

July 2022

# **Variation of Leep Networks (Water) Limited's appointment to include Spencer's Park, Hemel Hempstead**

## About this document

# Variation of Leep Networks (Water) Limited's appointment to include Spencer's Park, Hemel Hempstead

On 30 November 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 Affinity Water Limited's ("**Affinity Water**") water supply area and Thames Water Utilities Limited's ("**Thames Water**") sewerage services area called Spencer's Park, in Hemel Hempstead ("**the Site**").

The consultation ended on 27 December 2021. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 29 June 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.

## Contents

About this document	1
1. Introduction	3
2. The application	5
3. Responses received to the consultation	7
4. Conclusion	9
Appendix 1: Site Map	10
Appendix 2: Notice of Variation	12

## 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 Water applied to replace Affinity Water and Thames 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 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 bulk supply and bulk discharge agreements.

### 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.

The incumbents have provided letters, dated 16 September 2021 and 3 August 2021, confirming that, in their view, the Site is unserved. This is a greenfield site. A desk survey shows that this is greenfield land and there are no existing properties within the Site boundary.

Having reviewed the facts of this Site and taking into account the letters from the incumbents we consider the Site to be 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 offer charges that match those of Affinity Water and Thames Water.

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 Affinity Water and Thames 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 Affinity Water and Thames Water.

## **2.4 Effect of appointment on Affinity Water and Thames 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 Affinity Water and Thames 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 Affinity Water and Thames 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 Affinity Water and Thames 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 £0.02 annual increase on the water bills of existing Affinity Water and no increase on the sewerage bills of Thames Water 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, Countryside Properties (UK) 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 four responses to our consultation; from the Consumer Council for Water (“**CCW**”), the Drinking Water Inspectorate (“**DWI**”), Dacorum Borough Council and the Environment Agency. 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, Environment Agency and Dacorum Borough Council had no comments to make with regard to this consultation and did not have any objections.

#### 3.1 CCW

In its consultation response CCW stated that in general it expects new appointees to provide customers with prices, levels of service and service guarantees that match, or ideally better, those of the incumbent company.

CCW noted its disappointment that there will be no direct financial benefit to customers on the Site from having Leep Water as their provider of water and sewerage services given it plans to match the charges of Affinity Water and Thames Water.

CCW noted that Leep Water is offering guaranteed and voluntary standards of service that generally match or exceed the standards offered by Affinity Water and Thames Water. For example, by offering greater payments for service failure. For this reason, CCW supports the application.

However, CCW noted that due to the relatively small size of its customer base, Leep Water does not currently offer its financially vulnerable customers a social tariff in the way that Affinity Water and Thames Water do. It noted that Leep Water will however offer the standard WaterSure tariff for qualifying customers who find themselves in financial difficulty. CCW considers this a dis-benefit of the proposed variation. CCW stated that until it can provide a formal social tariff it is appropriate for Leep Water to tailor some of the services that it provides. CCW expects Leep Water to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. This should not be at the expense of its other customers. CCW recognise that by matching Affinity Water and Thames Water's charges Leep Water already benefits from the cross-subsidy Affinity Water and Thames Water's customers pay to support its social tariff.

CCW noted our calculation that there will be a £0.02 increase on the annual water bills of existing Affinity Water customers and no cost to the annual sewerage bills of Thames Water customers as a result of the variation. While CCW accepts this is a negligible increase for

Affinity Water customers, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing Affinity Water and Thames Water customers. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers.

CCW notes Ofwat's overall assessment is that customers will be no worse off in terms of the levels of service they receive if served by Leep Water rather than by Affinity Water and Thames Water, and it agrees with this assessment.

## **Our response**

One of our key policies with 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 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 variation became effective on 30 June 2022.

## Appendix 1: Site Maps

Spencer's Park, Cherry Tree Lane, HP2 7DB  
E:508283, N:209212

Water:



29 June 2022

*Laura Clougher*

**Sewerage:**

Spencer's Park, Cherry Tree Lane, HP2 7DB  
E:508283, N:209212



29 June 2022

*Laura Clougher*

## Appendix 2: Notice of Variation

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

**Variation of the Appointments of Leep Networks (Water) Limited, Affinity Water Limited and Thames Water Utilities Limited as Water and Sewerage Undertakers**

Made on 29 June 2022

Coming into effect on 30 June 2022

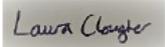
1. Leep Networks (Water) Limited ("Leep Water"), Affinity Water Limited ("Affinity Water") and Thames Water Utilities Limited ("Thames Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments"). The areas to which the Appointments of Leep Water, Affinity Water and Thames 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 Spencer's Park, Hemel Hempstead which is shown edged in red on the plan attached to this variation ("the Site") is within Affinity Water's Water Supply Area and Thames Water's Sewerage Services Area. The Site is being developed by Countryside Properties (UK) Limited.
3. Leep 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 Affinity Water's and Thames Water's Appointments to exclude the Site 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>1</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 Leep Water's application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Countryside Properties (UK) Limited the Water Services Regulation Authority **varies**—
  - (a) the Appointment of Leep Water as a water and sewerage undertaker so that the Site is included in Leep Water's Water Supply Area and Sewerage Services Area;

---

<sup>1</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 Affinity Water as a water undertaker so that the Site is excluded from Affinity Water's Water Supply Area; and
- (c) the Appointment of Thames Water as a sewerage undertaker so that the Site is excluded from Thames 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.**

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

© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information, you will need to obtain permission from the copyright holders concerned.

This document is also available from our website at [www.ofwat.gov.uk](https://www.ofwat.gov.uk).

Any enquiries regarding this publication should be sent to [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk).

**OGL**