

May 2022

Variation of Independent Water Networks Limited's appointment to include Fossetts Way, Southend on Sea

About this document

Variation of Independent Water Networks Limited's appointment to include Fossetts Way, Southend on Sea

On 22 February 2022, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water and sewerage services provider for a development in Northumbrian Water Limited's (trading as Essex and Suffolk Water) ("**Northumbrian Water**") water supply area and Anglian Water Services Limited's ("**Anglian Water**") sewerage services area called Fossetts Way in Southend on Sea, Essex ("**the Site**").

The consultation ended on 22 March 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 17 May 2022, we granted Independent Water 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, Independent Water Networks applied to replace Northumbrian Water and Anglian 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

Independent Water 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”). Independent Water Networks will serve the Site by way of a bulk supply agreement with Northumbrian Water and a bulk discharge agreement with Anglian 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.

Independent Water Networks is applying for a variation based on the unserved criterion. Northumbrian Water has provided an updated letter, dated 4 April 2022, confirming that, in its view, the Site is unserved for water. Anglian Water has provided a further letter dated 4 April 2022 confirming that the Site is unserved for sewerage.

The Site is a greenfield site and a desk survey shows no properties within the Site boundary, given this and the evidence provided we are content to consider the Site unserved.

Given the information provided by the Independent Water Networks, Anglian Water and Northumbrian Water, we are satisfied that the Site may be considered 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 Independent Water 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’

Independent Water Networks has notified us that it will offer equivalent charges to customers on the Site to those of Northumbrian Water and Anglian Water.

With regard to service levels, we have reviewed Independent Water Networks' Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of Northumbrian Water and Anglian Water. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Independent Water Networks and that overall customers will be 'no worse off' being served by Independent Water Networks instead of by Northumbrian Water and Anglian Water.

2.4 Effect of variation on Northumbrian Water and Anglian Water customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that Northumbrian Water and Anglian 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 Northumbrian Water and Anglian 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 Northumbrian Water and Anglian 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 Independent Water Networks.

In this case, we estimate no potential annual increase on the water and sewerage bills of existing Northumbrian Water and Anglian Water customers if we grant this variation to Independent Water Networks.

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, Ilke Homes, said that it wanted Independent Water 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 Consumer Council for Water (“**CCW**”), Drinking Water Inspectorate (“**DWI**”) and the Environment Agency. We considered these responses before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

The DWI and the Environment Agency confirmed that they had no comments on the application. The points raised in CCW's response are set out below.

3.1 CCW response

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent's prices, service levels and service guarantees.

CCW noted that Independent Water Networks has recently introduced a 2.5% discount on charges against the charges of Northumbrian Water and Anglian Water for this financial year. CCW also recognises that Independent Water Networks offers discounts to those customers who are able to and opt to take up e-billing or pay by direct debit.

CCW recognises Independent Water Networks generally matches or exceed Northumbrian Water and Anglian Water's levels of service and so overall CCW supports this application. It noted that Independent Water Networks offers greater compensation for low water pressure and failing to read a meter once annually, and offers a free leak repair service on customers' external supply pipes.

However, CCW noted that due to its small size Independent Water Networks does not currently offer its financially vulnerable customers a social tariff in the way that Northumbrian Water and Anglian Water do. It noted that Independent Water Networks will, however, offer the standard WaterSure tariff for qualifying customers. CCW considers this a dis-benefit of the proposed variation. It stated that until Independent Water Networks can provide a formal social tariff, it is appropriate for Independent Water Networks to tailor some of its services. CCW stated that it expects Independent Water Networks to offer appropriate and flexible support to customers in financial difficulty who would otherwise benefit from a social tariff. CCW considered that such support should not be at the expense of its other customers. CCW recognised that by matching both Northumbrian Water and Anglian Water's charges, Independent Water Networks already benefits from the cross-subsidy Northumbrian Water and Anglian Water customers pay to support its social tariff.

CCW noted our calculation that there will be no increase on the annual water bills of existing Northumbrian Water and Anglian Water customers as a result of the variation. CCW stated that whilst it appreciates that this will not impact on bills, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing Northumbrian Water and Anglian Water customers. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers

Our response

One of our key policies with respect to new appointments and variations is that customers should be no worse off if a variation 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.

CCW noted that Independent Water Networks has introduced a 2.5% discount against charges of Northumbrian Water and Anglian Water. This information was not included in the original information provided to us by Independent Water Networks, however as this represents a discount for its customers we recognise that customers will be no worse off.

