**the Site**").

The consultation ended on 4 January 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 7 March 2022, we granted Leep 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 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, Leep Water applied to replace United Utilities 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

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

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

We received a letter from United Utilities, dated 30 July 2021, stating that it is its view that the Site is unserved. It also noted that existing operational assets run through the Site, and that Leep Water should take care when excavating the Site. Leep Water confirmed on 2 March 2022 that the Site remains unserved.

Given the information provided by United Utilities and Leep Water, we were 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 Leep 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’

Leep Water will offer equivalent charges to those of United Utilities' customers at the Site.

With regard to service levels, we have reviewed Leep Water's 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 Leep Water and that overall customers will be 'no worse off' being served by Leep Water instead of by United Utilities.

## **2.4 Effect of appointment on United Utilities Water Limited'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 United Utilities' 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 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 they to serve the Site, with the revenues they might expect from the proposed arrangement with Leep Water.

In this case, we have calculated that if we grant the Site to Leep Water, there will be no potential impact on the 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 developer, Legacie Contracts Limited, said that it wanted Leep Water to be the water and sewerage company for the Site.

## 3. Responses received to the consultation

We received three responses to our consultation, namely from the Drinking Water Inspectorate (“**DWI**”), Environment Agency and Consumer Council for Water (“**CCW**”). We considered all responses before making the decision to vary Leep Water’s appointment.

The DWI and Environment Agency had no comments or objections with regard to this consultation. The points raised in the response from CCW are set out below.

### 3.1 CCW

In general, CCW expects that new appointments and variations (NAVs) should bring benefits to customers on the Site such as matching or improving the pricing, levels of service or service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there is no direct financial benefit to customers from having Leep Water as their provider of water and sewerage services, as Leep Water intends to match the charges of United Utilities. However, as Leep Water generally matches or exceeds the service standards of United Utilities, CCW overall supports the application as customers will be no worse off in terms of the level of service they will receive or the price they will pay.

CCW notes that due to the relatively small size of its customer base, Leep Water does not currently offer a social tariff to financially vulnerable customers in the way United Utilities does, but it will offer the standard WaterSure tariff for qualifying customers. CCW states that until Leep Water can provide a formal social tariff, it is appropriate for it to tailor some of the services that it provides. CCW sets out its expectation that Leep Water 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 notes that by matching United Utilities charges Leep Water already benefits from the cross-subsidy that United Utilities' customers pay to support its social tariff.

CCW notes our conclusion that, as a result of the variation, United Utilities' existing customers would see no increase in their annual water and sewerage bills. However, it notes that it is unclear whether there will be any significant benefits to the existing customers of United Utilities and questions the value of the NAV regime if it cannot deliver benefits to all customers.

### Our response

One of our key policies 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.

Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the Leep Water to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social tariff, it should ensure customers will be no worse off.

## 4. Conclusion

Having assessed Leep Water's application, we decided to grant a variation to Leep Water's area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 8 March 2022.

# Appendix 1: Site Maps

water



Element, The Quarter  
Liverpool  
L6 3E3  
SJ 36141 91180

PLANS REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF LEEP NETWORKS (WATER) LTD AND UNITED UTILITIES WATER LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON:



**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
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