

March 2022

# **Variation of Leep Networks (Water) Limited's appointment to include Land at Lyde Green Farm, Bristol**

## About this document

# Variation of Leep Networks (Water) Limited's appointment to include Lyde Green, Bristol

On 18 May 2021, Ofwat began a [consultation](#) on a proposal to vary Leep Networks (Water) Limited's ("**Leep Water**") appointments to become the water and sewerage services provider for a development in Bristol Water PLC's ("**Bristol Water**") water supply services area and Wessex Water Services Limited's ("**Wessex Water**") sewerage services area called Land at Lyde Green Farm, Lyde Green, Pucklechurch, Bristol, BS16 7NT ("**the Site**").

The consultation ended on 15 June 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision.

On 16 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 Bristol Water and Wessex 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

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 supply 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”). Leep Water will serve the Site by way of a bulk supply agreement with Bristol Water and a bulk discharge agreement with Wessex 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.

Leep Water has provided a letter, dated 5 November 2020 from Bristol Water and a letter dated 1 July 2020 from Wessex Water, confirming that they do not provide water or sewerage services within the proposed boundary and that, in their view, the Site is unserved. We requested updated confirmation that the Site is unserved due to the delay since the consultation completed, and this was received on 8 March 2022. The Site is a greenfield site, and the maps exclude the existing grade II listed farm buildings which will remain with the incumbents.

Given the information provided by the applicant, Bristol Water and Wessex 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 Leep 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’

Leep Water will match the charges of Bristol Water and Wessex Water 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 Bristol Water and Wessex Water. 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 Bristol Water and Wessex Water.

## **2.4 Effect of variation on Bristol Water and Wessex 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 Bristol Water and Wessex 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 Bristol Water and Wessex 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 Bristol Water and Wessex Water 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 may be a potential increase of £0.01 on the annual bills of Bristol Water's existing customers, however there would be no increase on the sewerage bills of Wessex Water's 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, Edward Ware Homes 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: from the Consumer Council for Water (“**CCW**”), the Environment Agency and the Drinking Water Inspectorate (“**DWI**”). We considered these responses before making the decision to vary Leep Water's appointment. The points raised in the response are set out below.

The DWI and the Environment Agency had no comments to make with regard to this consultation and did not have any objections. The points raised in CCW's response are set out below. Due to the time that has passed since our consultation whilst we awaited confirmation of the bulk agreements to serve the site, we have requested confirmation that all respondents remained satisfied with their responses, and have had confirmation from all three that they are happy with these.

#### 3.1 CCW

CCW stated that when considering applications for new appointments or variations it expects new appointees to provide consumers with prices, levels of service and service guarantees that match, or ideally better, those of the incumbent water and sewerage company.

CCW was disappointed that there will be no direct financial benefit to customers from having Leep Water as their provider of water and sewerage services given it plans to match the charges of Bristol Water and Wessex Water on the Site.

CCW noted that Leep Water is offering guaranteed and voluntary standards of service that generally match or exceed the standards offered by both Bristol Water and Wessex Water.

For this reason, CCW support this application. Where Leep Water exceeds these standards it does so by offering greater compensation if it fails to meet the level of service it commits to

CCW noted that Leep Water will not be able to offer a social tariff to its financially vulnerable customers in the way that the incumbent companies do but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base it may be appropriate for Leep Water to tailor some of the services that it provides. CCW set 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. CCW does not expect this to be at the expense of its other customers. CCW expects Leep Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted our estimates of an increase of £0.01 on the annual water bills of Bristol Water's existing customers and no impact on the annual sewerage bills of Wessex Water's existing customers once the Site is built out., CCW noted this impact is very small, but stated that it is unclear as to whether there will be any significant benefits arising from this arrangement for the incumbents' customers. CCW questioned the value of the NAV regime if it cannot deliver benefits to customers.

Ofwat's overall assessment is that customers will be no worse off in terms of the levels of service they will receive from Leep Water than if served by Bristol Water and Wessex Water, CCW agree with this assessment

## **Our response**

One of the key policy principles Ofwat considers when assessing NAV applications is that customers overall should be no worse off (in terms of the price and service they receive) than if they had been supplied by the existing appointee.