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 Independent Water Networks does not offer a social tariff, it should ensure customers will be no worse off.

4. Conclusion

Having assessed Independent Water Networks' application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 18 May 2022.

Appendix 1: Site Maps

Water:



PLAN REFERRED TO IN THE VARIATION OF
THE APPOINTMENTS OF INDEPENDENT
WATER NETWORKS LIMITED AND
NORTHUMBRIAN WATER LIMITED, AS
WATER UNDERTAKERS, MADE BY THE
WATER SERVICES REGULATION
AUTHORITY ON ...

17 May 2022

ADDRESS: FOSSETTS WAY, SOUTHEND-ON-SEA,
ESSEX, SS2 4HF
OS GRID REFERENCE: 589165 , 188128
SCALE: 1:4000
DRAWN BY: CP
DATE: 01/12/2021

Laura Clayton

0 100 200 m

**FOSSETTS WAY
WATER SUPPLY
INSET MAP 1**

PROJECT: [N0022765]

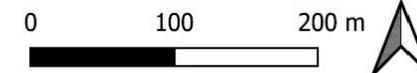
Sewerage:



PLAN REFERRED TO IN THE VARIATION OF
THE APPOINTMENTS OF INDEPENDENT WATER
NETWORKS LIMITED AND ANGLIAN WATER
SERVICES LIMITED, AS SEWERAGE
UNDERTAKERS, MADE BY THE WATER
SERVICES REGULATION AUTHORITY ON ...
17 May 2022

ADDRESS: FOSSETTS WAY, SOUTHEND-ON-SEA,
ESSEX, SS2 4HF
OS GRID REFERENCE: 589165 , 188128
SCALE: 1:4000
DRAWN BY: CP
DATE: 01/12/2021

Laura Clougher



**FOSSETTS WAY
SEWERAGE SUPPLY
INSET MAP 1**

PROJECT: [N0022765]

Appendix 2: Variation

WATER SERVICES REGULATION AUTHORITY
WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9

Variation of the Appointments of Independent Water Networks Limited, Northumbrian Water Limited, and Anglian Water Services Limited as Water and Sewerage Undertakers

Made on 17 May 2022

Coming into effect on 18 May 2022

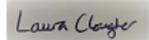
1. Independent Water Networks Limited ("Independent Water Networks"), Northumbrian Water Limited ("Northumbrian Water") and Anglian Water Services Limited ("Anglian Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").¹ The areas to which the Appointments of Independent Water Networks, Northumbrian Water and Anglian Water as water and sewerage undertakers relate ("Water Supply Area" and "Sewerage Services Area") are set out in their Instruments of Appointment.
2. The site called Fossetts Way, Southend on Sea in Essex which is shown edged in red on the plan attached to this variation ("the Site") is within Northumbrian Water's Water Supply Area and Anglian Water's Sewerage Services Area. The Site is being developed by Ilke Homes.
3. Independent Water Networks has applied under section 7(4)(b) of the Water Industry Act 1991 ("the Act") for a variation of its Appointment as a water and sewerage undertaker to include the Site and for a consequential variation of Northumbrian Water's and Anglian Water's Appointments to exclude the Site.
4. On 27 June 1995, the Secretary of State for the Environment and the Secretary of State for Wales acting jointly and pursuant to sections 6(1) and 7(2) of the Act authorised the Director General of Water Services² to make variations such as those contained in paragraph 5 below. After public consultation, as required by section 8 of the Act, the Water Services Regulation Authority has decided that it should grant Independent Water Networks' application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Ilke Homes, the Water Services Regulation Authority **varies**–

¹ Northumbrian Water's and Anglian Water's original Appointments as water and sewerage undertakers were made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. Independent Water Networks' original Appointment was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

² With effect from 1 April 2006 the functions of the Director General of Water Services were transferred to the Water Services Regulation Authority in accordance with section 36 of, and Schedule 3 to, the Water Act 2003.

- (a) the Appointment of Independent Water Networks as a water and sewerage undertaker so that the Site is included in Water Supply Area and Sewerage Services Area;
- (b) the Appointment of Northumbrian Water as a water undertaker so that the Site is excluded from Northumbrian Water's Water Supply Area; and
- (c) the Appointment of Anglian Water as a sewerage undertaker so that the Site is excluded from Anglian Water's Sewerage Services Area.

Signed for and on behalf of the Water Services Regulation Authority



Laura Clougher

Principal, Casework and Enforcement

**Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.**

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