

July 2022

# **Proposal to grant a variation of appointment to Leep Networks (Water) Limited - Wirral Waters (Legacy)**

	Details
<b>Applicant</b>	Leep Networks (Water) Limited (“ <b>Leep Water</b> ”)
<b>Site Details</b>	Wirral Waters (Legacy), Birkenhead (“ <b>the Site</b> ”)
<b>Services</b>	Water and Sewerage
<b>Current water/sewerage appointee</b>	Water and Sewerage Appointee: United Utilities Water Limited (“ <b>United Utilities</b> ”)
<b>Proposed supply arrangements</b>	Bulk supply and discharge agreements with United Utilities.
<b>Criterion</b>	Unserved
<b>Household Customer</b>	500
<b>Business Customers</b>	0
<b>Developer</b>	Peel Land & Property Limited, part of the Peel Group which is a minority shareholder of Leep Water. Leep Water confirmed that all transactions between the associated businesses have been conducted at arm's length.
<b>Estimated Site completion date</b>	31 March 2024
<b>Summary of consultation</b>	A statutory consultation made under section 8(3) of the Water Industry Act 1991 (“ <b>WIA91</b> ”) to grant Leep Water a variation to its appointment as a water and sewerage company. To also vary the appointment of United Utilities as a water and sewerage company. Consequently, Leep Water will become the water and sewerage company for the Site.
<b>Deadline for submissions</b>	Representations or objections to this consultation should be sent by email to <a href="mailto:Licensing@ofwat.gov.uk">Licensing@ofwat.gov.uk</a> or in writing and sent to the NAV licensing team, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA.  Reponses must be received by Ofwat no later than <b>17.00</b> hours on <b>12 August 2022</b> .
<p>Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <a href="http://www.ofwat.gov.uk/foi/">http://www.ofwat.gov.uk/foi/</a>.</p> <p>Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat’s retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat’s Privacy Policy in our <a href="#">Publication Scheme</a>.</p>	

# 1. Our assessment of this application

## Our approach

The new appointment and variation mechanism set out in primary legislation<sup>1</sup>, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

You can find further details of our approach to assessing applications for New Appointments and Variations ("NAVs") [here](#).

## Unserviced 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 is applying for a variation based on the unserved criterion. United Utilities has provided a letter, dated 20 October 2021, confirming that, in its view, the Site is unserved.

Given the information provided by the applicant and the incumbent company, we are satisfied that the Site may be considered unserved.

## Price

Leep Water proposes to match the charges to customers on the Site to those of United Utilities, it will not offer a discount.

## Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Leep Water's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Leep

---

<sup>1</sup> The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

Water's proposed Customer Code of Practice than they would be if United Utilities were to be the customers' water and sewerage company.

## Stakeholder engagement

We take the view of the Environment Agency into account before progressing to formal consultation on an application for a new appointment. The Environment Agency informed us that it is content for us to consult on this application<sup>2</sup>.

The Drinking Water Inspectorate ("**DWI**") is satisfied that Leep Water understands the obligations under the Water Industry Act 1991 (as amended), the Water Supply (Water Quality) Regulations 2016 (as amended) and the Water Industry (Suppliers' Information) Direction 2021. The DWI therefore raises no comments or objections to Ofwat proceeding to consultation and decision for applications submitted by Leep Water.

As part of the application process Ofwat has engaged with CCW. CCW's position is that NAVs should bring benefits to customers on the proposed NAV site. CCW expects NAV Appointees to provide consumers with prices, levels of service or service guarantees that match or, ideally, better those of incumbent water and sewerage companies. CCW has stated that it is satisfied that Leep Water, as an established NAV Appointee, offers customers on its NAV sites prices and levels of service which match or better those offered by the incumbent water and sewerage companies which would otherwise serve the sites. CCW agrees with Ofwat's assessment that customers on the Site will be no worse off if served by Leep Water and so, overall, supports the proposed variation of appointment.

CCW has also considered the impact on an incumbent's existing customers when a NAV site is approved. It notes that in many cases there is a potential cost on the annual water and/or sewerage bills of these customers. While this cost is negligible on an individual site basis, CCW is unclear of the wider benefits of the NAV regime for incumbents' customers, particularly as the number of sites in each incumbent area increases and the cumulative cost rises.

## Impact on existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that United Utilities existing customer base may face. The calculation necessarily depends on a range of assumptions, and there are clearly

---

<sup>2</sup> The Environment Agency as well as the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

difficulties involved in quantifying the effect. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

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 Leep Water.

We estimate a potential £0.01 increase on the annual sewerage bills and no impact on the annual water bills of existing United Utilities customers if we grant this variation to Leep Water. This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore, we consider that granting this variation to Leep Water would have a very small financial impact on customers' bills and could have potential benefits for customers.

## **Ability to finance and properly carry out its functions**

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

In 2020, Leep Water requested that we perform a risk assessment to consider if it would be appropriate to consider the financial position of Leep Water as a whole and perform a company assessment rather than a detailed site-based assessment in line with our policy. Leep Water submitted detailed financial projections and further supporting information to enable us to consider if it has demonstrated it is sufficiently low risk to be considered for a company-based assessment.

Following our risk assessment, a decision was made in March 2021 to move to a company-based assessment of financial viability for Leep Water rather than the site-by-site assessment of each individual application, provided:

- Leep Water remains within its existing group company structure, with continuing access to intercompany loans and financial security provision;
- any NAV applications involving an associated company of Leep Water, the appointed business, will require site-by-site financial viability assessments; and

- applications for large sites with low expected profitability will be subject to a full, site-by-site financial assessment.

We have carried out a site-based assessment for this application because it does not meet all the conditions necessary for a company-based assessment. In particular, it does not meet the condition that:

- Any NAV applications involving an associated company of Leep Water, the appointed business, will not use the company-based assessment. Such applications will require site-by-site financial viability assessments.

The developer, Peel Land & Property Limited, is part of the Peel Group which is a minority shareholder of Leep Water. Leep Water provided a letter, dated 21 June 2022, confirming that all transactions between the associated businesses have been conducted at arm's length.

Following our site-based assessment, which considered our standard analysis and the specific risks associated with the Site, we have concluded that in all scenarios we have considered, the Site is able to demonstrate that its expected revenues will cover its expected operating costs.

The current level of financial security that Leep Water has in place meets our requirements and we are satisfied the company demonstrates sufficient financial viability. On this basis, we are currently satisfied that Leep Water would be able to finance its functions if the variation is granted.

## 2. Conclusion and next steps

In assessing Leep Water's application, we have considered the general benefits of new appointments and variations. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Leep Water would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of United Utilities.

We are currently minded to grant the variation under the unserved criterion. Subject to considering any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

### 3. Site maps

#### Water

Wirral Waters (Legacy)  
Dock Road  
Birkenhead  
CH41 1DQ  
SJ 31274 90370



**Sewerage**

Wirral Waters (Legacy)  
Dock Road  
Birkenhead  
CH41 1DQ  
SJ 31274 90370



**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**