

June 2022

# **Variation of Icosa Water Services Limited's appointment to include Halewood, Lower Road, Halewood**

## About this document

# Variation of Icosa Water Services Limited's appointment to include Halewood, Lower Road in Halewood

On 14 February 2022, Ofwat began a [consultation](#) on a proposal to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the water and sewerage services provider for a development in United Utilities Water Limited's ("**United Utilities**") water supply and sewerage services area called Halewood, Lower Road in Halewood, Merseyside ("**the Site**"). The Site was referred to as Halewood North and South in the consultation notice.

The consultation ended on 14 March 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 27 June 2022, we granted Icosa 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/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 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

Icosa Water 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**”). Icosa Water will serve the Site by way of a bulk supply and a bulk discharge agreement 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 or variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

United Utilities has provided a letter, dated 20 October 2021, confirming that in its view the Site is unserved. The Site is greenfield, and a desk survey of the Site shows that there are currently no properties within the Site boundary. The boundary is divided into two areas, divided by a road. Given the circumstance, it is understandable that the Site is two adjoining parcels of land, and to request that Icosa Water sends two separate applications feels disproportionate, as the Site still has a logical boundary and therefore the map appears acceptable.

Given the information provided by the applicant and United Utilities, we are satisfied that the Site may be considered 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 match its charges to customers on the Site to those of United Utilities.

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 United Utilities. 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 United Utilities.

## **2.4 Effect of variation on United Utilities' 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 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 of £0.01 on the annual water bill and £0.01 on the annual sewerage 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, Redrow Homes Limited, said that it wanted Icosa 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**”), Drinking Water Inspectorate (“**DWI**”) and the Environment Agency. We considered these responses before making the decision to vary Icosa Water's appointment.

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

CCW states that in general it expects applicants for a new appointment and/or variation (“**NAV**”) to match or, ideally, better the incumbent's prices, service levels and 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 Icosa Water as their provider of water and sewerage services, as Icosa Water intends to match United Utilities' charges. CCW considers that Icosa Water's service levels generally match or exceed those of United Utilities, so overall CCW supports the application. For example, where Icosa Water exceeds United Utilities' standards it does so by offering greater levels of compensation if it fails to meet the level of service it commits to.

CCW notes that due to the relatively small size of its customer base Icosa Water does not currently offer a social tariff to its financially vulnerable customers in the way United Utilities does, but notes that it will offer the standard WaterSure tariff for qualifying customers. CCW states that it is appropriate for Icosa Water to tailor some of the services that it provides until it can provide a formal social tariff. CCW sets out its expectation that Icosa 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 considers that by matching United Utilities' charges Icosa Water already benefits from the cross-subsidy 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 a small increase of £0.01 on their annual water and sewerage bills. However, it notes that there is no evidence of significant benefits arising from the proposed arrangement for United Utilities' existing customers. CCW 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.