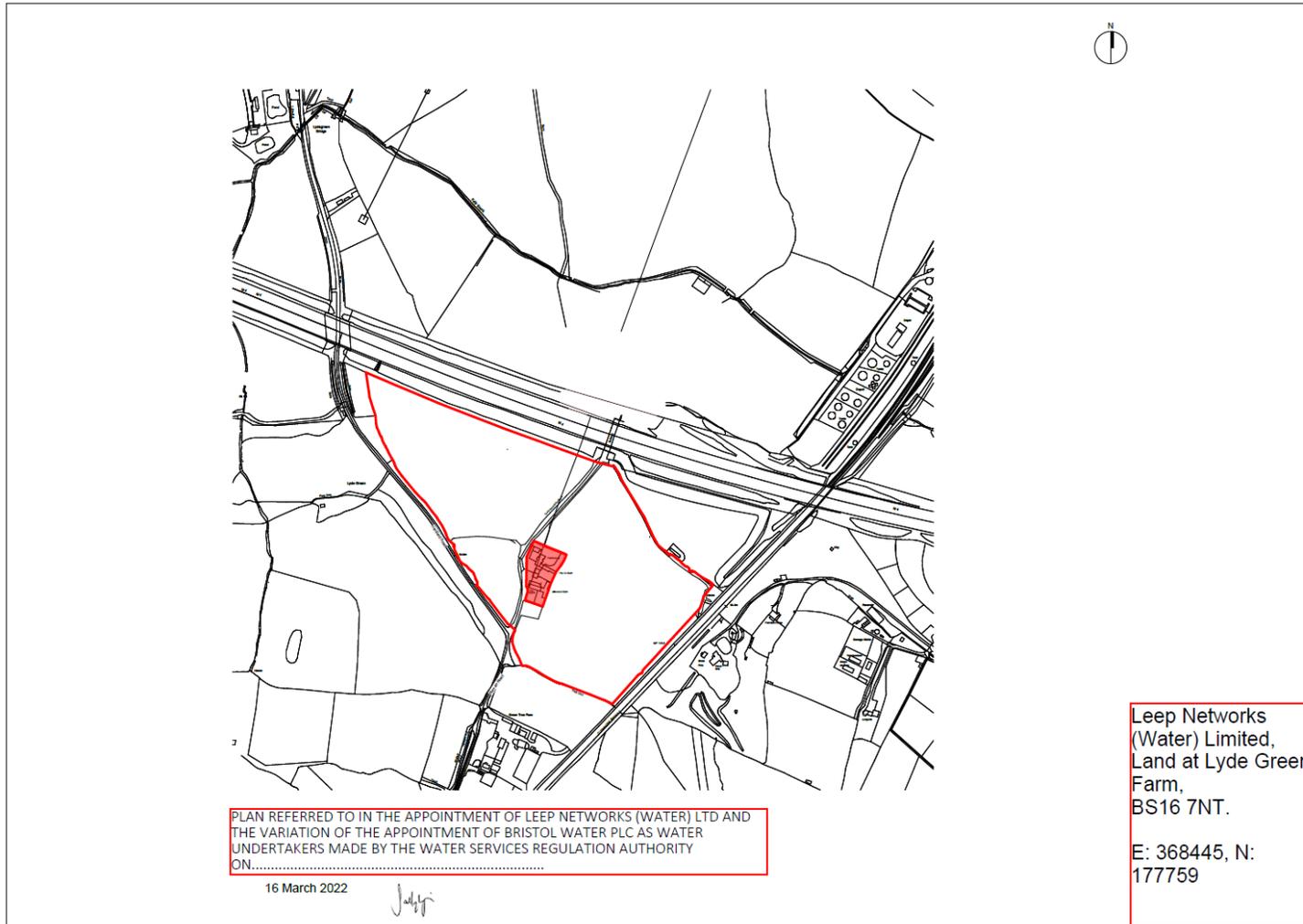
This requirement has been met by Leep Water in its proposal to improve the levels of service and match the pricing set by the incumbents. Our assessment does not require applicants to better the service and price of the existing appointee.

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 applicant 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 and having taken account of the responses we received to our consultation, 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 17 March 2022.

## Site Map – Water



## Site Map - Sewerage



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

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