

March 2022

Variation of Leep Networks (Water) Limit's appointment to include Whitehouse Farm, Emersons Green, Bristol

About this document

Variation of Leep Networks (Water) Limited's appointment to include Whitehouse Farm, Emersons Green, Bristol

On 6 May 2021, Ofwat began a [consultation](#) on a proposal to vary Leep Networks (Water) Limited's ("**Leep Networks**") appointment to become the water and sewerage services provider for a development in Bristol Water PLC's ("**Bristol Water**") water supply area and Wessex Water Services Limited's ("**Wessex Water**") sewerage services area called Whitehouse Farm, Emersons Green in Bristol ("**the Site**").

The consultation ended on 3 June 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 30 March 2022, we granted Leep Networks 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, Leep Networks 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 Networks 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**”). Leep Networks 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 variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

The Site had farm buildings with an existing water connection and due to the building's Grade II listed status and that it is planned to be retained, the buildings were excluded from the Site's boundary for water services. There is no sewerage connection, and this is reflected in the larger sewerage boundary on the Site's maps. Leep Networks expect the Grade II listed building to be connected to the new mains drainage services on the Site. The farm buildings associated with the rest of the Site will be demolished as per the planning layout.

Leep Networks provided letters from both the current water undertaker and the sewerage undertaker, Bristol Water and Wessex Water respectively, dated 22 February 2021 and 28 January 2021, to confirm that the Site is unserved. Given the time passed since those letters, we requested up to date confirmation that the Site is still unserved. Wessex Water confirmed the Site remained unserved for sewerage in a letter dated 31 January 2022, and Bristol Water confirmed the Site remained unserved for water in a letter dated on 7 February 2022.

Having reviewed the facts of this Site and taking into account the letters from Bristol Water and Wessex Water and the information from Leep Networks 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 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 Networks will match the charges of the customers on the Site to the charges of Bristol Water and Wessex Water respectively. It will not offer a discount.

With regard to service levels, we have reviewed Leep Networks' 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. Given the passage of time since the consultation, we updated our review of Leep Networks' current Codes of Practice. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Leep Networks and that overall customers will be 'no worse off' being served by Leep Networks instead of by Bristol Water and Wessex Water.

2.4 Effect of appointment on Bristol Water's 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 price 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 Networks.

In this case, we have calculated that if we grant the site to Leep Networks, there will be no impact on the annual water bills of Bristol Water's existing customers, but a potential impact of £0.01 on the annual sewerage bills of Wessex 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, Taylor Wimpey UK Limited, said that it wanted Leep Networks 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**), the Environment Agency, and the Consumer Council for Water (**CCW**). We considered these responses before making the decision to vary Leep Networks' appointment.

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

3.1 CCW

CCW states that in general it expects new appointment and variation appointees to match or ideally better the incumbent's prices, service levels and service agreements. Although disappointed that there is no direct financial benefit to customers from having Leep Networks as the water and sewerage services provider, as Leep Networks plans to charge customers on the same basis as Wessex Water and Bristol Water, CCW agrees with our assessment that customers will be no worse off and, overall, supports the application.

CCW considers that Leep Networks generally matches or exceeds Bristol Water and Wessex Water's service levels. Where Leep Networks exceeds these standards, it does so by offering greater levels of compensation if it fails to meet the level of service it commits to.

CCW noted that Leep Networks will not be able to offer a social tariff to financially vulnerable customers in the way Bristol Water and Wessex Water does 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 Networks to tailor some of the services that it provides. CCW set out its expectation that Leep 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 Leep Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

In terms of the variation's impact on Bristol Water's and Wessex Water's existing customers, CCW understands that although there will be no impact on Bristol Water's customers' bills; and a small impact of £0.01 of the sewerage bills of Wessex Water's customers. CCW states it is unclear whether there will be any significant benefits from the arrangement for the existing customers. As a consequence, CCW has questioned the value of the 'new appointment and variation' regime if it cannot deliver benefits to all customers.

Our Response

One of our key policies when 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.

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 Networks' application and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 31 March 2022.

Appendix 1: Site Maps

Water Boundary

Whitehouse Farm, Emerson's Green, Bristol
E:367738 N:177927



Sewerage Boundary

Whitehouse Farm, Emerson's Green, Bristol
E:367738 N:177927



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Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA
Phone: 0121 644 7500

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