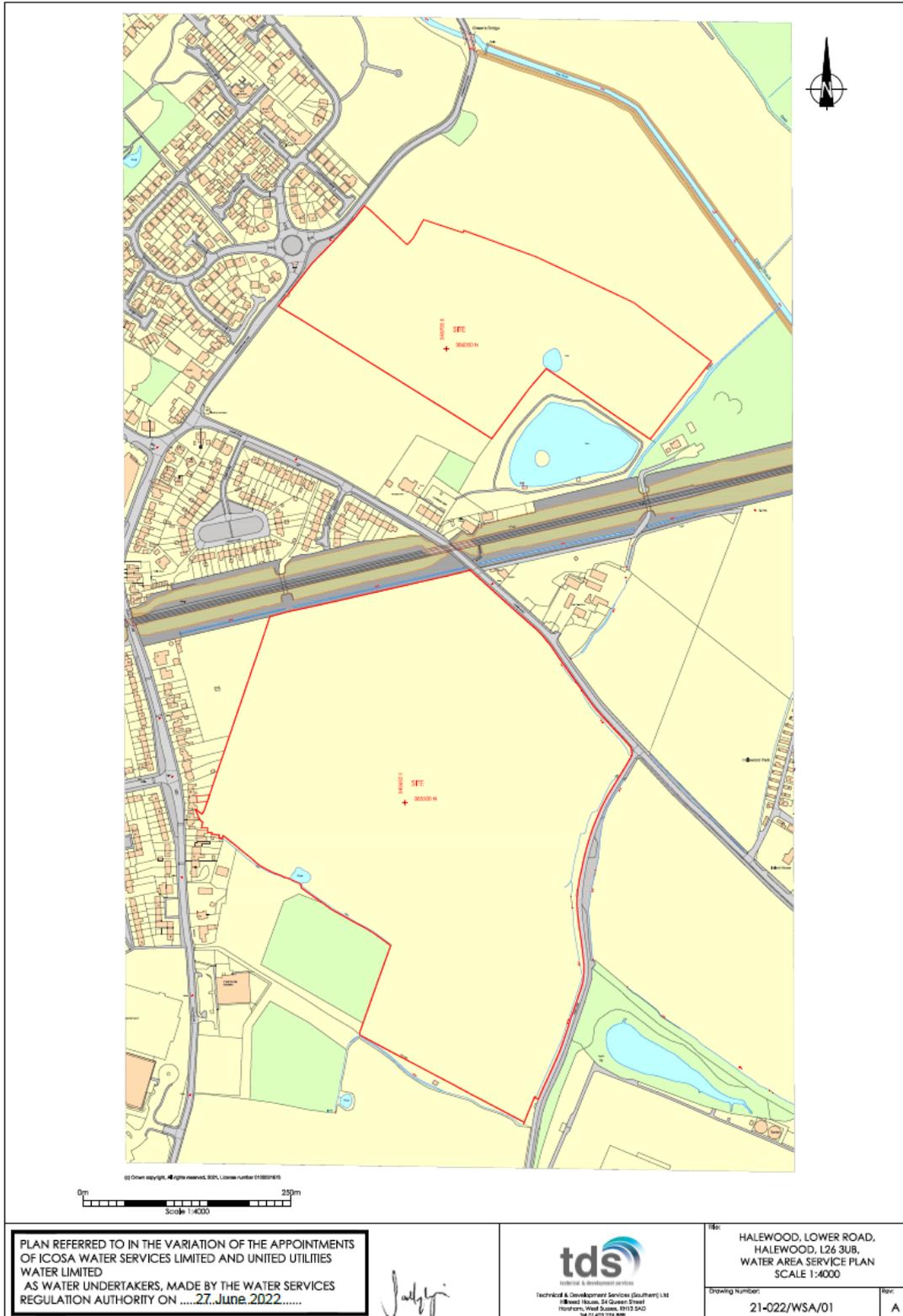
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social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

## 4. Conclusion

Having assessed 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 water and sewerage services. This variation became effective on 28 June 2022.

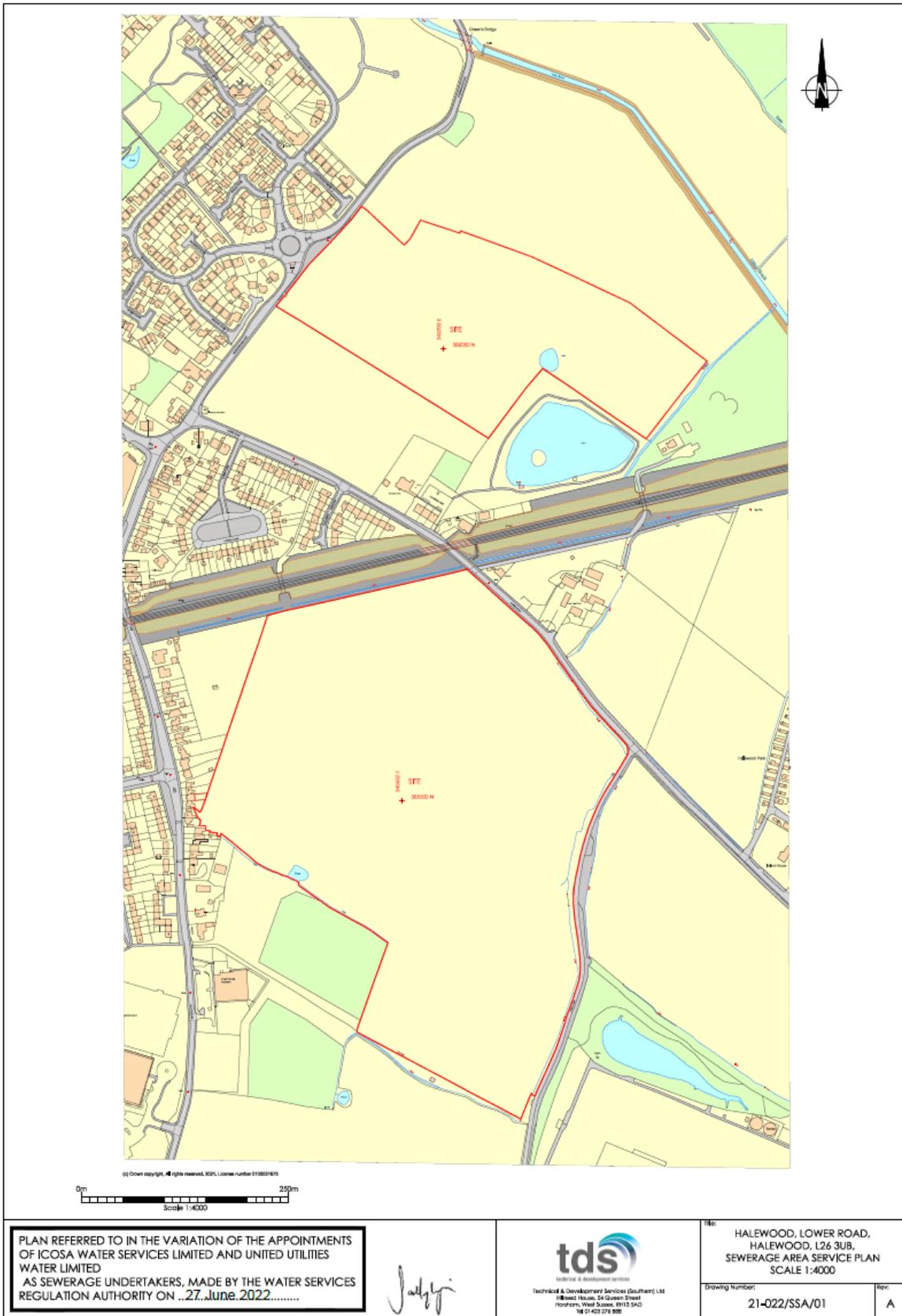
# Appendix 1: Site Maps

## Water:



I:\21-022 Halewood\1105 Drawings\DWG\21-022-WSA-01.dwg 10:50:21 21/06/2021 14:33:17

**Sewerage:**



## Appendix 2: Variation

### WATER SERVICES REGULATION AUTHORITY

### WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9

#### Variation of the Appointments of Icosa Water Services Limited and United Utilities Water Limited as Water and Sewerage Undertakers

Made on 27 June 2022

Coming into effect on 28 June 2022

1. Icosa Water Services Limited ("Icosa Water"), and United Utilities Water Limited ("United Utilities") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").<sup>1</sup> The areas to which the Appointments of Icosa Water and United Utilities 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 Halewood, Lower Road, Halewood, Merseyside, which is shown edged in red on the plan attached to this variation, ("the Site") is within United Utilities' Water Supply Area and Sewerage Services Area. The Site is being developed by Redrow Homes Limited.
3. Icosa Water 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 United Utilities' Appointment 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 Services<sup>2</sup> 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 Icosa Water's application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Redrow Homes Limited, the Water Services Regulation Authority **varies**—
  - (a) the Appointment of Icosa Water as a water and sewerage undertaker so that the Site is included in Icosa Water's Water Supply Area and Sewerage Services Area; and

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<sup>1</sup> United Utilities' original Appointment as a water and sewerage undertaker was 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. Icosa Water's original Appointment as a water and sewerage undertaker was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

<sup>2</sup> 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.

- (b) the Appointment of United Utilities as a water and sewerage undertaker so that the Site is excluded from United Utilities' Water Supply Area and Sewerage Services Area.

**Signed for and on behalf of the Water Services Regulation Authority**

A handwritten signature in black ink, appearing to read 'Sally Irgin', is centered within a light gray rectangular box.

**Sally Irgin  
Director of 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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